



# City of Harrisonburg, Virginia

## Planning Commission Meeting

August 13, 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 July 9, 2013 regular meeting.**

**2) New Business**

*Alley Closing – Adjacent to 40-N-6 through 13, 13A, & 14 (LFSVA)*

Consider a request from Lutheran Family Services of Virginia, Inc. (LFSVA) the sole “member” of Massanutten Street, LLC to close approximately 5,857 +/- sq. ft. of an undeveloped public alley right-of-way. The entire alley stretches about 660 feet between Jackson Street and West Washington Street, however, the section requested for closure extends from Jackson Street southward about 410 feet. No section of the alley is developed. The section to be closed is about 14 feet wide and is adjacent to tax map parcels 40-N-6 through 13, 13A, and 14.

*Rezoning – 907 North Main Street (Portion of 41-C-44 from R-2 to B-2C)*

Public hearing to consider a request from Farhad Koyee, Bahar Mikael, and Sabir Haji to rezone a 0.38-acre (16,553 +/- sq. ft.) portion of a 0.52-acre (22,600 +/- sq. ft.) parcel from R-2, Residential District to B-2C, General Business District Conditional. The property is located along the north side of Ashby Avenue but is addressed as 907 North Main Street. The parcel has 104 feet of lineal road frontage, where 40-feet of it is zoned B-2 and 64-feet is zoned R-2. The split-zoned lot is one parcel removed from the corner of Ashby Avenue and North Main Street and is identified as tax map parcel 41-C-44.

*15.2-2232 Review – Park View Water Tank*

Consider a request to review the proposed Park View Water Tank project per City Code Section 10-1-6 to determine if the public facility is in substantial accord with the Comprehensive Plan as provided by the Code of Virginia Section 15.2-2232. The proposed tank would be located on tax map parcel 48-A-1 and/or 2.

*Zoning Ordinance Amendment – To Allow Public Uses to Deviate from Zoning Regulations by Special Use Permit*

Public hearing to consider a request to amend multiple sections of the Zoning Ordinance to allow public uses to deviate from requirements of the Zoning Ordinance by approval of a special use permit. An additional subsection will be added to each zoning district’s list of available special use permits to allow public uses to apply to deviate from zoning regulations. The sections of the Zoning Ordinance that would be amended include: 10-3-34, 10-3-40, 10-3-46, 10-3-48.4, 10-3-52, 10-3-55.4, 10-3-56.4, 10-3-57.4, 10-3-58.4, 10-3-63, 10-3-71, 10-3-79, 10-3-85, 10-3-91, 10-3-97, and 10-3-180.

**3) Unfinished Business**

**4) Public Input**

**5) Report of secretary and committees**

**6) Other Matters**

**7) Adjournment**

Staff will be available Monday September 8, 2014 at 4:30 p.m. for those interested in going on a field trip to view the sites for the September 10, 2014 agenda.

**MINUTES OF HARRISONBURG PLANNING COMMISSION**  
**July 9, 2014**

The Harrisonburg Planning Commission held its regular meeting on Wednesday, July 9, 2014 at 7:00 p.m. in the City Council Chambers, 409 South Main Street.

Members present: Richard Baugh, Gil Colman, Deb Fitzgerald, Jefferson Heatwole and Henry Way.

Members absent: MuAwia Da'Mes and Judith Dilts.

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 five members in attendance. She then asked if there were any corrections, comments or a motion regarding the minutes from the June 11, 2014 Planning Commission meeting.

Mr. Way moved to approve the minutes as presented from the June 11, 2014 regular Planning Commission meeting.

Mr. Heatwole seconded the motion.

All members voted in favor of approving the June 2014 minutes (5-0).

**New Business**

***Streets and Alley Closing – JMU Street Closings (Portion of Chesapeake Avenue, East Grace Street, Portion of South Mason Street, and an Alley Located Between South Main Street and South Mason Street)***

Chair Fitzgerald read the request and asked staff to review.

