



City of Harrisonburg, Virginia

Planning Commission Meeting

May 14, 2014

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 April 9, 2014 regular meeting.

2) New Business

Street Closings – Wilson Avenue and Boulevard Avenue

Consider a request from Northside, LLC with representative Balzer & Associates Inc. to close 62,004 +/- square feet of public street right-of-way (ROW) of two separate streets: Wilson Avenue and Boulevard Avenue. Wilson Avenue is a substandard public street (a portion of which is a paper street) that intersects North Main Street approximately 300 feet south of the North Main Street/Mt. Clinton Pike intersection and runs parallel to Mt. Clinton Pike for approximately 1,320 ft. Boulevard Avenue is an undeveloped public street located off of Wilson Avenue extending about 690 feet to the south. The applicant is requesting to close Wilson Avenue from North Main Street to just beyond its intersection with Boulevard Avenue while closing Boulevard Avenue in its entirety. The purpose of the closures is to allow development of the contiguous parcels including building over portions of the public street ROW. The public street ROW is adjacent to tax map parcels 42-A-2, 42-B-1A, 2, 3, 5, 8, 8A, 8B, 8C, 9, 9A, 32, 33, 34, & 36, and 44-A-31.

Zoning Ordinance Amendment – Article Y. Floodplain Zoning District (2014 Amendment)

Public hearing to consider a request from the City of Harrisonburg to amend the Zoning Ordinance Article Y Floodplain Zoning District by replacing the entire article with new and updated Floodplain regulations. As with the current regulations, these provisions shall apply to all privately and publicly owned lands within the jurisdiction of the City of Harrisonburg and identified as areas of special flood hazard according to the flood insurance rate map (FIRM) that is provided to the City of Harrisonburg by FEMA. The purpose of these provisions is to prevent: the loss of life and property, the creation of health and safety hazards, the disruption of commerce and governmental services, the extraordinary and unnecessary expenditure of public funds for flood protection and relief, and the impairment of the tax base by regulating uses, activities, and development which, alone or in combination with other existing or future uses, activities, and development, will cause unacceptable increases in flood heights, velocities, and frequencies; restricting or prohibiting certain uses, activities, and development from locating within districts subject to flooding; requiring all those uses, activities, and developments that do occur in flood-prone districts to be protected and/or flood-proofed against flooding and flood damage; and, protecting individuals from buying land and structures which are unsuited for intended purposes because of flood hazards.

3) Unfinished Business

4) Public Input

5) Report of secretary and committees

Proactive Zoning

6) Other Matters

Letter of Concern Regarding Sign Ordinance Regulations

7) Adjournment

Staff will be available Monday June 9, 2014 at 4:30 p.m. for those interested in going on a field trip to view the sites for the June 11, 2014 agenda.

MINUTES OF HARRISONBURG PLANNING COMMISSION
April 9, 2014

The Harrisonburg Planning Commission held its regular meeting on Wednesday, April 9, 2014 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 March 12, 2014 Planning Commission meeting.

Mr. Heatwole moved to approve the minutes as presented from the March 12, 2014 regular Planning Commission meeting.

Mr. Way seconded the motion.

All members voted in favor of approving the March 2014 minutes (7-0).

New Business

Preliminary Plat – The Village at Chicago Park

Chair Fitzgerald read the request and asked staff to review.

Commissioner Colman recused himself from the meeting at this time (7:01 p.m.)

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

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

Site: Detached single family uses, zoned R-7 and R-3

North: A non-conforming duplex, zoned R-2 and other non-conforming dwellings, zoned B-2

East: Across Chicago Avenue, Christian Light Publications, Inc., zoned B-2

South: Multi-family units, zoned R-3

West: Detached single family homes fronting College Avenue, zoned R-2

The applicants are applying to preliminarily subdivide three parcels totaling 2.26+/- acres for the development of the Village at Chicago Park R-7 master planned community. The property is located along the western side of Chicago Avenue, about 220 feet south of Chicago Avenue's intersection with Mt. Clinton Pike. The preliminary plat would create the 15 residential parcels and

three common areas comprising the Village of Chicago Park, along with one residual, single family lot, zoned R-3, Medium Density Residential. The applicants have stated they do not intend to phase this development; therefore, all lots would be final platted in one step.

As described during the rezoning process, the subdivision would be accessed by a private street, Saturday Drive. The applicant is requesting variances to Sections 10-2-41(a) and 10-2-42(c) of the Subdivision Ordinance to permit the proposed private cul-de-sac to deviate from the private street standards of the DCSM and to allow lots to not have public street frontage. The applicants are also requesting a variance to subdivision Sections 10-2-45, 10-2-66, and 10-2-67 to allow for the subdivision without dedicating public street right-of-way and building required street improvements along the residual R-3 parcel located at 1041 Chicago Avenue.

Only two parcels in the proposed subdivision, a common area and the remnant R-3 lot, would have frontage along Chicago Avenue, the remaining lots would front along the private cul-de-sac. Saturday Drive would not be maintained by the City and would not receive public services such as trash collection and snow removal; school bus service would be provided as determined necessary. Staff supported this concept during the rezoning/master plan; therefore we continue to support the variance to Section 10-2-42(c) to allow 17 parcels to not have public street frontage.

Section 10-2-41(a) states that all proposed streets shall conform to the standards and specifications outline in the Design and Construction Standards Manual (DCSM), except that variances to the standards 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 letter submitted by the applicants addressing why it is believed the proposed development meets the three measures for variance approval as outlined above. Again, staff supports the requested variance for the private street.

The remaining three subdivision variances requested pertain to right-of-way dedication:

- Section 10-2-45, which requires the applicant, when subdividing, to dedicate all land designated for future street widening to public use;
- Section 10-2-66, which states street improvements shall be provided with each new subdivision in accordance with standards and specifications of the City; and
- Section 10-2-67, which states the street improvements shall be installed by the applicant, at their expense.

As indicated on the preliminary plat and discussed during the R-7 rezoning/master plan process, right-of-way and street improvements will be provided along the existing tax map parcel 48-D-26 (addressed as 1049 Chicago Avenue) but the same required dedication and improvements are not shown along tax map parcel 48-D-25 (addressed as 1041 Chicago Avenue), even though this property will be subdivided with the rest of the development. If the needed right-of-way is

dedicated along this parcel, the existing house would have to be relocated or demolished, because the right-of-way would proceed through the house. The applicants do not wish to dedicate or build the street improvements along this parcel and are requesting variances to the Subdivision Ordinance Sections 10-2-45, 66, and 67. At this time, given the circumstances of the structure's location, staff is supportive of the requested variances. If and when the remaining portions of Chicago Avenue are ready for widening improvements the City can negotiate with the property owner, and decide at that time the best approach for improvements.

As previously discussed with this project, staff is concerned with how stormwater management would be handled. The applicant's engineer has provided stormwater easements and BMP's throughout the development, incorporating the private cul-de-sac and driveways into those practices with plans to construct them with pervious material. The area of the development is relatively flat and does not have an adequate channel downstream. Therefore, a note has been added to the preliminary plat indicating that the site grade would be raised slightly to allow the BMP areas to drain to the proposed outfall and that the applicant would either acquire easements from downstream property owners or design the site as if it was a "pristine forest." As noted on the plat, all these stormwater management possibilities will be designed per code and the site engineer will coordinate design with the City of Harrisonburg review staff during the comprehensive site plan process.

Provided on the preliminary plat are required water, sanitary sewer, and storm sewer easements. Although general utility easement are provided on the preliminary plat, the approval of the variance to Section 10-2-41(a) will allow the development to accommodate easement locations for general utilities, typically located along specified lot lines, to be determined when more specifics are understood during the engineered comprehensive site plan review process.

Lastly, per section 10-2-41(e) of the Subdivision Ordinance, since the street will permanently end in a cul-de-sac, Planning Commission must approve of such a design. (This detail does not need City Council approval.) As this design was vetted during the rezoning process and approved, staff recommends this element of the development be accepted.

Staff supports the preliminary plat with all the requested variances.

Chair Fitzgerald asked if there were any questions for staff regarding the preliminary plat. Hearing none, she stated this is not a public hearing; however, if the applicant or the applicant's representative would like to speak they may do so.

Scott Sellers with Engineering Solutions said he is the applicant's engineer for this project. I feel this is a good project. If there are any new questions that have come up since the rezoning and master plan process I would be happy to answer them. I know that stormwater was a big issue, so if you have further questions from what was covered by staff let me know.

Dr. Dilts said if you were to "design as a pristine forest" what does that mean?

Mr. Sellers said you go back to as if the property was all forested and you look at a one and one-half year storm flow rate. You then design everything to that flow rate and release it downstream. It is a very small flow rate when it is all said and done; that is the way the State of Virginia wants it done.

Chair Fitzgerald asked if there was any further discussion or a motion. As far as logistics of this motion it can all be done as one motion; the preliminary plat with variances and the approval for the dead end cul-de-sac.

Dr. Dilts moved to recommend approving the preliminary plat with variances for sections 10-2-41(a), 10-2-42(c), 10-2-45, 10-2-66, and 10-2-67; as well as approval for the permanent cul-de-sac.

Mr. Heatwole seconded the motion.

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

Chair Fitzgerald said this will move forward to City Council with a favorable recommendation on May 13, 2014.

Commissioner Colman rejoined the Planning Commission at 7:12 p.m.

15.2-2232 Review – New City Hall

Chair Fitzgerald said as we are preparing for the next agenda item, which is the 2232 hearing, we have not done this before and if you have been reading the newspaper you know there has been some publicity about this. Therefore, I just want to go over a couple of things before we get started. The purpose of this hearing is to find out whether the general location, character, and extent of the new municipal building are substantially in accord with our adopted Comprehensive Plan. What this body is concerned with is the general location, the character, and the extent of the building; we are limited to that. We are going to attempt to normalize this and treat this like other agenda items – there will be a staff presentation of three parts, Planning Commissioners will be able to ask questions of staff, we do not have to have a public hearing, but we will allow public comment. We do ask that public comment be limited to three to five minutes. Planning Commission will then discuss the item and we will have a vote. If you think you might like to speak, but after you hear the presentations you decide you do not need to speak tonight and would rather contact one of us, or staff, after the meeting, please feel free to do so.

At this time Chair Fitzgerald turned the presentation over to Ande Banks, Director of Special Projects and Grant Manager for the City of Harrisonburg.

Mr. Banks said tonight I come before you wearing the hat of project manager for the new City Hall which is being proposed for the current site, right here. What brings us here specifically is the Virginia Code Section 15.2-2232 for Planning Commission to review the City Hall project. I was asked to give you a project overview; but, as you all know this is a conversation this community has been having over several previous years. It combines how we address our ailing and aging Municipal Building with the growing needs of administrative offices for our City.

Several locations over the previous years had been considered, some of which were outside of our downtown. Constructing offices on the site of the County Administrative Complex on Gay Street was reviewed. Converting a former strip mall into administrative mall, similar to the County Offices, was also considered at Duke's Plaza and the former Food Lion Shopping Center on West Market Street. Council Members, however, made it clear they wanted the City Municipal Building, or City Hall, to remain downtown and on property the City already owned.

This led to several iterations; one was the demolition of the former School Board building and the construction of a separate annex. Another was the consideration of an addition and expansion to the existing Community Development building. However, during the interviews of the top architect and engineering teams that responded to our Request for Proposal (RFP), it was made very clear

that there was significant concern about the structural integrity of the Community Development building and whether it could withstand a second story addition. Each team proposed new buildings to be located in various locations around this entire property site. Mr. Mather proposed the most economical and logistically pleasing option, a new City Hall to be located and constructed downtown between the Community Development building and the existing Municipal Building, without interrupting services at either during construction.

The design process for this project began in July 2013, after signing a contract with Mr. Mather. Weekly and bi-monthly meetings between City staff and the architect and engineering team continued through December 2013. The design process included numerous formal reviews by department directors and their staff. As you can imagine all the departments going into the New City Hall are somewhat unique entities unto themselves with their own business processes, so we tried to accommodate those.

The design process also included significant public input throughout the planning efforts. In addition there were a significant number of emails, phone calls, and conversations with the general public. City staff also conducted an open house to share the design and solicit input on site orientation. There was an online component to this which allowed members of the public to provide their comments beyond the open house. This does not take into consideration the approximately eighteen City Council meetings that have taken place since the planning process began. During Council meetings the public is encouraged to share their comments on anything; whether it is about the new City Hall project or some other project within the City.

I also want to talk about project review, which began on December 19, 2013 with pre submission plans to the Fire Chief. The first full submission of plans took place on January 31, 2014 and comments from City Staff were returned on February 20th. This included review by engineering, erosion and sediment control, stormwater management, water and sewer, public works, zoning, and Harrisonburg Electric Commission. The second plan submission took place on March 28th, and while review of this submission continues, I am aware that Public Works has completed its calculation on whether a traffic impact analysis is required; it is not. Public Works has also had considerable input on aligning a new entrance for our new City Hall with Campbell Street. This will greatly improve sight distances along South Main Street as well as other considerations.

To more clearly show the level of detail that City staff offers when reviewing site plans, both public and private, and to reiterate that the City's Design and Construction Standards Manual and development ordinances are the tools of implementing the broad goals of the Comprehensive Plan, I have taken some excerpts from the initial review by City staff. At this time Mr. Banks provided the Planning Commission with excerpts from engineering, erosion and sediment control, stormwater, public works, and zoning comments.

Continuing on, Mr. Banks said the review is ongoing and considerable. I know that one recurring discussion during the process of this project has been focused on historic preservation and how we can build a new City Hall that maximizes City owned property, allows for business to continue in both Community Development and the Municipal Building during construction, and creates a modern, efficient office building while preserving and showcasing the two buildings that represent the current Municipal Building. I have asked Mr. Mather to attend this evening to discuss how his design process incorporates historic preservation techniques. Before I ask him to come forward, I would like to share with you that Ken Smith, a landscape architect employed by the citizen's group exploring a downtown park, stated during the December 10, 2013 City Council meeting that "one of

the very exciting things from the City's proposal is for an atrium that would separate the new structure from the historic, or old, structure. We think that in terms of historic preservation that this is a very solid way of separating the old from the new, and we also think that the atrium could be a very good space, a usable space, a social space. We think that it is a very beautiful idea that has been put forward by the City." I will now give the floor to Mr. Mather.

Mr. John Mather with Mather Architects said it is a pleasure to be here. I have been here several times sharing ideas with City Council and I am happy to do so tonight with you. I would like to be able to take authorship of the atrium idea, but truly I cannot. It really is something that has formed over the past year that we have been working with City staff and listening to community input and then reacting to the ideas that we have heard. The concept for the atrium has evolved over that time period. I do want to reiterate that we have listened to Council, staff and the community to arrive at where we are now.

As described, our concept with the new building is to construct adjacent to the existing building; but, the new building would not be pushed right up against the old, this is where the glass atrium area is proposed. The advantage we saw from this was that we could maintain operations of two City buildings during construction. The alternative was to relocate everyone within the Community Development building to some other location without a great deal of expense or loss of time by staff. We knew from discussion with the Building Official that construction over top of the Community Development building, while it was occupied, would not be allowed. So whether you kept this building and constructed over top or demolished for something new, it would mean relocation of everyone within the building.

There is a cost savings to the City for the concept of constructing a new building in between the two existing buildings. This plan offers improvement to site circulation in reference to Campbell Street; right now it does not align with either of the entrances into the Municipal Complex. Finally, we hoped to increase the green space on the site over and above what is there now; in the proposed new City Hall plan we have increased green space by 25 percent. These were all win-win situations that we saw when we began working on this plan. Our goal from the start was to construct a neighboring structure, which was complimentary and respectful of the existing Municipal Building. Furthermore, we have developed a plan which we feel may increase public appreciation and awareness for our historical architecture.

The idea of the atrium formed so that we could save the exterior stone of the existing Municipal Building and expose it to view and then make it a feature that actually draws people to it. It would be an enclosed space, at the core of the City, a popular space where you could walk up and see the old stone. This is not an original idea; it has been done at many locations. Mr. Mather proceeded to show slides of other atriums combining old and new architecture.

Mr. Mather continued saying I would like to share with you some of the basic concepts of historic preservation. While the Municipal Building is not in itself on the historical register, we can still none-the-less use the guidelines to the extent practical for this project. There are at least three tenants of historic preservation; the first would be to preserve the significant historic material and features and form of a building. Second, to be compatible with, but yet as the third tenant states, do not be an imitation or replica of the historical architecture. The United States Parks Service Guidelines that I used for this plan list tenants for historic construction as there should be minimal loss or covering to the external wall of the historic building; construction should occur on a secondary or rear side if possible; incorporate a recessed hyphen to separate old and new; avoid

designs that unify the two volumes, do not duplicate the older building; use harmonious materials in the same color range; and base the size, rhythm, and alignment of doors and window openings on the historic building.

As you can see from the renderings within your packet we have incorporated these tenants into our design. An elevation view from Main Street depicts the Municipal Building on the right and the new building on the left and clearly shows the glass atrium, hyphenated in between the two. The thought is to expose the stone from inside the atrium; so we are not really covering up the older building, and the primary façade, which faces Main Street, is not covered. The secondary façade, looking south, is not covered either; you can walk into the atrium and see it. Currently there are some rather ad hoc additions, a canopy, wall screening mechanical units, and a covered stairwell entrance to the basement – none of which are in keeping with the architecture and will be removed with this project. The current condition has not been very well preserved.

With the new building we will use similar materials; we plan to use stone very similar in color to the existing building. We are continuing with the vertical rhythm, yet not the same pattern, onto the new City Hall building. We are keeping the stone on the new building at the same height level as the Municipal Building. If you notice the new building is three levels and the old is two levels; but, by the time you get to the roof level they are essentially the same height. We have tried our best to not impose upon the older building, while still having to accomplish the construction of a 4,500 square foot building.

I want to share with you the thinking that has gone into the south side façade of the new building. I searched my mind and the architecture of this area, to come up with a symbol or a design for the front of the new City Hall that was unique to the City. What came to us was the idea of the Spring House being truly unique to Harrisonburg – it is a symbol of Harrisonburg. It is probably a reason why people settled here in the first place. This is a modern reference to the Spring House that is on Court Square in terms of shape.

I truly hope that you will join me and others in the enthusiasm for this project and do something truly unique for the City.

Mr. Banks said as you can see this project is the culmination of many years of deliberation by City Council and a long design and review process by many departments. According to the staff report the new City Hall fits well within the area designated in the Comprehensive Plan for Public and Semi-Public Use, which is clearly defined to include City Halls and administrative offices, and continues the rich tradition of this site being the center of City Administration for the past fifty years. I know that staff still has a few more components of this project to go over, but I propose to you that under VA Code 15.2-2232 it states that Planning Commission should issue statements on why, or why not, a project complies with the Comprehensive Plan after review of the staff report. City staff has prepared for your consideration a list of reasons why the new City Hall project fully complies with the City's Comprehensive Plan. (He then provided copies of a document to each Commissioner that stated the reasons Planning Commission should state why it conforms to the Comprehensive Plan.)

Mr. Fletcher said I just want to briefly go through some of the typical procedural issues and follow up on staff's recommendation of the project. The Comprehensive Plan designates this area as Public/Semi-Public. This designation states that these lands are designated for public and semi-public use. They include lands owned or leased by the Commonwealth of Virginia, the federal government, the City of Harrisonburg, and other governmental organizations. Examples of uses

included in this category are public schools, libraries, City Hall and City administrative and support facilities.

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

Site: Municipal Building, Planning and Community Development Department building, Turner Pavilion, and municipal parking lot, zoned B-1

North: HEC office building and parking lot, zoned B-1; and across a public alley the former Harrisonburg School Board Building (owned by the City), zoned B-1

East: Across South Main Street, BB&T Shomo & Lineweaver office building, zoned B-2; Hoover Penrod office building, zoned B-1C; other office uses and the United Church of Christ, zoned B-2; and the Joshua Wilton House, zoned B-2C

South: Across Warren Street, parking areas for Lindsey Funeral Home, zoned R-3

West: Undeveloped parcels owned by the City, zoned B-1; and across South Liberty Street, the Daily News Record property, zoned M-1; and the Ice House project (under construction), zoned B-1

At the request of Planning Commission, the proposed City Hall project, which includes the construction of a new City Hall and the demolition of the existing Planning and Community Development building, is under review per City Code Section 10-1-6. This section stipulates that “if a public facility subject to Section 15.2-2232 of the Code of Virginia is not already shown on the comprehensive plan, the planning commission shall determine whether the location, character and extent of such public facility is in substantial accord with the comprehensive plan as provided by Section 15.2-2232 of the Code of Virginia and the terms and conditions set forth therein, as may be amended from time to time.”

With regard to Section 15.2-2232, among other things, it states that when a locality has adopted a comprehensive plan, “it shall control the general or approximate location, character and extent of each feature shown on the plan.” The code section then lists items, citing among others, public buildings and public structures, and stating that unless features are already shown on the plan, they “shall not be constructed, established, or authorized, unless and until the general location or approximate location, character, and extent thereof has been submitted to and approved by the commission as being substantially in accord with the adopted comprehensive plan or part thereof.” Under Section 15.2-2232, a public hearing is not required unless directed by City Council. Planning Commission was not directed by City Council to hold a public hearing regarding this issue.

Staff believes the proposed use by the City to construct a new City Hall on the subject property is substantially in accord with the Comprehensive Plan. First, the subject site is designated by the Comprehensive Plan’s Land Use Guide as Public/Semi-Public. The Plan specifically states these lands are “owned or leased by the Commonwealth of Virginia, the federal government, the City of Harrisonburg, and other governmental organizations.” It goes on to state that “examples of uses included in this category are public schools, libraries, City Hall and City administrative and support facilities.” The subject site has been designated as Public/Semi-Public since the Plan’s 2004 update. Prior to that, it was designated as Commercial.

Secondly, the subject site has been used continuously as City Administrative offices since 1960; the new building would be built to the south of the existing Municipal Building, connected by an atrium. The Planning and Community Development building, which has housed that Department

since about 1990 and the existing City Council chambers since 2007, will be demolished, with those services moving into the new building. At the current time, the project is undergoing comprehensive site plan review by City staff to ensure City development standards are met.

Thirdly, from a zoning perspective, the property is zoned B-1, where public uses is listed as a by-right use.

Lastly, from a transportation point of a view, the subject property is located along South Main Street and South Liberty Street, two highly traveled and well known arterial streets, and is well connected to the City's overall transportation network. Transit bus stops are located across South Main Street from the proposed building and near the property's South Liberty Street frontage. As the property is located downtown, the environment is very walkable to many different services. Furthermore, bicyclists use both South Main Street and South Liberty Street regularly and the streets are marked with bicycle "sharrows," which are intended to guide bicyclists to the best place to ride on the road, avoid car doors, and remind drivers to share the road with bicyclists.

Staff recommends the Commission communicate the same findings to City Council that the new City Hall project conforms to the Comprehensive Plan.

Chair Fitzgerald asked if there were questions at this time for City staff or would Planning Commission rather open the floor to public input.

Mr. Colman said I have one question regarding Warren Street right-of-way. Will it be vacated?

Mr. Fletcher said at a proper time in the future it would have to take place and the process for how it would be done is still being worked out. We would not be moving forward with any of that until we know for certain where the new City Hall would be located and if we are actually going to be moving forward with the project. Warren Street, as shown on the plan, would be incorporated into parts of the parking area. What is not obvious on the plan is there is also an alley running parallel with South Main Street, that would need to be vacated to make the project conforming to zoning regulations. Therefore, to answer your question, if we get the approval to move forward we will make those two vacations.

Mr. Da'Mes said essentially we would be eliminating two access points from South Main Street through to Liberty Street; Warren Street and the alley alongside of the existing Municipal Building. Therefore there is no connection until you get to Bruce Street; that is quite a significant space with no "cut through."

Mr. Fletcher said right now you have people using Warren Street and then cutting through the parking lots at very high speeds. We view the alignment with Campbell Street as a good thing. One thing we did not point out earlier was when you see the parking and building as you come down South Main Street it circles right into Turner Pavilion.

Chair Fitzgerald asked if there were any further questions for staff. Hearing none, she said this is not a formal public hearing; but, we have chosen to allow comments from citizens. If there is anyone who would like to come up and speak about the new City Hall project please do so. We will allow three to five minutes, so that we can get everyone in that may wish to speak. Please give us your name and your address for our records.

Mr. James Orndoff, 401 North Main Street, Bridgewater said Chair Fitzgerald, Vice-Chair Da'Mes, and Commissioners I am owner of the Newman-Ruddle Building at 2 North Main Street and a former Planning Commission Chair in a neighboring community. In the latter capacity, I was

privileged to oversee two revisions of that jurisdiction's Comprehensive Plan. Thus, I appreciate the opportunity to speak to you tonight regarding the proposed City Hall project and its relationship to our Comprehensive Plan. I also appreciate your willingness to conduct this review as required under Section 15.2-2232 of the Code of Virginia, despite the decision of City Council to the contrary. The Comprehensive Plan is the result of significant time and effort on your part, as well as that of citizens, staff, and elected officials. A living document, it deserves enormous respect as it seeks to articulate the guiding principles of both public and private development in the City.

Given Harrisonburg's lack of recent experience in conducting what is known as a 2232 review, I have taken the liberty to identify other Virginia localities who conduct these reviews on a regular basis, one of which is Fairfax County. Their brochure on the 2232 review process, which I emailed to each of you earlier today, specifies that a public project must either be a feature shown on the Comprehensive Plan, or if not, must be thoroughly analyzed to determine if its location, character, and extent are substantially in accord with that plan. According to Fairfax, such a project is determined to be a feature shown on the Comprehensive Plan if it is either specifically identified on the Comprehensive Plan Map, or is described in and supported by the plan text with details as to its nature, character, features, type and location. I would submit that the proposed City Hall project does not fit that definition of a feature shown, despite the staff's assertions to the contrary, and therefore must be thoroughly reviewed to determine whether its location, character, and extent are substantially in accord with the Comprehensive Plan.

This body must now define the terms location, character, extent, and substantial accord. Does location mean that the proposed City Hall should be generally on the property currently used for that purpose, or in a very specific location and orientation on that property, or elsewhere in the City? What defines the character of the project? Is it design, or respect for the City's history, or environmental performance, or relationship to current and future neighboring uses, or citizen accessibility, or a host of other characteristics? How about extent? Does that relate to mass, or footprint, or height, or encroachment, or ability to house the uses necessary for both City officials and citizenry, or more? What about substantial accord? Is that fifty-one percent, or seventy-five percent, or ninety? If the project is determined not to be in substantial accord with the Comprehensive Plan, does the project get modified, or does the Plan?

Many questions need to be answered. It is up to this body, with input from as many individuals and groups as necessary, to answer them. I am confident that you are up to the challenge. In the final analysis, it is all about love and respect for Harrisonburg. Thank you.

Chair Fitzgerald asked if there was anyone else wishing to speak.

Mr. Tom Domonoske, 461 Lee Avenue, said prior to tonight I reviewed all the information that was available on the Planning Commission website and I reviewed the Comprehensive Plan. I am really happy to see that this hearing is happening. As the Chair said it has been an objective of the City to start this process, it has been in the Comprehensive Plan for at least a decade. Most of my comments tonight go more to the process; this is the first time it has happened for the City. What I think is most important that you do is the written findings; as a body you will make a decision about whether the character, location, and extent accords with the Comprehensive Plan. But the requirement for the written findings is really important. I personally think it is rather a basic format where you identify which parts of the Comprehensive Plan are important to look at and reference those numbers and then discuss the plan in context of that. I did look at what a few other localities had done with their reviews and this seems to be a general format they were using.

I do not know if the document circulated by Mr. Banks was the same one as what is posted on the website; but I thought the document on the website was a good start in terms of the staff review and recommendation. For instance the comments by Mr. Fletcher about the bicycles and transportation, that reference can be made specific to the Comprehensive Plan by talking about the goal in the Plan about transportation. Tying those comments directly to the Comprehensive Plan makes for very informative written findings, particularly for getting citizens of Harrisonburg to pull open the Comprehensive Plan and read it. The more citizens we get to open the plan and reading it, the more informed comments you will have coming before you about plan usage and more citizens attending the review session when the Comprehensive Plan gets reviewed in the next two years.