Mr. Fletcher the following land uses are located on and adjacent to the property:

- Sites: Substandard Chesapeake Avenue ROW, publicly maintained East Grace Street and South Mason Street ROWs, and a partially paved and graveled public alley ROW
- North: 192 feet of Chesapeake Avenue ROW is north of the Chesapeake Avenue section, R-3 Institutional Overlay zoned property owned by JMU is north of East Grace Street, Martin Luther King Jr. Way is north of South Mason Street section, and R-3 zoned property owned by JMU is north of the alley
- East: M-1 zoned property owned by JMU is east of Chesapeake Avenue, R-3 zoned property owned by JMU is east of East Grace Street, R-3 Institutional Overlay zoned property owned by JMU is east of South Mason Street, and South Mason Street is east of the alley
- South: M-1 zoned property owned by JMU is south of Chesapeake Avenue, R-3 zoned property owned by JMU is south of East Grace Street and South Mason Street, and R-3 zoned property owned by JMU is south of the alley
- West: M-1 zoned property owned by JMU is west of Chesapeake Avenue, South Main Street is west of East Grace Street, R-3 and R-3 Institutional Overlay zoned property owned by JMU is west of South Mason Street, and South Main Street is west of the alley

James Madison University (JMU) is requesting to close and vacate three public street right-of-ways (ROWs) and one public alley. JMU is the adjacent property owner to all ROWs requested for closure.

The public street ROW closures include: portions of Chesapeake Avenue, East Grace Street, and portions of South Mason Street. Chesapeake Avenue consists of 24,176 +/- square feet of ROW located south of West Grace Street. The closure does not include the first 192.83 feet of this ROW because JMU does not own the property on the western side of this section of Chesapeake Avenue. East Grace Street would be closed in its entirety and includes 50,429 +/- square feet of ROW. South Mason Street, south of Martin Luther King Jr. Way would also be closed in its entirety and includes 28,575 +/- square feet of ROW.

The public alley requested for closure is a 10-foot wide by 670.7-foot long ROW located between South Main Street and South Mason Street and consists of 6,708 +/- square feet.

As explained within the letter submitted by the University, the purpose for closing East Grace Street and South Mason Street is to make these areas more pedestrian and bicycle friendly in association with their Grace Street corridor plans and to better accommodate these areas in connection with the Student Success Center. The intent for closing the public alley is to incorporate this ROW within their adjacent property to accommodate a planned parking deck to be located at the corner of Martin Luther King Jr. Way and South Mason Street, which would support the Student Success Center. The reasoning to close the identified portions of Chesapeake Avenue is to incorporate that ROW within their adjacent property to make way for a 20,000 square foot annex for Facilities Management.

There are utilities such as water, sewer, gas, and electric located within all portions of the subject street ROWs. There are no utilities within the alley. If approved, the City will reserve easements for all of these utilities. The locations for these easements must be determined and shown on surveyed plats prior to holding the City Council second reading of the closings so that such plats can be recorded with the ordinance prepared by the City Attorney. When redevelopment of the subject areas occurs and relocation of those utilities takes place, the reserved easements can be removed and new easements for the relocated utilities can be recorded.

With regard to water and sewer, there is infrastructure located within each of the street ROWs, except for the East Grace Street ROW, where only a water main is located within the street. Easements for these utilities must be in accordance with the City's current standards for new construction, where 20-foot wide easements are needed for individual water or sewer mains and 35-foot wide easements are needed for water and sewer mains that are parallel to one another and to be located within combined easements. Special consideration should be made for deep utilities or large separations between parallel utilities. These locations may require greater than 20 or 35 foot wide easements. The Department of Public Utilities specifically requested to review the proposed easement locations and widths once these areas are better located.

With regard to gas utilities, Columbia Gas noted there is a 2-inch plastic main within Chesapeake Avenue. This line is connected to lines located within West Grace Street. They also noted there are service lines within this area that are not mapped. They also have a 2-inch plastic main within South Mason Street, which is connected to infrastructure located in the ROW of Martin Luther King Jr. Way. Columbia Gas prefers to have 25-foot wide easements centered on their mains.

Harrisonburg Electric Commission (HEC) has overhead power lines that run along the edge of Chesapeake Avenue. They have requested that a 15-foot easement be reserved centered on the overhead power line through this area. HEC also has overhead power lines located within South Mason Street, which will also need the same width of easements reserved.

The Department of Public Works requested that easements be included for the maintenance of traffic signals, sidewalk, curb, and gutter facilities at the public street intersections. Furthermore, if gates are to be installed on East Grace Street and/or South Mason Street, or for any other planned areas for that matter, coordination of their placement should occur with the Department of Public Works to prevent vehicle queue spillover onto public streets.

The Fire Department noted that emergency vehicle access is an issue with which they have been successful in working with JMU on a regular basis; so long as adequate access is provided for apparatus responding to emergencies, they have no concerns with closing the subject ROWs.