Tonight we are talking about a building downtown and you look at the goals of the Comprehensive Plan to apply which of those goals are pertinent to a building downtown. There are two that I think stick out tremendously, one of them is the goals listed in Goal 8 – “to enhance and preserve the City’s natural resources and encourage development that is compatible with nature.” This is the City doing the development; therefore, under that there is Objective 8.3 which calls for creating a set of environmental performance standards for public and private development and redevelopment projects. I do not fault Mr. Mather for not discussing how his plan is following the environmental performance standards that have been set by the City; because those standards have not been set by the City. Consequentially it is not possible for the City to put up a building that complies with this part of the Comprehensive Plan. I am also not saying that means the building is not in substantial compliance with the Plan; the term substantial compliance does not mean it has to comply with each and every part. Your written findings can identify the ways in which the building does, and does not, accord with the Comprehensive Plan. Again, I do not think the building accords with this goal of the Comprehensive Plan, no fault of Mr. Mather, but simply for the reason that the City has not yet implemented that part of the Comprehensive Plan – there are no environmental performance standards for the City. I do think you can write a report that states this goal was not implemented here, indicate why and that will help move the discussion to the City further implementing this aspect of the Comprehensive Plan.

I make the same point about Goal 15 – “to enhance and revitalize existing residential and commercial areas.” Under that goal there is a specific objective which states “to make downtown revitalization a major high priority public/private initiative the cornerstone of the City’s economic development, tourism, historic preservation, and civic pride enhancements.” Under that the Comprehensive Plan has a specific strategy that says “to develop with Harrisonburg’s Downtown Renaissance a downtown revitalization plan to guide the rehabilitation development of the area.” Again, no fault of Mr. Mather, but he cannot create a building that complies with a plan that has not yet been created. So I think when you are doing your written findings you should look at Strategy 15.1.2 and simply identify that the building is not part of a downtown revitalization plan that was developed with Harrisonburg Downtown Renaissance, because that has not happened yet.

With these points I am not taking a position on the decision you make about whether it is substantially in accord, but what you cover in your written findings to show that you looked at all parts of the Comprehensive Plan that are pertinent to a building downtown and then stated whether they did or did not comply. Thank you very much.

Chair Fitzgerald asked if there was anyone else wishing to speak regarding the matter. Hearing none, she said the Planning Commission has had access over the last few days to the thirty or so pages of public input that came out of the session this past summer. It provided a lot of good information. She then asked for questions, comments, or a motion from Planning Commission.

Mr. Way asked what are we ultimately discussing with this now.

Chair Fitzgerald said the ultimate product of this part of the discussion will be: A) a motion that either finds, or does not find, the new City Hall building to be in substantial conformance with the Comprehensive Plan, and B) based on that finding to decide whether this document, which Mr. Banks provided, correctly and accurately outlines the findings we would like to send on to City Council, along with our decision. We could do them as separate issues; that is we could vote on whether we find the substantial accord to hold and then talk about how we would like to word and construct our findings to City Council.

Mr. Way said I need to be clear about what would happen if we found that it was not in substantial conformance. What happens if Planning Commission's recommendation is no.

Chair Fitzgerald replied we would send that on to City Council with the written report providing our reasons why. Then City Council would have the option to over-ride that and go forward anyway with nothing but a majority vote.

Mr. Colman said I would like to talk a bit about environmental compliance. We might not have a guide at this point, but State and City regulations require that we do comply with certain things, such as stormwater management, parking, landscaping, erosion and sediment control requirements, and other measures that are taken. We saw some of the review comments tonight. In some ways it might be good for us to see how the site is being affected by certain requirements.

Mr. Way said I am curious about the timing of this hearing. Was there going to be some review regarding policy of this type (2232) of review and how the City was going to handle it from the City Attorney. How does this review fit in with that discussion?

Chair Fitzgerald replied as I understand the 2232 policy review is in process with the City Attorney. There is a gathering of input that is occurring now, and there is a document that is being prepared to go to staff, City Council, and Planning Commission that outlines these various processes that already exist in the State, which would be like the building blocks to get our conversation going. I had never imagined that that conversation would be relevant to this hearing and to this decision now.

Mr. Way said we are separating the two things. How we go about the review process is one thing and the City Hall discussion is another.

Chair Fitzgerald said I think that the experience of doing this one time will help us in coming up with a better process than we might if we had never done one at all.

Mr. Way asked just to make it clear, we are not having a discussion right now on the merits of having a 2232 review; we are having a 2232 review on the new City Hall.

Chair Fitzgerald said yes, we are not going to be discussing the merits of a 2232 review.

Mr. Way said given that we have not yet decided on a 2232 review process, does that make what we are doing a legitimate 2232 review?

Chair Fitzgerald replied yes. As Planning Commission Chair I called for this review. Unless City Council requires us to have a public hearing we do not need to; City Council has not required Planning Commission to have a public hearing for this. To answer your question this is a legitimate 2232 hearing. We may do this process differently next time around. One would hope that by going through the process of figuring out how to do these on a regular basis it would become routine. In

many communities it is considered a boring, nerdy process and that is what I think it should be for us.

Dr. Dilts said in the spirit of boring and nerdy, I am taken by the argument that we should be very clear about how this does or does not conform to the Comprehensive Plan, because that is the plan that guides what we do in the City. The document that we received from Mr. Banks, the project manager, is “light” on that and I think part of our discussion should be do we want to be more deliberate about it, looking carefully at the Comprehensive Plan, so that whatever document comes from here tonight is one that is complete.

Chair Fitzgerald said that would align with what we had done with the CIP this year; redesigned the process that went forward with the CIP. We very explicitly connected the projects that we were looking at with various goals and strategies within the Comprehensive Plan. Do we want to do two separate things tonight; one, make a decision, and two, create a document that we would forward to City Council.

Mr. Way said I was very pleased with what we did with the CIP and I think that is a good and more objective way to go about it. My fear with this is which parts of the Comprehensive Plan do we pull out? Really, there is only one that is explicitly about the Municipal Building, 7.4.6 which states that we need to develop a plan for the rehab or development of the new one here. So one of our steps is to try and decide exactly what we are going to look at in the Comprehensive Plan, given that there is not much in there. One of the messages I would take away from this is during the next Comprehensive Plan review we would be very cognizant that this type of process now existed and be more explicit about public buildings within the next plan.

Dr. Dilts said I wonder if we could move forward with saying something along the lines of it is in substantial agreement with the plan if we have not looked at and made sure that we have covered the points in the Comprehensive Plan. This could be something we can cover tonight. But if we go ahead and say it and then retroactively go back and pick up the pieces, I do not feel we have gone in the right direction or order.

Mr. Baugh said as someone who has already supported not doing what is on track, and having heard no arguments tonight that I have not heard previously, I suggest that what we have been encouraged to do is fundamentally flawed in the way it is being articulated. I would start by echoing something one of tonight’s speakers said by reading the Comprehensive Plan. In the Executive Summary it says “the reader is encouraged to refer to the complete Comprehensive Plan document to gain a full understanding of all the policies therein.” At the end of the Executive Summary it discusses implementation and periodic review of the plan. The first sentence reads “preparation of a comprehensive plan is worthwhile only if the plan is used and its recommendations are implemented.”—great sentence and I am sure everyone here tonight agrees with that. It continues with “this plan recommends an ambitious array of goals, objectives, and strategies for achieving its vision for the future. It should be understood that the recommendations cannot be implemented all at once. Chapter 16, however, lists strategies that the City has given high priority and should be considered for implementation in the first five years after this plan is adopted.” What jumps out at me about that paragraph is you have four sentences and three of them have some version of the word implement. Remember the Comprehensive Plan is not an ordinance and it is not a statute, and so often people I speak with are trying to apply this as if it were. To me the particular suggestion of looking at a particular goal right now and conducting our own investigation of how something has met the goal totally misses what the Comprehensive Plan is saying. What the Comprehensive Plan

says is that it is a document of standards, it is a document of aspiration, it is fundamental acknowledgement in the way it uses the word like implement. The standards of the Comprehensive Plan are at one level, up here; at the time we adopt the plan we are at this level, down here. The charge of this plan is actually “how do we close that gap?”

I will also note that in Chapter 16 and where items are listed as priority; none of the goals, objectives, or strategies mentioned tonight or other similar ones for the discussion of this issue, are listed on the priority implementation in Chapter 16. None of the ones brought forward tonight in the discussions on this issue are the ones that have been identified by Planning Commission and City Council as the highest priority. Are we on the verge to effectively go back to City Council and say we find you at fault for not implementing standards that do not yet exist? You have the 2232 Review Process from Fairfax County before you; at some point, Fairfax County actually created something that they said “as we go forward from this, this will guide us.” That is the task set before us through the Comprehensive Plan.

I may not agree with the conclusion reached by the majority of City Council on this matter; but I cannot go back to them and take a vote from Planning Commission that says I find fault with them for not applying standards that do not exist yet. And do not forget, it is this body, Planning Commission that is charged with handling the aspirations of the Comprehensive Plan and the time frame for covering the gap between what we have said we would like to do and where we are. We are hearing arguments that suggests that because you have a goal you somehow cannot do anything towards that goal until you develop the procedures. By definition the Comprehensive Plan recognizes that these procedures could be years out.

Another reason for me would be – let’s look at where this path leads, assuming nothing I previously said was correct and that this body is prepared to make a determination that there has been a clear violation of standards of the Comprehensive Plan. Now City Council has not followed the Comprehensive Plan – who goes to jail? No one, it is not a law, regulation, or a statute. There is nothing anywhere that says that City Council, or even Planning Commission, has to adhere to things that are stated within the Comprehensive Plan; that is not how the Comprehensive Plan works. The issue has been addressed, the matter has been litigated and the closest you can find to a firm statement that has been made on this is that the Virginia Supreme Court has been consistent in saying that if matters get to them where the conduct of a local government is called into question, they do want to know what the Planning says. If the jurisdiction has acted in a way that is not consistent with its stated planning, then it gets the Court’s attention. But that is not the end of the analysis. What trumps the Comprehensive Plan? Public interest trumps the Comprehensive Plan. You can do anything you want and be upheld by the Virginia Supreme Court as long as you can articulate a reasonable public interest why in a given interest you did not follow the Comprehensive Plan.

Again, I disagreed with the majority on Council and where they reached a conclusion on this; my personal view is relative to what I have looked at on preservation standards. I just was not able to convince two other Council members to my thinking. That is my opinion, it is not a matter of right and wrong or whether it followed the plan or not. In fact, it was not that long ago that I was actually involved in some litigation where we were advancing this statute against a sister jurisdiction, trying to preserve a historic property. As the judge was showing us the door, and telling us that in his view we were not interpreting the statute correctly at all, he gave an example of what he thought might be a legitimate reason to be before him was that the local governments were spending too much money, they were taking too many tax payers dollars. So if the citizens think

that the local government is wasting or being excessive with their taxpayer dollars, he would have entertained that logic. I put that out there because, if you reviewed the minutes and if you listened to the presentation from staff, clearly when this was discussed at the City Council level one of the things that was covered and discussed in great detail was that this idea costs less; they kept the costs down and minimized interruption to public service.

Even if you really do not believe that the Comprehensive Plan is followed; how in the world could you say that the majority of Council acted in a way that the courts would say was not in the public's best interest? I do not see how you can take people to task for not following procedures that have not been developed yet; the only thing we have said is that we think it would be a great idea to develop these policies. That is our commitment.

Chair Fitzgerald said I agree. I agree with pretty much everything Mr. Baugh has said. I think it is hard to argue that the project is not substantially in accord with the Comprehensive Plan as written, aspirational in many parts. I would argue moving forward with what is before us tonight.

Dr. Dilts said I do not disagree with you; but I do not see any harm in pointing out, for example, Objective 18.5 – “to use the Comprehensive Plan as a guide in land use and zoning decisions, capital improvements, budgeting, and other City actions.” Objective 7.4 reads “to conserve City-owned historic resources and to ensure that City development projects respect and reflect the historic character of the City and site context;” Strategy 7.4.4 says “to assess and mitigate the impacts of all City projects on adjacent historic resources and areas;” 7.4.5 “to design new City public facilities so that they respect and complement the historic character of the city and site context;” 7.4.6 “to develop a plan to renovate the Municipal Building consistent with its historic character.” I think what they are proposing agrees with all of those points; I do not see any reason why that cannot be identified in what we are putting forward. I think that maintaining services to citizens without disruption is a really good idea and proper use of monetary resources is a very good idea. I believe how one designs a building is always subject to whether one likes it or not; it is a very personal thing. I personally like the hyphen – that part of it is very subjective. I believe it has been planned in good conscience, while trying to protect the older building and make it interesting for people who come to City Hall. Therefore, I just think we need to have a bit more substance in our document that shows, in fact, we are using the Comprehensive Plan as our guide.

Chair Fitzgerald said to repeat and make sure I am clear on this, you disagree with nothing within the proposed document, or what you have heard so far; but you would prefer to send something forward that was more explicit in its connection to the points, maybe adding more, and how those points add up to very specific things within the Comprehensive Plan.

Dr. Dilts replied yes, exactly. If we are trying to say we are substantially in accord with the Comprehensive Plan, then we need to have something in the document that says we are substantially in accord with the Comprehensive Plan.

Chair Fitzgerald agreed and said part of writing the document this time, as well as in the future, is that we need to write a document that is defensible and if you think that defensible means there are specific connections to sections of the Comprehensive Plan that need to be included, then I agree with that.

Mr. Colman said I like the idea to substantiate the points that Mr. Banks brings up in the document with Comprehensive Plan. We need to look for agreements with the Comprehensive Plan, not just trying to find what is not supported. There are many issues that are being supported and we just

need to list them and make sure when we forward the document we say it is within the vision of the Comprehensive Plan. I think that it is met.

Mr. Way said to build on Dr. Dilts point, there are a number of other objectives and strategies that might be relevant. Along with 7.4.4, 7.4.5, and 7.4.6 there are things under Goal 15 with revitalization that would be relevant as well. I just agree in an even more expansive way than what Dr. Dilts has said.

Chair Fitzgerald said I am not hearing from anyone that they are of the opinion that this is not in substantial accord with the Comprehensive Plan.

Mr. Way asked Mr. Mather if there were any plans as of yet with what would happen with the existing Municipal Building.

Mr. Mather said no. Our project scope as outlined by the City staff involves just the new construction. Our project does not involve the renovation of the existing building at all. I believe the thought is that at some time in the future it will be; it will be made possible by the thought that they can move everyone out of the existing building. Honestly, by incorporating these two buildings together it ensures that the Municipal Building will be part of the civic future of the City.

Chair Fitzgerald said many people have noted that, and since this discussion was publicized in the newspaper I have received many inquiries about who can I talk to to make sure that the Municipal Building gets used for this idea or that. Because it became rather clear when the atrium idea was developed that the two buildings would be linked as one and we would be keeping them both.

Mr. Way said I certainly like the atrium idea; it is a wonderful way of addressing some of the concerns while producing something unique. Was there any thought given to perhaps locating City Council Chambers in a dramatic way within the atrium? As a way for people to continually engage with the old and new buildings. This would ensure it is a very well used space in a very dramatic way.