If JMU is considering renaming any of these ROWs, the naming of the streets should be coordinated with the City and with the Emergency Communications Center (ECC).

In conclusion, staff recommends closing the identified ROWs with the condition that appropriate easements be reserved for all utilities.

Chair Fitzgerald asked if there were any questions for staff. Hearing none, she said this request does not require a public hearing; however, we generally allow anyone desiring to speak to do so at this time. Seeing no one, she asked Planning Commission if they had any discussion or a motion at this time.

Mr. Way asked if there was a representative from JMU present at the meeting tonight.

Seeing no one, Chair Fitzgerald asked Mr. Way if he had a general question to be answered.

Mr. Way said I have a few questions and I am somewhat surprised there is no one here from JMU to speak to this.

Mr. Fletcher said you can certainly ask the questions and we may know some of the answers.

Mr. Colman asked if there were comments regarding concerns about a citizen being against some of this request and the easements.

Mr. Fletcher said not to my knowledge. Are you referring to the easements that need to be reserved?

Mr. Colman replied no, someone opposed to the closure and the easements.

Chair Fitzgerald asked if there had been any citizen concern.

Staff said they had not received any comments or phone calls regarding this request.

Mr. Baugh said he did have one constituent contact him regarding the closure. The concern was particularly about the closure of the Mason and Grace Street portions. It was more of a general question of why is the City "giving up" the street(s). I would not mind hearing staff discuss more about that as well. Obviously, there is nothing within the staff report that raises a red flag against it.

Mr. Fletcher said until recently, there were still private property owners of which the public street was serving the public interest for. There is no longer that case. When you look at JMU's long

term comprehensive plan you can see Grace Street with the improvements of narrower streets and wider sidewalks, along with bus pull-offs for public transportation.

Mr. Baugh said the argument that this person was making was the perception that this was something that was just being done for JMU. I attempted to point out that JMU does own all the property around the public street; so I guess in theory anyone in the same situation could come to us and make the same request. I am just throwing this out for discussion. This was only one person who contacted me expressing any concern.

Mrs. Turner said it is really only unusual because JMU owns all the properties bordering those streets. We do not usually have an entire block of property on an existing, developed, used street that is owned by one party. It is not unique because it is JMU, it is unique because that situation does not exist for most private property owners. There has definitely been a case in the past where we have vacated a built street. You may not remember, but where Costco is now was a built street and the property on all sides was one owner and he wanted to vacate the street to sell the properties to Costco. The City vacated the street, it was torn out and Costco was built. It is not that it has never happened before; it is just very unusual because we do not have very many places where you have an existing street and one person owns all the surrounding properties.

Mr. Baugh said arguably it has similarities to what we just did off North Main Street with Wilson Avenue. What is different with that is it was part of a rezoning request; something we do not have here.

Mr. Colman said is there any impact on the traffic flow, given that some people use Grace Street and Mason Street. Has the closing of the streets been looked at with traffic studies?

Mrs. Turner said I do not believe that Public Works has done an actual study on that. I think their view is that there will not be an impact with the closing of the streets. For the most part, the only reason people would be using the street now is for a cut through to avoid the Main Street/Martin Luther King Jr Way intersection. That is probably not a valid enough reason to be in opposition of the request.

Mr. Baugh said I agree, but I think that is where any sentiment would be. No one would use that as a cut through, it does not work very well; but in some sense we are taking away the public's right to cut through.

Mr. Way said on the merits of the request, it fits in with the JMU plan and the surrounding properties. I think that it makes a lot of sense for this to happen. I do have questions about what the actual plans are for Mason and Grace Streets. I wonder how much the alleyway is needed, the letter talks about making it more pedestrian and bicycle friendly, so it seems a bit strange to remove an alleyway if you are trying to achieve that. We are closing two reasonably sized streets and it would seem like a good courtesy for JMU to come and answer some questions, or to speak on behalf of. I do hope they come to City Council to talk about their plans.

Mrs. Turner said to add to Mr. Colman's question about a traffic study; I do not think there was a traffic study done about the closure. However, Public Works has been working with JMU since before they acquired the old hospital property about impacts of JMU simply owning that property and the rest of the property to the corner and what effects it has on Martin Luther King Jr Way and on Main Street. They have been planning improvements to those areas as the plans have progressed.