Mr. Mather replied I appreciate the idea; however, I believe there were some security issues with that. There will be a new Council Chamber within the building and it is accessible right off of Main Street.

Mr. Way asked if the design of the atrium would allow for public events to be held in there.

Mr. Mather replied yes, that is the hope. We have provided a flexible space, with flexible lighting and power. We hope that the community grabs hold of the idea and there are many groups that like to use it. One can enter it from two ways; one from Main Street and the other from the Farmers Market area. We would hopefully see a very interactive area between the Farmers Market, Main Street and the new City Hall.

Dr. Dilts asked how large is the atrium space.

Mr. Mather said it is about 3,000 square feet. It is also on a couple different levels because the grade from Main Street to the Farmers Market actually drops an entire floor level.

Mr. Da'Mes asked what guidelines did you use in terms of environmental impact when incorporating this design. Were you given any guidelines? Did you use any State mandated guidelines?

Mr. Mather replied we hired Blackwell Engineering to do all the site and civil engineering. There are some very strict requirements, both through the State of Virginia and the newly adopted

stormwater management policies. Blackwell Engineering has followed all of those guidelines in the development of this plan. It is a very strict set of requirements.

Mr. Da'Mes asked Mr. Fletcher in terms of the historic district of Old Town, the Municipal Building is not part of that, are they?

Mr. Fletcher said the Comprehensive Plan recognizes the Historic District as essentially the same boundary as the B-1, Central Business District. However, it is just a designation, there are no regulatory mechanisms.

Mrs. Turner said the Municipal Building is not part of the Old Town Residential Historical District. It is within the boundaries of what qualified to get downtown Harrisonburg designated as a Historic District in total.

Mr. Da'Mes said that does not include the architectural design as that of the Old Town Residential Historic District?

Mrs. Turner said none of our Historic Districts have architectural controls.

Mr. Way asked if the parking as presented was the final arrangement of parking and where they will be in relation to the building.

Mr. Mather replied it is the final as far as our renderings are concerned. It has been fully engineered and submitted for review. Over the course of time with City Council those parking numbers were adjusted, generally a bit downward in order to maximize the green space.

Chair Fitzgerald asked if the parking would meet all of our new landscaping regulations.

Mr. Mather said yes, they will.

Mr. Da'Mes said I would like to go back to a concern that I have regarding access. If I wanted to go to the Farmers Market I would have to go down Main Street to Bruce Street and back track on Liberty Street because there is no longer a cut through access when Warren Street is closed. I do not feel like there is continuity with the plan. Are we doing the smart thing by not including a through way on the site; I do realize the bicycle/pedestrian access has been addressed.

Mr. Fletcher said I am not quite sure I follow your restrictiveness concern for this layout.

Mrs. Turner said are you saying you cannot get to the Farmers Market by going through the City Hall parking lot?

Mr. Da'Mes said I guess I could with the design; but I would have to travel through the parking lot.

Mr. Fletcher replied you do now; you have to travel through the parking lot for this building.

Mrs. Turner said we already have significant challenges in our parking lot because people do use it as a cut through to get from Main Street to Liberty Street. Also the sight distance coming out of Warren Street onto Main Street is not very good and this would be an improvement.

Mr. Baugh said I park on Main Street and it is not a long walk to the Farmers Market.

Mrs. Turner said the access between the current Municipal Building and the old School Board building will remain open – of course it does have some parking off of that access, but it will remain open.

Mr. Colman said regarding the building, were there considerations for energy efficiency?

Mr. Mather said the building meets the current International Energy Code requirements, it actually exceeds them somewhat. The heating and cooling system is energy efficient, it can heat and cool simultaneously, so if one side of the building needs cooling, while the other needs heating you can do that. Through variable refrigerant you can maximize the use of the medium. There is also an energy recovery system built in so that you do not lose all of your latent or cool energy, instead it is recaptured and put back into the building. The lighting has to meet requirements for square footage based on the International Energy Code, we actually exceed the standard. As part of the architectural feature there are some solar shades on the outside of the building that passively help to keep the building cool. So there were a number of strategies implemented.

Mr. Da'Mes asked what are the significant items that hold it back from being a LEED Certified building if you wanted it to be.

Mr. Mather replied we may well qualify for LEED. It is a process of gaining points and submitting those for review. The things that we are doing and well as using local materials, would count as LEED credits. The way the stormwater is handled would contribute to a LEED credit. We may inherently be a LEED building, but the decision was to not incur the expense. It is actually very expensive to go through the process, both from a consultant standpoint and the fees the developer has to pay. For this building it could be about \$20,000 to \$30,000 just to gain the recognition.

Mr. Da'Mes said so there are no significant things that were cut out or not incorporated?

Mr. Mather replied no. The energy efficient lighting, heating and cooling; use of local materials; stormwater all are things that factor into that.

Mr. Da'Mes said the windows have been a big concern of mine in terms of the fact that they are a big drain on the old Municipal Building currently. I am sure as part of any renovation to that building that would be an enhancement. I am thinking with the new building are we trying to make something new that would fit the old and then as soon as we make the new we turn around and convert the old into something different. Do you follow what I am saying? Should we look at this in a broad scope? Are we just focusing on the new building?

Chair Fitzgerald said that is Mr. Mather's charge, to design a new building.

Mr. Mather said he would be happy to be hired to do the next phase and the old building. But to your point about windows, because the atrium will be heated and cooled, all the energy loss from those existing windows along that side, will be greatly reduced. So there are some advantages already in place for the heating and cooling. I should mention that the building will be fully sprinkled and will be of non-combustible construction; an extremely safe building to current standards.

Dr. Dilts said I would like to make a suggestion and I'm just going to put it out there. We have this document that Mr. Banks gave to us as one that we could move forward with, that says that the project is substantial in accord with the City's adopted Comprehensive Plan. I would suggest that we make the following addition to it. In the second paragraph, near the end where it reads "the Planning Commission finds the general or approximate location, character, and extent of the Project is substantially in accord with the City's adopted Comprehensive Plan," then add, "particularly with Strategies 7.4.4, 7.4.5, 7.4.6; Objectives 15.1.1, 15.1.2; and Objective 18.5, and approves the Project." Then say, "In addition the reasons for the Planning Commission's approval of the Project include the following..."

Chair Fitzgerald said the idea here is to specify the parts that we think are most relevant in the Comprehensive Plan, recognizing that many parts of it are not relevant at all.

Dr. Dilts said yes. The six points that are listed are additional reasons why.

Chair Fitzgerald said so we would incorporate at the same time those reasons that Mr. Banks put forward; but also specify and link parts of the Comprehensive Plan that we believe are supported by the project. What does everyone think?

Mr. Da'Mes said do you also incorporate the fact that while we do agree that it is substantially in accord, we find that there are aspiration goals we should do more than aspire to.

Chair Fitzgerald said the general lesson here is that instead of being primarily a reactive body and dealing with rezonings and special use permits, we might take a more proactive report, get the Comprehensive Plan out, decide on a list of prioritized things that we want to implement and move forward in that direction.

Mr. Baugh agreed, in fact, he said, you already have a prioritized list within the Comprehensive Plan. It is a totally appropriate thing for this body to do and is a good idea.

Mrs. Turner said I would like to point out, and this is not really relevant to the 2232, I do not want for this body to ignore or lose sight of the fact that we have been working through many of the goals and objectives that are stated in the plan and listed in Chapter 16 as priority implementation methods. I would not want for someone to say we are not trying to look at the aspirations set by the Comprehensive Plan and strive towards them... we have. We have made multiple amendments, created different zoning classifications, and recently the parking lot landscaping regulations. Every time we are creating an R-6, R-7, or Mixed Use District and then reviewing those plans in relation to those standards you set, we are carrying forward the Comprehensive Plan.

Mr. Colman said as we know this has been such a "hot" topic and I am glad this body is going through this process. I agree that the Comprehensive Plan is aspirational and we can look at it in a more open way. It is good that we are doing this review tonight; in some ways I wish we would have done it earlier.

Mr. Way added I hope I am speaking for the good of the Planning Commission in a broader way when I say while this is a valuable, interesting experience and will give us some good feedback, I do want to keep a good working relationship with City Council. I would like to say this has been a good opportunity to explore how a 2232 review works and to come up with ideas. I do want to make sure that Planning Commission maintains a positive working relationship with Council, and that this, what we have done tonight, does not hurt that relationship.

Dr. Dilts said I would like to thank the citizens for their interest and engagement in this. It has been very helpful. With that said, I would like to recommend that we send forward the idea as written and modified in the document we received from Mr. Banks, that the Planning Commission finds the general or approximate location, character, and extent of the Project is substantially in accord with the City's adopted Comprehensive Plan; particularly with Strategies 7.4.4, 7.4.5, 7.4.6, Objectives 15.1.1, 15.1.2, and 18.5. In addition, the reasons for the Planning Commission's approval of the project includes the items as listed on the document.

Mr. Colman seconded the motion.

Chair Fitzgerald called for a voice vote on the motion.

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

Chair Fitzgerald said this motion carries unanimously.

Mrs. Banks asked Planning Commission when they would like to forward this document on to City Council.

The consensus was that it should move forward to the May 13, 2014 City Council meeting.

Mr. Way said from this discussion it reminds me again of what we have discussed previously about the usefulness of having a dedicated downtown chapter in the next Comprehensive Plan that would more explicitly address some of these questions. I just wanted to make sure that was still on the radar for next time.

Unfinished Business

None.

Public Input

None.

Report of secretary and committees

Mrs. Banks said proactive zoning visited the Chicago Avenue area this month where they found four inoperable vehicle violations. Next month inspectors will be in the Pleasant Hill Acres area of the City.

Mr. Baugh said City Council approved everything that came from this body in March.

Other Matters

Chair Fitzgerald asked what was on the agenda for May.

Mr. Fletcher said there is a street closing for Wilson Avenue and Boulevard Avenue in the north end of the City near the intersection of North Main Street and Mt. Clinton Pike. That is it.

Chair Fitzgerald asked if the Streetscape Plan would be coming.

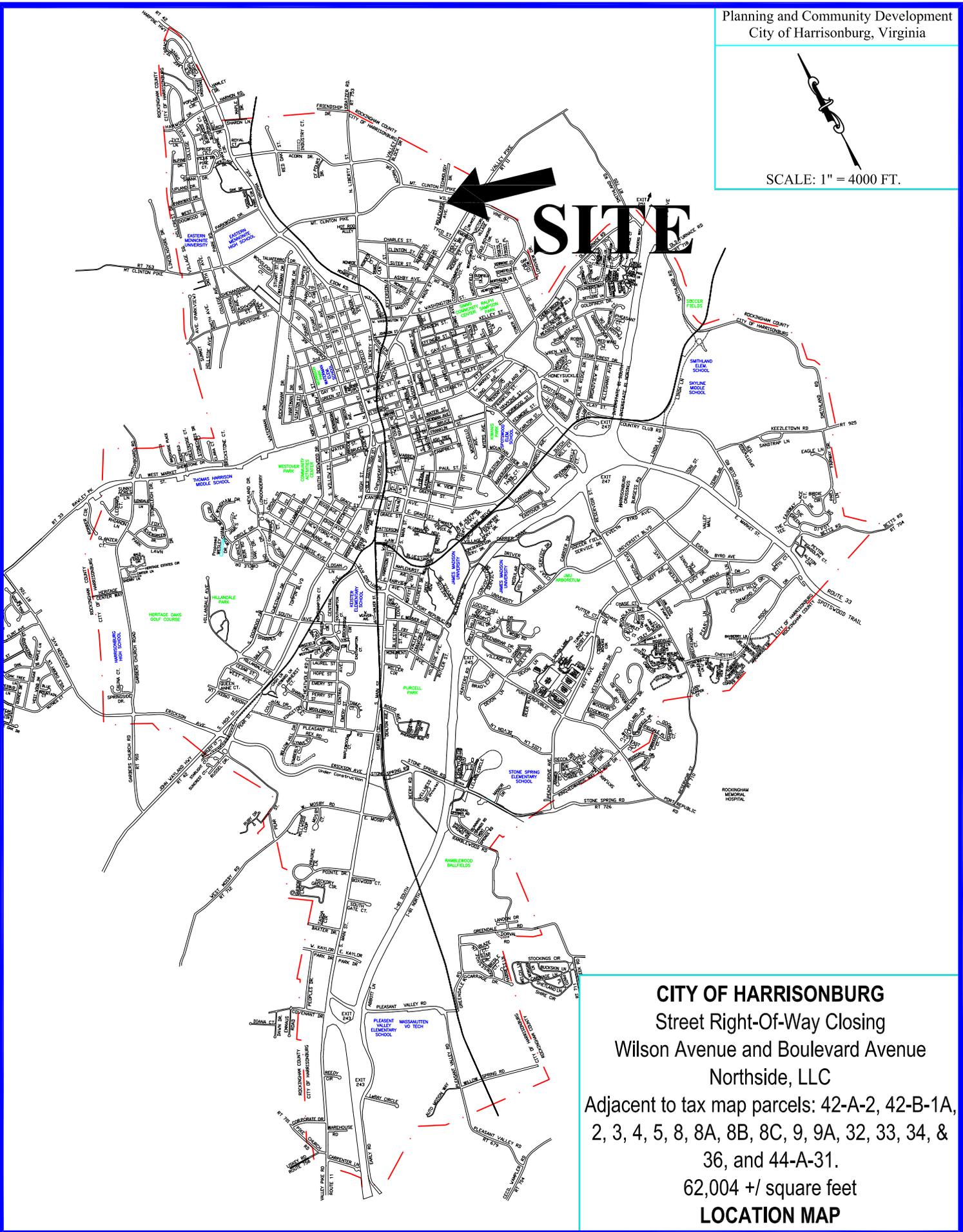
Mr. Fletcher replied no, but it is actively being worked on with more amendments being made. Also, we continue to work on telecommunications regulations, there are just things that continue to get in front of it.

Adjournment

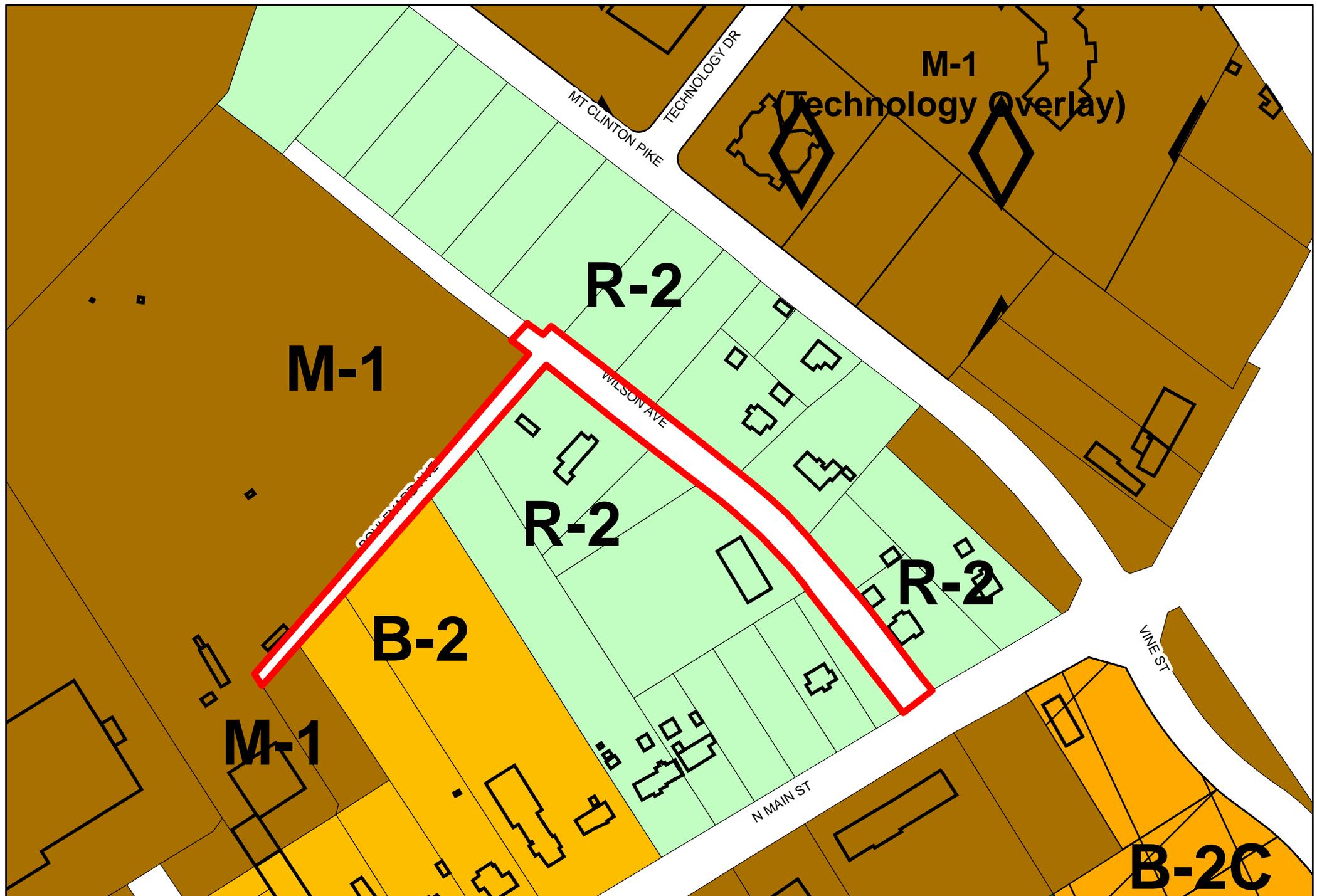
Planning Commission adjourned at 9:10 p.m.



SCALE: 1" = 4000 FT.



CITY OF HARRISONBURG
Street Right-Of-Way Closing
Wilson Avenue and Boulevard Avenue
Northside, LLC
Adjacent to tax map parcels: 42-A-2, 42-B-1A,
2, 3, 4, 5, 8, 8A, 8B, 8C, 9, 9A, 32, 33, 34, &
36, and 44-A-31.
62,004 +/- square feet
LOCATION MAP



**Public Street Right-Of-Way Closing
Wilson Avenue and Boulevard Avenue (Northside, LLC)**



City of Harrisonburg, Virginia

DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

STAFF REPORT

May 14, 2014

STREET CLOSING – WILSON AVENUE & BOULEVARD AVENUE

GENERAL INFORMATION

- Applicant:** Northside, LLC with representative Balzer and Associates, Inc.
- Tax Map:** Adjacent to 42-A-2, 42-B-1A, 2, 3, 5, 8, 8A, 8B, 8C, 9, 9A, 32, 33, 34, & 36, and 44-A-31
- Acreage:** 1.423 +/- acres (62,004 sq. ft.)
- Location:** Wilson Avenue and Boulevard Avenue
- Request:** Consider a request to close Wilson Avenue from North Main Street to just beyond its intersection with Boulevard Avenue while closing Boulevard Avenue in its entirety.

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

- Site:** Wilson Avenue is a substandard public street (a portion of which is a paper street) that intersects North Main Street approximately 300 feet south of the North Main Street/Mt. Clinton Pike intersection and runs parallel to Mt. Clinton Pike for approximately 1,320 feet. Boulevard Avenue is an undeveloped public street located off of Wilson Avenue extending about 690 feet to the south.
- North:** Undeveloped property, zoned R-2
- East:** Single family homes fronting Wilson Avenue and North Main Street, zoned R-2
- South:** Single family homes fronting Wilson Avenue and North Main Street, zoned R-2; a non-conforming single family home fronting North Main Street, zoned B-2; the Harrisonburg Rockingham Community Services Board property fronting North main Street, zoned B-2; and property owned by GSW Investors, zoned M-1
- West:** GSW Investors property, including operations of Rockingham Construction and Special Fleet Service, Inc., zoned M-1

EVALUATION

Northside, LLC (the applicant), a family owned LLC, is requesting to close 62,004 +/- square feet of public street right-of-way (ROW) of two separate streets: Wilson Avenue and Boulevard Avenue. The closure request is the first step of a multi-step process the applicant is initiating so they can enter into contract with an interested buyer to construct what they hope is commercial development—conceptually, a grocery store. After this month's review of the ROW closing, a preliminary plat and rezoning request are planned to be simultaneously reviewed next month. The reason the closure

request is occurring first, is because if the City is not interested in closing the ROW, then the interested buyer does not want to move forward as their conceptual building layout utilizes areas that are now public street ROW.

There are multiple layouts and maps within the packet to assist in understanding this request. The applicant has provided three different layout sheets. Sheet EX-1 illustrates the public ROW requested for closure. Sheet EX-2 demonstrates a preliminary layout of what their parcels could look like after the ROW is incorporated into their adjoining properties along with showing a planned public street ROW dedication, which essentially is an extension of Technology Drive. This same sheet also roughly depicts what the preliminary plat will look like for next month's Planning Commission meeting. Sheet EX-3 illustrates the portion of property they plan to request be rezoned to B-2 and shows a different configuration of what the surrounding parcels could look like if the area is rezoned.

The applicant owns 25 parcels adding up to about 16.66 acres of property in this area of the City with public street frontage along Wilson Avenue, Boulevard Avenue, Mt. Clinton Pike, and North Main Street. About 4.14 acres (four parcels) are located on the northern side of Mt. Clinton Pike at the corner of Mt. Clinton Pike and North Main Street. This property is zoned M-1 and is home to Harrisonburg Motor Express, a trucking company owned by a part-owner of Northside, LLC. At this time, that property has been unassociated with the development plans that have been discussed with staff. The majority of their property (12.52 acres), and the larger area desired for commercial development is located on the southern side of Mt. Clinton Pike and the western side of North Main Street. Aside from the corner parcel—a 30,881 square foot lot zoned M-1—all other property is zoned R-2. In addition to this acreage, Joseph and Linda Moore (Joseph being the owner of Harrisonburg Motor Express), own 1.99 acres made up of two parcels zoned R-2; they reside at that site. In all, 14.51 acres is the total area the applicant and Joseph and Linda Moore together are hoping to sell for development. (Staff has provided a map within the packet depicting the information just described.)

With regard to the streets requested for closure, Wilson Avenue is a substandard public street (a portion of which is a paper street) that intersects North Main Street approximately 300 feet south of the North Main Street/Mt. Clinton Pike intersection. The entire public street ROW runs parallel to Mt. Clinton Pike for about 1,320 feet, where roughly 670 feet is paved. Over half of the length of ROW is 50 feet wide, while the remaining portion is 30 feet wide. Boulevard Avenue is an undeveloped, paper street located off of Wilson Avenue extending about 690 feet to the south. Boulevard Avenue is 30 feet wide. The paved section of Wilson Avenue does not extend to its intersection with Boulevard Avenue, and it currently only serves four single family detached structures, three of which are owned by the applicant and the fourth being owned by Joseph and Linda Moore.

The applicant is requesting to close Wilson Avenue from North Main Street to just beyond its intersection with Boulevard Avenue—about 835 feet in length, most of which is 50 feet wide—while requesting to close Boulevard Avenue in its entirety. If approved as requested, there would remain approximately 485 feet in length of Wilson Avenue as undeveloped public street ROW. As planned, this remaining ROW will not be landlocked from other public street ROW because, as shown on Sheet EX-2, the planned extension of Technology Drive would intersect this undeveloped remaining portion of Wilson Avenue.

As is standard practice, all property owners adjacent to the requested areas for closure will have the opportunity to purchase up to 50 percent of the ROW width along the entire length adjoining their property. In all, 16 parcels are adjacent to the ROW requested for closure; nine are owned by the applicant, two are owned by Joseph and Linda Moore, two are owned by GSW Investors, one is owned

by Harrisonburg Rockingham Community Services Board, one is owned by Harrisonburg Rockingham Community Mental Health and Others, and one is owned by Richard and Betty Sampson.

As shown on Sheet EX-1, there is City public water and sewer infrastructure as well as overhead utility lines owned by HEC within and adjacent to the areas requested for closure. If approved, the City will reserve easements for all of these utilities in the existing ROW with the ordinance that deeds the property to the new owners. The applicant is aware of this issue and is preliminarily showing on Sheet EX-1 the locations of where easements should be established.

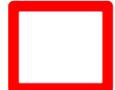
The applicant must understand that if the ROW is closed and purchased, the City will no longer provide snow removal or any other maintenance services on Wilson Avenue. With regard to sanitation services (trash pick-up, recycling, etc.), unless special arrangements are worked out with the Department of Public Works to continue traveling the paved section of Wilson Avenue, residents will have to place their sanitation items along the street their parcel ends up having street frontage upon. Public school bus services would be provided as is determined necessary.

Aside from the matters described herein, the City does not need to maintain ownership of the subject ROWs to provide any other City services. Staff recommends closing the 62,004 +/- square feet of ROW of Wilson Avenue and Boulevard Avenue only with the following two conditions:

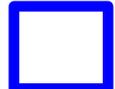
1. The City shall reserve easements for all public utilities in the subject areas.
2. The recording of the street closing shall not occur until, or simultaneously with, the dedication of the extension of Technology Drive.

It should be understood that the City cannot accept the dedication of the extension of Technology Drive until the associated preliminary plat is approved by Planning Commission. The final plat that dedicates Technology Drive (which only requires administrative review), cannot be approved until the complete street is built or a form of surety is accepted by the City to cover all public improvements.

It should be further understood that staff's favorable recommendation for the ROW closure request provides no bearing upon any future development proposal—including the planned preliminary plat and rezoning.



= Parcels owned by Northside, LLC



= Parcels owned by Joseph & Linda Moore



Area Requested for Closure
1.42 Acres (62,004 +/- square feet)



March 31, 2014

Members of City Council
409 South Main Street
Harrisonburg, VA 22801

RE: Proposed Road Closure
Wilson Ave & Boulevard Avenue
City of Harrisonburg, Virginia
Balzer Project No: S1400022

Dear Council Members:

On behalf of MVG Development Group (Developer), Balzer & Associates, Inc. requests the City's consideration for street closure of Wilson Avenue and Boulevard Avenue located near the intersection of North Main Street & Mt. Clinton Pike in Harrisonburg, Virginia. The purpose of the closures is to allow development of the contiguous parcels. Public utilities will be accommodated with easements either within their existing location and/or relocated positions as warranted. Private access easements to any parcels requiring access to public right-of-way will be provided.

Respectfully submitted,
BALZER AND ASSOCIATES, INC.

William S. Moore, PE
Project Manager

Enclosures:

Exhibit Showing Proposed Vacation of Existing Right-of-Way of Wilson Avenue and Boulevard Avenue (1 Page)
Application for Street or Alley Closing (1 Page)

PLANNERS • ARCHITECTS • ENGINEERS • SURVEYORS

ROANOKE • RICHMOND • NEW RIVER VALLEY • SHENANDOAH VALLEY

1561 Commerce Road, Suite 401 • Verona, Virginia 24482 • (540) 248-3220 • FAX (540) 248-3221

AGENDA ITEM ACTION REQUEST

	Meeting Date: April 8, 2014	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 MVG Development	Item: Refer a request to Planning Commission to close Wilson Avenue and Boulevard Avenue.	
Reviewed: <input type="checkbox"/> Manager <input type="checkbox"/> City Attorney <input type="checkbox"/> Department <input type="checkbox"/> Other	Review: Wilson Avenue is a substandard public street that intersects North Main Street approximately 300 feet south of the North Main Street/Mt. Clinton Pike intersection. Boulevard Avenue is an undeveloped public street located off of Wilson Avenue extending about 680 ⁶⁹⁰ feet to the south. The purpose of the closures is to allow development of the contiguous parcels including building over portions of the public street right-of-ways.	
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. Road Closure Letter. 2. Street/Alley Closing Application. 3. Proposed Vacation of Existing ROW	

Date application received: 4/2/14

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

Review fee: \$50.00 Board of Viewers appointment \$ _____ Total Paid: \$ 450.00

Applicant's Name: NORTHSIDE LLC
Street Address: 9527 CENTREVILLE RD E-mail: JEMJAM.L@AOL.COM

City: BRIDGEWATER State: VIRGINIA Zip: 22812
Telephone: ^{Home} ~~Work~~ 540-828-7432 Fax _____ Mobile 540-405-4495

Representative (if any): Balzer and Associates Inc.
Street Address: 1561 Commerce Rd E-mail: winoore@balzer.cc

City: Verona State: VA Zip: 24482
Telephone: Work 540-248-3220 Fax 540-248-3221 Mobile 540-294-0258

Description of Request

Location Wilson Ave from Main St. to it's terminus. Boulevard Ave in its entirety.

Square footage of area to be closed: 77,078 sq. ft.

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

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

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

North: (see attached exhibit)

South: (see attached exhibit)

East: (see attached exhibit)

West: (see attached exhibit)

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

Signature: James E Moore MANAGER
Applicant

Date: 4-1-2014

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.