Mr. Fletcher said Planning Commission was presented, by JMU, their Master Comprehensive Plan several years back; although many of you were probably not on the Planning Commission at that time. It reflected the Grace Street Corridor closure and improvements.

Mr. Way moved to recommend approval of the request, with the hope that JMU might come to the City Council hearing.

Mr. Heatwole seconded the motion.

Chair Fitzgerald called for a voice vote on the motion to recommend approval. All voted in favor (5-0). She then said this will move forward to Council on August 12th.

***Special Use Permit – 2477 Reservoir Street (Multi-Family Units – Campus View Apartments)***

Chair Fitzgerald read the request and asked staff to review.

Mrs. Banks said the Comprehensive Plan designates this area as Medium Density Mixed Residential. This designation states that these largely undeveloped areas continue the existing medium density character of adjacent areas, but in a different form. They are planned for small-lot single family detached and single family attached neighborhoods where green spaces are integral design features. Apartments could also be permitted under special circumstances. They should be planned communities that exhibit the same innovative features as described for the low density version of mixed residential development. The gross density of development in these areas should be in the range of 4 to 12 dwelling units per acre and commercial uses would be expected to have an intensity equivalent to a Floor Area Ratio of at least 0.4, although the City does not measure commercial intensity in that way.

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

- Site: Single-family dwelling, zoned R-3
- North: Vacant parcels, zoned R-3
- East: Campus View Condominiums and Apartments, zoned R-3 and R-5C
- South: Single-family dwellings, zoned R-3
- West: Across Reservoir Street, Dogwood Commons Apartments, zoned R-3

The applicant is requesting a special use permit per Section 10-3-48.4 (6) of the Zoning Ordinance to allow multiple-family dwellings within the R-3, Medium Density Residential District. The property is located in the southeastern portion of the City along Reservoir Street, approximately 550 feet north of the City/County boundary. Currently, there is a single-family dwelling on the subject property.

The proposed development is shown to contain three structures; two 12-unit apartment buildings and a 1,440+/- square foot clubhouse facility. The apartment buildings are described as three stories, with four bedrooms in each dwelling; for a total of 96 bedrooms. Parking is provided throughout the remainder of the property. The applicant has demonstrated that a TIA is not needed with this project.

Although addressed as Reservoir Street, the subject property has only a 15-foot wide pipe stem out to the street. The majority of the site is situated 100 feet back from Reservoir Street; with vacant

parcels between the site and street. At this time there are no plans to connect the proposed development to Reservoir Street, and as shown on the drawing all traffic would be routed into the existing Campus View complex which connects with Chestnut Ridge Drive. The applicant has expressed a desire to have a temporary construction entrance off Reservoir Street during the construction phase for this project and Reservoir Street widening; as well as a possible future gated, emergency access into the site from Reservoir Street. This can be worked out during the comprehensive site plan review phase.

The applicant has noted on the submitted plan that the property line between the existing Campus View Apartments and the proposed new apartments would be vacated during the comprehensive site plan review process. When the interior property line is vacated to create one lot the orientation of the front, side, and rear setbacks changes as well. Staff has discussed with the applicant that the setbacks should all conform to the existing phases of Campus View. Additionally, a shared parking agreement would not be necessary once the property line is vacated.

Per Section 10-3-48.6 (b), vegetative screening would be required along the southern property boundary where the parking lot is adjacent to single-family dwellings. The submitted drawing indicates the location of the screening which must be an evergreen hedge (six-foot ultimate height) or shrubs/trees planted a minimum of five feet on center so as to form a dense screen. As well, all required parking lot landscaping must be met; this will be reviewed during the comprehensive site plan review.

As part of the requirements for obtaining a special use permit to build multi-family units in the R-3 district, an applicant must substantiate that they have met several conditions to justify the development. Briefly, the conditions state that:

Existing multiple-family development, or land planned for multiple-family development according to the Land Use Guide, is located adjacent to, across the street from or in close proximity to the proposed development.

The applicant has demonstrated that adequate vehicular, transit, pedestrian and bicycle facilities currently serve the site, are planned to serve the site according to a city or state plan, will be provided by the applicant at time of development, or are not needed because of the circumstances of the proposal.

The applicant has demonstrated that the proposed multiple-family development's design is compatible with adjacent existing and planned single-family, duplex and townhouse development;

The applicant has shown that the site is environmentally suitable for multiple-family development.