REFLECTING TOMORROW

www.balzer.cc
Richmond
New River Valley
Roanoke
Shenandoah Valley

RESIDENTIAL LAND DEVELOPMENT ENGINEERING
SITE DEVELOPMENT ENGINEERING
LAND USE PLANNING & ZONING
LANDSCAPE ARCHITECTURE
LAND SURVEYING
ARCHITECTURE
STRUCTURAL ENGINEERING

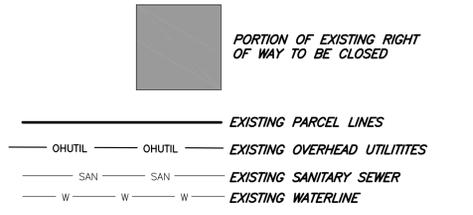
Balzer and Associates, Inc.

15871 City View Drive
Suite 200
Midlothian, VA 23113
804-794-0571
FAX 804-794-2635

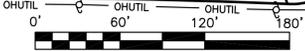
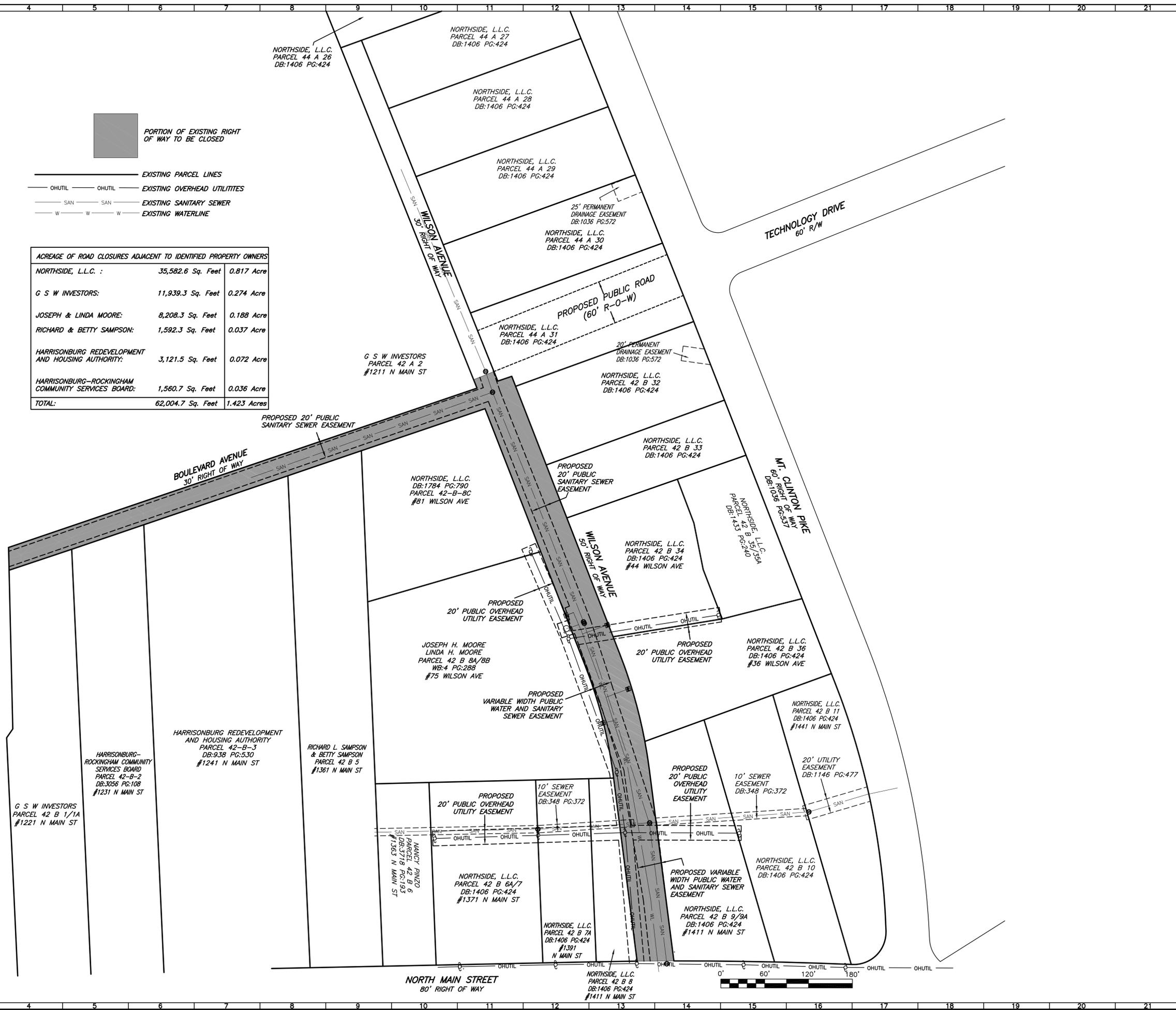
EXHIBIT SHOWING PROPOSED VACATION OF
EXISTING RIGHT OF WAY OF WILSON AVENUE
AND BOULEVARD AVENUE
CITY OF HARRISONBURG, VIRGINIA

DRAWN BY JAP
DESIGNED BY
CHECKED BY WSM
DATE 05/01/2014
SCALE 1"=60'
REVISIONS:

SHEET NO.
EX-1
JOB NO. S1400022



ACREAGE OF ROAD CLOSURES ADJACENT TO IDENTIFIED PROPERTY OWNERS		
NORTHSIDE, L.L.C. :	35,582.6 Sq. Feet	0.817 Acre
G S W INVESTORS:	11,939.3 Sq. Feet	0.274 Acre
JOSEPH & LINDA MOORE:	8,208.3 Sq. Feet	0.188 Acre
RICHARD & BETTY SAMPSON:	1,592.3 Sq. Feet	0.037 Acre
HARRISONBURG REDEVELOPMENT AND HOUSING AUTHORITY:	3,121.5 Sq. Feet	0.072 Acre
HARRISONBURG-ROCKINGHAM COMMUNITY SERVICES BOARD:	1,560.7 Sq. Feet	0.036 Acre
TOTAL:	62,004.7 Sq. Feet	1.423 Acres





EXISTING PARCEL LINES AFTER RECONFIGURATION PER EXHIBIT EX-2
PROPOSED LIMITS OF FINAL PARCEL CONFIGURATION

AREA OF REZONING FROM R-2 TO B-2
TOTAL AREA REZONED 291,504.4 SQ.FT. OR 6.692 ACRES

LINE TABLE		CURVE TABLE						
LINE	BEARING	DISTANCE	CURVE	RADIUS	ARC LENGTH	CHORD BEARING	CHORD LENGTH	DELTA ANGLE
L1	N52°11'49"W	28.26'	C1	230.00'	21.59'	N13°54'37"W	21.59'	5°22'45"
			C2	170.00'	78.39'	N24°25'53"W	77.70'	26°25'17"
			C3	5770.00'	60.43'	N59°21'04"E	60.43'	0°36'00"
			C4	230.00'	106.06'	S24°25'53"E	105.12'	26°25'17"
			C5	170.00'	90.86'	S26°31'56"E	89.78'	30°37'24"

NORTHSIDE, L.L.C.
PARCEL 44 A 27
DB:1406 PG:424

NORTHSIDE, L.L.C.
PARCEL 44 A 26
DB:1406 PG:424

NORTHSIDE, L.L.C.
PARCEL 44 A 28
DB:1406 PG:424

NORTHSIDE, L.L.C.
PARCEL 44 A 29
DB:1406 PG:424

LOT 8
0.778 ACRE
EXISTING R-2

G.S.W. INVESTORS
PARCEL 42 A 2
#1211 N MAIN ST

EXISTING M-1

FINAL PARCEL A
6.692 ACRES
PROPOSED B-2

EXISTING R-2

HARRISONBURG REDEVELOPMENT AND HOUSING AUTHORITY
PARCEL 42-B-3
DB:938 PG:530
#1241 N MAIN ST

RICHARD L. SAMPSON & BETTY SAMPSON
PARCEL 42 B 5
#1361 N MAIN ST

G.S.W. INVESTORS
PARCEL 42 B 1/1A
#1221 N MAIN ST

HARRISONBURG-ROCKINGHAM COMMUNITY SERVICES BOARD
PARCEL 42-B-2
DB:3056 PG:108
#1231 N MAIN ST

NANCY PINZO
PARCEL 42 B 6
DB:327 PG:93
#1353 N MAIN ST

FINAL PARCEL B
1.401 ACRES
EXISTING R-2

FINAL PARCEL C
0.646 ACRE
EXISTING R-2

FINAL PARCEL D
0.752 ACRE
EXISTING R-2

NORTHSIDE, L.L.C.
PARCEL 42 B 10
DB:1406 PG:424

NORTHSIDE, L.L.C.
PARCEL 42 B 11
DB:1406 PG:424

NORTH MAIN STREET
80' RIGHT OF WAY

0' 60' 120' 180'



City of Harrisonburg, Virginia

DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

STAFF REPORT

May 14, 2014

ORDINANCE AMENDMENT – ARTICLE Y FLOODPLAIN ZONING DISTRICT

The City of Harrisonburg is requesting adoption of an updated Article Y, Floodplain Zoning District of the City's Zoning Ordinance per requirements of the Federal Emergency Management Agency (FEMA).

The Virginia Department of Conservation & Recreation (DCR), on behalf of FEMA, periodically conducts Community Assistance Visits (CAVs) to Virginia communities that participate in the National Flood Insurance Program (NFIP). The primary purpose of the CAV is to help the City maintain compliance with NFIP requirements. City Staff met with a representative of DCR as part of a recent CAV and the outcome of the meeting identified some changes that needed to be made within Article Y in order to maintain compliance with the NFIP requirements. After evaluating the needed changes, rather than trying to modify the existing text, staff chose to adapt FEMA's 2011 Virginia Model Floodplain Ordinance text specific to the City's needs, thus ensuring all current requirements would be met. This update is very similar to the Floodplain Zoning District amendment City Council approved in 2007; however at that time the flood map was revised as well. A formal adoption of a compliant floodplain ordinance must be completed this summer to complete the CAV review.

Staff recommends adopting the updated Article Y, Floodplain Zoning District of the Zoning Ordinance.

ARTICLE Y - FLOODPLAIN ZONING DISTRICT

Section 10-3-160. Statutory Authorization, Purpose, Applicability, and Compliance and Liability

A. *Statutory Authorization.* This ordinance is adopted pursuant to the authority granted to localities by Va. Code § 15.2 - 2280.

B. *Purpose.* The purpose of these provisions is to prevent: the loss of life and property, the creation of health and safety hazards, the disruption of commerce and governmental services, the extraordinary and unnecessary expenditure of public funds for flood protection and relief, and the impairment of the tax base by:

- 1) regulating uses, activities, and development which, alone or in combination with other existing or future uses, activities, and development, will cause unacceptable increases in flood heights, velocities, and frequencies;
- 2) restricting or prohibiting certain uses, activities, and development from locating within districts subject to flooding;
- 3) requiring all those uses, activities, and developments that do occur in flood-prone districts to be protected and/or flood-proofed against flooding and flood damage; and,
- 4) protecting individuals from buying land and structures which are unsuited for intended purposes because of flood hazards.

C. *Applicability.* These provisions shall apply to all privately and publicly owned lands within the jurisdiction of the City of Harrisonburg and identified as areas of special flood hazard according to the flood insurance rate map (FIRM) that is provided to the City of Harrisonburg by FEMA.

D. *Compliance and Liability.*

- 1) No land shall hereafter be developed and no structure shall be located, relocated, constructed, reconstructed, enlarged, or structurally altered except in full compliance with the terms and provisions of this ordinance and any other applicable ordinances and regulations which apply to uses within the jurisdiction of this ordinance.
- 2) The degree of flood protection sought by the provisions of this ordinance is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study, but does not imply total flood protection. Larger floods may occur on rare occasions. Flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This ordinance does not imply that districts outside the floodplain district or land uses permitted within such district will be free from flooding or flood damages.

- 3) This ordinance shall not create liability on the part of the City of Harrisonburg or any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made there under.

Sec. 10-3-161. Records and Abrogation and Greater Restrictions

- A. *Records.* Records of actions associated with administering this ordinance shall be kept on file and maintained by the Floodplain Administrator.
- B. *Abrogation and Greater Restrictions.* This ordinance supersedes any ordinance currently in effect in flood-prone districts. Any ordinance, however, shall remain in full force and effect to the extent that its provisions are more restrictive.

Sec. 10-3-162. Designation and Duties and Responsibilities of the Floodplain Administrator

A. *Designation.*

- 1) The Zoning Administrator is hereby appointed to administer and implement these regulations and is referred to herein as the Floodplain Administrator. The Floodplain Administrator may:
- 2) Do the work themselves. In the absence of a designated Floodplain Administrator, the duties are conducted by the Director of Planning and Community Development.
- 3) Delegate duties and responsibilities set forth in these regulations to qualified technical personnel, plan examiners, inspectors, and other employees.
- 4) Enter into a written agreement or written contract with another community or private sector entity to administer specific provisions of these regulations. Administration of any part of these regulations by another entity shall not relieve the community of its responsibilities pursuant to the participation requirements of the National Flood Insurance Program as set forth in the Code of Federal Regulations at 44 C.F.R. Section 59.22.

B. *Duties and Responsibilities.* The duties and responsibilities of the Floodplain Administrator shall include but are not limited to:

- 1) Review applications for permits to determine whether proposed activities will be located in the Special Flood Hazard Area (SFHA).
- 2) Interpret floodplain boundaries and provide available base flood elevation and flood hazard information.
- 3) Review applications to determine whether proposed activities will be reasonably safe from flooding and require new construction and substantial improvements to meet the requirements of these regulations.

- 4) Review applications to determine whether all necessary permits have been obtained from the Federal, State or local agencies from which prior or concurrent approval is required; in particular, permits from state agencies for any construction, reconstruction, repair, or alteration of a dam, reservoir, or waterway obstruction (including bridges, culverts, structures), any alteration of a watercourse, or any change of the course, current, or cross section of a stream or body of water, including any change to the 100-year frequency floodplain of free-flowing non-tidal waters of the State.
- 5) Verify that applicants proposing an alteration of a watercourse have notified adjacent communities, the Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management), and other appropriate agencies (VADEQ, USACE) and have submitted copies of such notifications to FEMA.
- 6) Approve applications and issue permits to develop in flood hazard areas if the provisions of these regulations have been met, or disapprove applications if the provisions of these regulations have not been met.
- 7) Inspect or cause to be inspected, buildings, structures, and other development for which permits have been issued to determine compliance with these regulations or to determine if non-compliance has occurred or violations have been committed.
- 8) Review Elevation Certificates and require incomplete or deficient certificates to be corrected.
- 9) Submit to FEMA, or require applicants to submit to FEMA, data and information necessary to maintain FIRMs, including hydrologic and hydraulic engineering analyses prepared by or for the City of Harrisonburg, within six months after such data and information becomes available if the analyses indicate changes in base flood elevations.
- 10) Maintain and permanently keep records that are necessary for the administration of these regulations, including:
 - a. Flood Insurance Studies, Flood Insurance Rate Maps (including historic studies and maps and current effective studies and maps) and Letters of Map Change; and
 - b. Documentation supporting issuance and denial of permits, Elevation Certificates, documentation of the elevation (in relation to the datum on the FIRM) to which structures have been floodproofed, other required design certifications, variances, and records of enforcement actions taken to correct violations of these regulations.
- 11) Enforce the provisions of these regulations, investigate violations, issue notices of violations or stop work orders, and require permit holders to take corrective action.
- 12) Advise the Board of Zoning Appeals regarding the intent of these regulations

and, for each application for a variance, prepare a staff report and recommendation.

- 13) Administer the requirements related to proposed work on existing buildings:
 - a. Make determinations as to whether buildings and structures that are located in flood hazard areas and that are damaged by any cause have been substantially damaged.
 - b. Make reasonable efforts to notify owners of substantially damaged structures of the need to obtain a permit to repair, rehabilitate, or reconstruct, and prohibit the non-compliant repair of substantially damaged buildings except for temporary emergency protective measures necessary to secure a property or stabilize a building or structure to prevent additional damage.
- 14) Undertake, as determined appropriate by the Floodplain Administrator due to the circumstances, other actions which may include but are not limited to: issuing press releases, public service announcements, and other public information materials related to permit requests and repair of damaged structures; coordinating with other Federal, State, and local agencies to assist with substantial damage determinations; providing owners of damaged structures information related to the proper repair of damaged structures in special flood hazard areas; and assisting property owners with documentation necessary to file claims for Increased Cost of Compliance coverage under NFIP flood insurance policies.
- 15) Notify the Federal Emergency Management Agency when the corporate boundaries of the City of Harrisonburg have been modified and:
 - a. Provide a map that clearly delineates the new corporate boundaries or the new area for which the authority to regulate pursuant to these regulations has either been assumed or relinquished through annexation; and
 - b. If the FIRM for any annexed area includes special flood hazard areas that have flood zones that have regulatory requirements that are not set forth in these regulations, prepare amendments to these regulations to adopt the FIRM and appropriate requirements, and submit the amendments to the governing body for adoption; such adoption shall take place at the same time as or prior to the date of annexation and a copy of the amended regulations shall be provided to Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management) and FEMA.
- 16) Upon the request of FEMA, complete and submit a report concerning participation in the NFIP which may request information regarding the number of buildings in the SFHA, number of permits issued for development in the SFHA, and number of variances issued for development in the SFHA.
- 17) It is the duty of the Community Floodplain Administrator to take into account flood, mudslide and flood-related erosion hazards, to the extent that

they are known, in all official actions relating to land management and use throughout the entire jurisdictional area of the Community, whether or not those hazards have been specifically delineated geographically (e.g. via mapping or surveying).

Sec. 10-3-163. Use and Interpretation of FIRMs.

The Floodplain Administrator shall make interpretations, where needed, as to the exact location of special flood hazard areas, floodplain boundaries, and floodway boundaries. The following shall apply to the use and interpretation of FIRMs and data:

- A. Where field surveyed topography indicates that adjacent ground elevations:
 - 1) Are below the base flood elevation, even in areas not delineated as a special flood hazard area on a FIRM, the area shall be considered as special flood hazard area and subject to the requirements of these regulations;
 - 2) Are above the base flood elevation, the area shall be regulated as special flood hazard area unless the applicant obtains a Letter of Map Change that removes the area from the SFHA.
- B. In FEMA-identified special flood hazard areas where base flood elevation and floodway data have not been identified and in areas where FEMA has not identified SFHAs, any other flood hazard data available from a Federal, State, or other source shall be reviewed and reasonably used.
- C. Base flood elevations and designated floodway boundaries on FIRMs and in FISs shall take precedence over base flood elevations and floodway boundaries by any other sources if such sources show reduced floodway widths and/or lower
- D. Base flood elevations.
- E. Other sources of data shall be reasonably used if such sources show increased base flood elevations and/or larger floodway areas than are shown on FIRMs and in FISs.
- F. If a Preliminary Flood Insurance Rate Map and/or a Preliminary Flood Insurance Study has been provided by FEMA:
 - 1) Upon the issuance of a Letter of Final Determination by FEMA, the preliminary flood hazard data shall be used and shall replace the flood hazard data previously provided from FEMA for the purposes of administering these regulations.
 - 2) Prior to the issuance of a Letter of Final Determination by FEMA, the use of preliminary flood hazard data shall be deemed the best available data pursuant to Section 10-3-163 (B) and used where no base flood elevations and/or floodway areas are provided on the effective FIRM.
 - 3) Prior to issuance of a Letter of Final Determination by FEMA, the use of preliminary flood hazard data is permitted where the preliminary base flood elevations or floodway areas exceed the base flood elevations and/or designated floodway widths in existing flood hazard data provided by

FEMA. Such preliminary data may be subject to change and/or appeal to FEMA.

Sec. 10-3-164. Jurisdictional Boundary Changes.

The City of Harrisonburg floodplain ordinance in effect on the date of annexation shall remain in effect and shall be enforced by the municipality for all annexed areas until the municipality adopts and enforces an ordinance which meets the requirements for participation in the National Flood Insurance Program. Municipalities with existing floodplain ordinances shall pass a resolution acknowledging and accepting responsibility for enforcing floodplain ordinance standards prior to annexation of any area containing identified flood hazards. If the FIRM for any annexed area includes special flood hazard areas that have flood zones that have regulatory requirements that are not set forth in these regulations, prepare amendments to these regulations to adopt the FIRM and appropriate requirements, and submit the amendments to the governing body for adoption; such adoption shall take place at the same time as or prior to the date of annexation and a copy of the amended regulations shall be provided to Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management) and FEMA.

In accordance with the Code of Federal Regulations, Title 44 Subpart (B) Section 59.22 (a) (9) (v) all NFIP participating communities must notify FEMA and optionally the State Coordinating Office in writing whenever the boundaries of the community have been modified by annexation or the community has otherwise assumed or no longer has authority to adopt and enforce floodplain management regulations for a particular area.

In order that all Flood Insurance Rate Maps accurately represent the community's boundaries, a copy of a map of the community suitable for reproduction, clearly delineating the new corporate limits or new area for which the community has assumed or relinquished floodplain management regulatory authority must be included with the notification

Sec. 10-3-165. District Boundary Changes and Interpretation of District Boundaries.

- A. *District Boundary Changes.* The delineation of any of the Floodplain Districts may be revised by the City of Harrisonburg where natural or man-made changes have occurred and/or where more detailed studies have been conducted or undertaken by the U. S. Army Corps of Engineers or other qualified agency, or an individual documents the need for such change. However, prior to any such change, approval must be obtained from the Federal Emergency Management Agency.
- B. *Interpretation of District Boundaries.* Initial interpretations of the boundaries of the Floodplain Districts shall be made by the Zoning Administrator. Should a dispute arise concerning the boundaries of any of the Districts, the Board of Zoning Appeals shall make the necessary determination. The person questioning or contesting the location of the District boundary shall be given a reasonable opportunity to present his case to the Board and to submit his own technical evidence if he so desires.

Sec. 10-3-166. Submitting Technical Data.

A community's base flood elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than six months

after the date such information becomes available, a community shall notify the Federal Emergency Management Agency of the changes by submitting technical or scientific data. Such a submission is necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and flood plain management requirements will be based upon current data.

Sec. 10-3-167. Letters of Map Revision.

When development in the floodplain will cause or causes a change in the base flood elevation, the developer, including state agencies, must notify FEMA by applying for a Conditional Letter of Map Revision and then a Letter of Map Revision.

Sec. 10-3-168. Description of Special Flood Hazard Districts.

The various special flood hazard districts shall include the SFHAs. The basis for the delineation of these districts shall be the FIS and the FIRM for the City of Harrisonburg prepared by the Federal Emergency Management Agency, dated February 6, 2008, and any subsequent revisions or amendments thereto.

The boundaries of the SFHA Districts are established as shown on the FIRM which is declared to be a part of this ordinance and which shall be kept on file at the offices of the Department of Planning and Community Development.

- A. The **Floodway District** is in an **AE Zone** and is delineated, for purposes of this ordinance, using the criterion that certain areas within the floodplain must be capable of carrying the waters of the one percent annual chance flood without increasing the water surface elevation of that flood more than one (1) foot at any point. The areas included in this District are specifically defined in Table 6 of the above referenced FIS and shown on the accompanying FIRM.

The following provisions shall apply within the Floodway District of an AE zone.

- 1) Within any floodway area, no encroachments, including fill, new construction, substantial improvements, or other development shall be permitted unless it has been demonstrated through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that the proposed encroachment will not result in any increase in flood levels within the community during the occurrence of the base flood discharge. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently-accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the Floodplain Administrator.

Development activities which increase the water surface elevation of the base flood may be allowed, provided that the applicant first applies – with the City of Harrisonburg’s endorsement – for a Conditional Letter of Map Revision (CLOMR), and receives the approval of the Federal Emergency Management Agency.

If Section 10-3-168 (A) (1) is satisfied, all new construction and substantial

improvements shall comply with all applicable flood hazard reduction provisions of Sections 10-3-170 through 10-3-173.

- 2) The placement of manufactured homes (mobile homes) is prohibited, except in an existing manufactured home (mobile home) park or subdivision. A replacement manufactured home may be placed on a lot in an existing manufactured home park or subdivision provided the anchoring, elevation, and encroachment standards are met.

B. The **AE Zones** on the FIRM accompanying the FIS shall be those areas for which one-percent annual chance flood elevations have been provided and the floodway has **not** been delineated. The following provisions shall apply within an AE:

- 1) Until a regulatory floodway is designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within the areas of special flood hazard, designated as Zone AE on the FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the City of Harrisonburg.
- 2) Development activities in Zones AE on the City of Harrisonburg's FIRM which increase the water surface elevation of the base flood by more than one foot may be allowed, provided that the applicant first applies – with the City of Harrisonburg's endorsement – for a Conditional Letter of Map Revision, and receives the approval of the Federal Emergency Management Agency.

Sec. 10-3-169. Overlay Concept

The Floodplain Districts described above shall be overlays to the existing underlying districts as shown on the Official Zoning Ordinance Map, and as such, the provisions for the floodplain districts shall serve as a supplement to the underlying district provisions.

If there is any conflict between the provisions or requirements of the Floodplain Districts and those of any underlying district, the more restrictive provisions and/or those pertaining to the floodplain districts shall apply.

In the event any provision concerning a Floodplain District is declared inapplicable as a result of any legislative or administrative actions or judicial decision, the basic underlying provisions shall remain applicable.

Sec. 10-3-170. Permit and Application Requirements.

- A. *Permit Requirement.* All uses, activities, and development occurring within any floodplain district, including placement of manufactured homes, shall be undertaken only upon the issuance of a permit. Such development shall be undertaken only in strict compliance with the provisions of this Ordinance and with all other applicable codes and ordinances, as amended, such as the Virginia Uniform Statewide Building Code (VA USBC) and the City of Harrisonburg Subdivision Regulations. Prior to the issuance of any such permit, the Floodplain Administrator shall require all

applications to include compliance with all applicable state and federal laws and shall review all sites to assure they are reasonably safe from flooding. Under no circumstances shall any use, activity, and/or development adversely affect the capacity of the channels or floodways of any watercourse, drainage ditch, or any other drainage facility or system.

- B. *Site Plans and Permit Applications.* All applications for development within any floodplain district and all building permits issued for the floodplain shall incorporate the following information:
- 1) The elevation of the Base Flood at the site.
 - 2) The elevation of the lowest floor (including basement).
 - 3) For structures to be flood-proofed (non-residential only), the elevation to which the structure will be flood-proofed.
 - 4) Topographic information showing existing and proposed ground elevations.

Sec. 10-3-171. General Standards

The following provisions shall apply to all permits:

- A. New construction and substantial improvements shall be according to Section 10-3-168 of this ordinance and the VA USBC, and anchored to prevent flotation, collapse or lateral movement of the structure.
- B. Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state anchoring requirements for resisting wind forces.
- C. New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- D. New construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.
- E. Electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities, including duct work, shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- F. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- G. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.
- H. On-site waste disposal systems shall be located and constructed to avoid impairment

to them or contamination from them during flooding.

- I. Prior to any proposed alteration or relocation of any channels or of any watercourse, stream, etc., within this jurisdiction a permit shall be obtained from the U. S. Corps of Engineers, the Virginia Department of Environmental Quality, and the Virginia Marine Resources Commission (a joint permit application is available from any of these organizations). Furthermore, in riverine areas, notification of the proposal shall be given by the applicant to all affected adjacent jurisdictions, the Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management), other required agencies, and the Federal Emergency Management Agency.
- J. The flood carrying capacity within an altered or relocated portion of any watercourse shall be maintained.

Sec. 10-3-172. Elevation and Construction Standards.

In all identified flood hazard areas where base flood elevations have been provided in the FIS the following provisions shall apply:

- A. *Residential Construction.* New construction or substantial improvement of any residential structure (including manufactured homes) in Zone AE with detailed base flood elevations shall have the lowest floor, including basement, elevated no lower than one (1) foot above the base flood level or as otherwise required by the Uniform Statewide Building Code (USBC).
- B. *Non-Residential Construction.* New construction or substantial improvement of any commercial, industrial, or non-residential building (or manufactured home) shall have the lowest floor, including basement, elevated no lower than one (1) foot above the base flood level. Buildings located in all AE zones may be flood-proofed in lieu of being elevated provided that all areas of the building components below the elevation corresponding to the BFE plus one foot are water tight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification, including the specific elevation (in relation to mean sea level) to which such structures are floodproofed, shall be maintained by the Zoning Administrator.
- C. *Space Below the Lowest Floor.* In zones AE, fully enclosed areas, of new construction or substantially improved structures, which are below the regulatory flood protection elevation shall:
 - 1) not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator).
 - 2) be constructed entirely of flood resistant materials below the regulatory

flood protection elevation;

- 3) include measures to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet the following minimum design criteria:
 - a. Provide a minimum of two openings on different sides of each enclosed area subject to flooding.
 - b. The total net area of all openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding.
 - c. If a building has more than one enclosed area, each area must have openings to allow floodwaters to automatically enter and exit.
 - d. The bottom of all required openings shall be no higher than one (1) foot above the adjacent grade.
 - e. Openings may be equipped with screens, louvers, or other opening coverings or devices, provided they permit the automatic flow of floodwaters in both directions.
 - f. Foundation enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires openings as outlined above.

D. Standards for Manufactured Homes and Recreational Vehicles.

- 1) All manufactured homes placed, or substantially improved, on individual lots or parcels, must meet all the requirements for new construction, including the elevation and anchoring requirements in Section 10-3-171 and Section 10-3-172.
- 2) All recreational vehicles placed on sites must either
 - a. be on the site for fewer than 180 consecutive days, be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions); or
 - b. meets all the requirements for manufactured homes in Section 10-3-172 (D)(1).

Sec. 10-3-173. Standards for Subdivision Proposals.

- A. All subdivision proposals shall be consistent with the need to minimize flood damage;
- B. All subdivision proposals shall have public utilities and facilities such as sewer, gas,

electrical and water systems located and constructed to minimize flood damage;

- C. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards, and
- D. Base flood elevation data shall be obtained from other sources or developed using detailed methodologies, hydraulic and hydrologic analysis, comparable to those contained in a Flood Insurance Study for subdivision proposals and other
- E. proposed development proposals (including manufactured home parks and subdivisions) that exceed fifty lots or five acres, whichever is the lesser.

Sec. 10-3-174. Existing Structures in Floodplain Areas.

A structure or use of a structure or premises which lawfully existed before the enactment of these provisions, but which is not in conformity with these provisions, may be continued subject to the following conditions:

- A. Existing structures in the Floodway Area shall not be expanded or enlarged unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the proposed expansion would not result in any increase in the base flood elevation.
- B. Any modification, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use located in any floodplain areas to an extent or amount of less than fifty (50) percent of its market value shall conform to the VA USBC and the appropriate provisions of this ordinance.
- C. The modification, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use, regardless of its location in a floodplain area to an extent or amount of fifty (50) percent or more of its market value shall be undertaken only in full compliance with this ordinance and shall require the entire structure to conform to the VA USBC.

Sec. 10-3-175. Variances: Factors to be Considered.

Variances shall be issued only upon (i) a showing of good and sufficient cause, (ii) after the Board of Zoning Appeals has determined that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) after the Board of Zoning Appeals has determined that the granting of such variance will not result in (a) unacceptable or prohibited increases in flood heights, (b) additional threats to public safety, (c) extraordinary public expense; and will not (d) create nuisances, (e) cause fraud or victimization of the public, or (f) conflict with local laws or ordinances.

While the granting of variances generally is limited to a lot size less than one-half acre, deviations from that limitation may occur. However, as the lot size increases beyond one-half acre, the technical justification required for issuing a variance increases. Variances may be issued by the Board of Zoning Appeals for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, in conformance with the provisions of this section.

Variances may be issued for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that the criteria of this section are met, and the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

In passing upon applications for variances, the Board of Zoning Appeals shall satisfy all relevant factors and procedures specified in other sections of the zoning ordinance and consider the following additional factors:

- A. The danger to life and property due to increased flood heights or velocities caused by encroachments. No variance shall be granted for any proposed use, development, or activity within any Floodway District that will cause any increase in the one hundred (100)-year flood elevation.
- B. The danger that materials may be swept on to other lands or downstream to the injury of others.
- C. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
- D. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.
- E. The importance of the services provided by the proposed facility to the community.
- F. The requirements of the facility for a waterfront location.
- G. The availability of alternative locations not subject to flooding for the proposed use.
- H. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
- I. The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.
- J. The safety of access by ordinary and emergency vehicles to the property in time of flood.
- K. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.
- L. The historic nature of a structure. Variances for repair or rehabilitation of historic structures may be granted upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- M. Such other factors which are relevant to the purposes of this ordinance.

The Board of Zoning Appeals may refer any application and accompanying documentation pertaining to any request for a variance to any engineer or other qualified person or agency for technical assistance in evaluating the proposed project in relation to flood heights and velocities, and the adequacy of the plans for flood protection and other related matters.

Variances shall be issued only after the Board of Zoning Appeals has determined that the granting of such will not result in (a) unacceptable or prohibited increases in flood heights, (b) additional threats to public safety, (c) extraordinary public expense; and will not (d) create nuisances, (e) cause fraud or victimization of the public, or (f) conflict with local laws or ordinances.

Variances shall be issued only after the Board of Zoning Appeals has determined that the variance will be the minimum required to provide relief.

The Board of Zoning Appeals shall notify the applicant for a variance, in writing that the issuance of a variance to construct a structure below the one hundred (100)-year flood elevation (a) increases the risks to life and property and (b) will result in increased premium rates for flood insurance.

A record shall be maintained of the above notification as well as all variance actions, including justification for the issuance of the variances. Any variances that are issued shall be noted in the annual or biennial report submitted to the FEMA.

Sec. 10-3-176. Definitions.

Appurtenant or accessory structure: Accessory structures not to exceed 200 sq. ft.

Base flood: The flood having a one percent chance of being equaled or exceeded in any given year. This is a regulatory standard that is also referred to as the “100-year” flood.

Base flood elevation: The Federal Emergency Management Agency designated one percent annual chance water surface elevation and the elevation determined per Section 10-3-168. The water surface elevation of the base flood in relation to the datum specified on the community’s Flood Insurance Rate Map. For the purposes of this ordinance, the base flood is one hundred (100) year flood or 1% annual chance flood.

Basement: Any area of the building having its floor sub-grade (below ground level) on all sides.

Board of Zoning Appeals: The board appointed to review appeals made by individuals with regard to decisions of the Zoning Administrator in the interpretation of this ordinance.

Coastal A Zone: Flood hazard areas that have been delineated as subject to wave heights between 1.5 feet and 3 feet.

Development: Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

Elevated building: A non-basement building built to have the lowest floor elevated above the ground level by means of solid foundation perimeter walls, pilings, or columns (posts and piers).

Encroachment: The advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

Existing construction: Structures for which the “start of construction” commenced before November 3, 1989. “Existing construction” may also be referred to as “existing structures.”

Flood or flooding:

1. A general or temporary condition of partial or complete inundation of normally dry land areas from
 - a. the overflow of inland or tidal waters;
 - b. the unusual and rapid accumulation or runoff of surface waters from any source; or
 - c. mudflows which are proximately caused by flooding as defined in paragraph (1)(b) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.
2. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph 1 (a) of this definition.

Flood Insurance Rate Map (FIRM): An official map of a community, on which the Federal Emergency Management Agency has delineated both the special hazard areas and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

Flood Insurance Study (FIS): A report by FEMA that examines, evaluates and determines flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudflow and/or flood-related erosion hazards.

Floodplain or flood-prone area: Any land area susceptible to being inundated by water from any source.

Flood proofing: Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Floodway: The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the

water surface elevation more than one foot.

Freeboard: A factor of safety usually expressed in feet above a flood level for purposes of floodplain management. “Freeboard” tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization in the watershed. When a freeboard is included in the height of a structure, the flood insurance premiums may be less expensive.

Highest adjacent grade: The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic structure: Any structure that is

1. listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or,
4. individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either
 - a. by an approved state program as determined by the Secretary of the Interior; or,
 - b. directly by the Secretary of the Interior in states without approved programs.

Hydrologic and Hydraulic Engineering Analysis: Analyses performed by a *licensed* professional engineer, in accordance with standard engineering practices that are accepted by the Virginia Department of Conservation and Recreation and FEMA, used to determine the *base flood*, other frequency floods, *flood* elevations, *floodway* information and boundaries, and *flood* profiles.

Letters of Map Change (LOMC): A Letter of Map Change is an official FEMA determination, by letter, that amends or revises an effective *Flood Insurance Rate Map* or *Flood Insurance Study*. Letters of Map Change include:

1. *Letter of Map Amendment (LOMA):* An amendment based on technical data showing that a property was incorrectly included in a designated special flood hazard area. A LOMA amends the current effective *Flood Insurance Rate Map* and establishes that a Land as defined by meets and bounds or *structure* is not located in a *special flood hazard area*.
2. *Letter of Map Revision (LOMR):* A revision based on technical data that may show changes to *flood zones*, *flood elevations*, *floodplain* and floodway delineations, and planimetric features. A letter of Map Revision Based on Fill (LOMR-F), is a determination that a *structure* or parcel of land has been elevated by fill above the

base flood elevation and is, therefore, no longer exposed to *flooding* associated with the *base flood*. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the *community's* floodplain management regulations.

3. *Conditional Letter of Map Revision (CLOMR)*: A formal review and comment as to whether a proposed *flood* protection project or other project complies with the minimum NFIP requirements for such projects with respect to delineation of *special flood hazard areas*. A CLOMR does not revise the effective *Flood Insurance Rate Map* or *Flood Insurance Study*.

Lowest adjacent grade: The lowest natural elevation of the ground surface next to the walls of a structure.

Lowest floor: The lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of Federal Code 44CFR §60.3.

Manufactured home: A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days, but does not include a recreational vehicle.

Manufactured home park or subdivision: A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

New construction: For the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after November 3, 1989, and includes any subsequent improvements to such structures. For floodplain management purposes, *new construction* means structures for which the *start of construction* commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

Post-FIRM structures: A structure for which construction or substantial improvement occurred after November 3, 1989.

Pre-FIRM structures: A structure for which construction or substantial improvement occurred on or before November 3, 1989.

Recreational vehicle: A vehicle which is

1. built on a single chassis;
2. 400 square feet or less when measured at the largest horizontal projection;
3. designed to be self-propelled or permanently towable by a light duty truck; and,

4. designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational camping, travel, or seasonal use.

Repetitive Loss Structure: A building covered by a contract for flood insurance that has incurred flood-related damages on two occasions in which the cost of the repair, on the average, equaled or exceeded 25 percent of the market value of the structure at the time of each such flood event; and at the time of the second incidence of flood related damage, the contract for flood insurance contains increased cost of compliance coverage.

Severe repetitive loss structure: A structure that: (a) Is covered under a contract for flood insurance made available under the NFIP; and (b) Has incurred flood related damage – (i) For which 4 or more separate claims payments have been made under flood insurance coverage with the amount of each such claim exceeding \$5,000, and with the cumulative amount of such claims payments exceeding \$20,000; or (ii) For which at least 2 separate claims payments have been made under such coverage, with the cumulative amount of such claims exceeding the market value of the insured structure.

Shallow flooding area: A special flood hazard area with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Special flood hazard area: The land in the floodplain subject to a one (1%) percent or greater chance of being flooded in any given year as determined in Section 10-3-168 of this ordinance.

Start of construction: For other than new construction and substantial improvement, under the Coastal Barriers Resource Act (P.L. – 97-348), means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of the construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure: For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

Substantial damage: Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial Improvement: Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market

value of the structure before the *start of construction* of the improvement. This term includes structures which have incurred *substantial damage* regardless of the actual repair work performed. The term does not, however, include:

1. any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or
2. Historic structures undergoing repair or rehabilitation that would constitute a substantial improvement as defined above, must comply with all ordinance requirements that do not preclude the structure's continued designation as a historic structure. Documentation that a specific ordinance requirement will cause removal of the structure from the National Register of Historic Places or the State Inventory of Historic places must be obtained from the Secretary of the Interior or the State Historic Preservation Officer. Any exemption from ordinance requirements will be the minimum necessary to preserve the historic character and design of the structure.

Violation: The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in the community's floodplain management regulations is presumed to be in violation until such time as that documentation is provided.

Watercourse: A lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.



Barber & Styling Salon, L.L.C.
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VIA EMAIL ONLY

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City Municipal Building
345 S. Main Street
Harrisonburg VA 22801

Re: Sign Ordinance

Good Afternoon Council Members and Planning Commission,

We are local business owners of and up and coming Barber and Styling Salon on Erickson Avenue. My business partner and I, as well as three other stylists working in our salon have been serving the Harrisonburg area for more than fifteen years each. We all hold business licenses and our new LLC holds a business license in the city as well. Our goal is to be a successful business in Harrisonburg and spend many years in this area serving the community with great haircuts and paying taxes as successful entrepreneurs.

Our landlord was recently notified by the City of Harrisonburg zoning in regards to some signage that our salon has at the road frontage. As a way to advertise our new business and attract motorist passing, we purchased large flying banners advertising we accept walk-ins. We also placed a large yard sign at the road with our salon name and number; this sign is meant to be a temporary sign as our landlord is currently working with city to erect a new large sign to replace the current sign, which is more than 20 years old and currently serves as advertising for the building. The landlord, Russell Witmer, has been working with Stacey Turner, and a local surveyor to clear up issues regarding property line adjustments so that a permit could be issued for the new sign work to commence. We were notified by the City, that the flags needed to be removed and our temporary sign had to come down as well. When we called and spoke to Rosalind Ray from the city on this matter. I inquired as to why these flags were not permitted as there were many other businesses in the area that display flags at their business, she stated that the current rule is only enforced if a complaint is received by the city. She also said that the city was broken down into grids and the area was looked at based on these grids and this process took 36 months to look at all areas. When violations were spotted these business owners received a letter as well. We were unaware that these types of advertisements were not allowed. We are currently working with our landlord, and Mrs. Turner on the temporary sign and getting a permanent sign erected.



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We have read the city code and feel like it is time to ask that the city council review this ordinance and possibly reconsider allowing these banners in the town limits. These banners if kept in good repair and presentable are very useful tools in allowing business to advertise on a budget. They are colorful and engaging and allow people passing by to easily recognize what type of business is in the building (especially useful for business's that lack road frontage). I do not feel they are any more distracting then the flashing digital signs that are very popular or the gigantic inflatables that are popular with car dealerships. We also feel that there are many more serious distractions facing drivers in the city, such as cell phone usage and texting while driving. We feel that many local businesses feel the same way.

We recently contacted Mayor Ted Byrd on the proper procedures in bringing this matter to the Council's attention to possibly change the code and he has directed us to contact other council members as well as the planning commission. He stated he believed the current rules were put into place to meet the current goal of the comprehensive plan, which is up for review. We would welcome a chance to speak with council members on this matter.

Sincerely,

Nicole D. Cook
Owner

Michelle L. Michael
Owner