The applicant submitted a document to attempt to address these issues as numbered above; in general the applicant states that:

1. The proposed development is adjacent to Phases I and II of Campus View. The property line between Phase II and proposed Phase III will be abandoned during site plan development creating one unified parcel.
2. There are two entrances on Chestnut Ridge Drive serving the existing Campus View Complex that will serve this proposed Phase III. Sidewalks and bicycle facilities will be included with the site plan development. A connection to Reservoir Street is also being considered in discussions

with the City. However, actual construction of such a connection cannot be completed until the Reservoir Street widening project is completed.

3. Architectural design and landscaping will be similar to Campus View Phase I and II. In addition, screening shall be provided along the boundaries with two adjacent single-family detached home parcels.

4. The site has an average, existing grade, south-to-north slope of 8.4%. This slope is similar to or less than existing phases and there are no critical slopes.

Staff believes the proposed development meets the conditions set forth in Section 10-3-48.6 (e). Currently, there are apartment complexes along this portion of Reservoir Street as well as adjoining the site. Transit bus stops are located on Reservoir Street and Chestnut Ridge Drive adjacent to the development and pedestrian/bicycle facilities are planned for the widening of Reservoir Street. The gross density of the development is twelve units per acre, which does fall within the range of 4 to 12 dwelling units per acre suggested in the Medium Density Mixed Residential land use.

Staff does not have concerns with this proposed development and recommends in favor of the special use permit request.

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

Dick Blackwell with Blackwell Engineering, said he there to answer questions regarding the project. We have talked with the Public Works Department about the use of the entrance off of Reservoir Street, just for construction purposes. The City owns and is planning on using the two lots on either side of the entrance as staging lots while the work on Reservoir is going on. They will probably use the same construction entrance to access those lots as our project will. When complete we do want to have the capability of using that entrance for emergency purposes; it would be gated in some fashion.

If there are any questions I would be happy to answer them; as well, the owner is here with me tonight.

Chair Fitzgerald asked if there was anyone wishing to speak in favor of the request. Hearing none, she asked if there was anyone wishing to speak against the request.

Steve Bender said I am the Treasurer of the Campus View Condominium Unit Owners Association. Campus View JMU borders the property in question. It is our understanding that the applicant plans to sell the land, once the special use permit is obtained, to Davis Mill, LLC, the current owner of the property commonly known as Campus View Apartments. The subject parcel abuts both their property and ours. There are several problems with their application that we would like to correct for the record.

First, the application still fails to list all adjacent owners, and incorrectly lists Davis Mill as an owner of Parcel 081-E-1. Until 2012, E-1 represented the entire parcel that was to be Campus View JMU Condominium. In 2012, when Davis Mill bought the 7 acres of additional land not yet added to the condominium, 081-E-1 ceased to exist in the Harrisonburg Real Estate Information System (REIS) and the additional land was designated 081-E-7. Within the last month, 081-E-1 was added back into the REIS, but once the parcel is selected, pages related to that parcel will not properly

display any information—just “error on page” warnings. All it lists is Campus View JMU Condominium Unit Owners Association Inc. Incidentally, this, too, is an error as the Association does not own the land. Each of the 59 condominium units own an undivided interest in the property and each of those unit owners should be listed among the adjacent owners. We appreciate the effort that went in to notifying our members, but for many of them, the mailing address of record is the condominium unit, and with most students now home, it is likely that they never received their notices.

The apartment complex was originally planned to be additional units in the Campus View JMU Condominiums, but due to the Declarant abandoning its project construction schedule, the construction begun in 2008 was never finished and the later phases of our condominium complex were never even begun, resulting in a 168 unit condominium being reduced to only 59 units. Without complying with the law requiring that the existing unit owners be notified, the Declarant amended the declaration and sold off all additional land to Davis Mill along with the 12 unconstructed units, which were then built by Davis Mill while building the apartments.

Second, the letter from Blackwell Engineering answering staff questions about Sec. 10-3-48.6 (e) contains errors. In item (1) it refers to Phases I and II of Campus View Apartments. We are not aware that Campus View Apartments was built in two phases. Staff has advised us that their understanding is that Phase I refers to the Condos. We want to clarify that if that was their intent, it is wrong. Page 4 of the attachment identifies the building, but the Phase Lines are from the original Declaration. In actuality, Building 2, 4, & 5 constituted Phase I of the Condominiums, built in 2008. Buildings 3 and 6 were added as Phase II to the ownership table in May 2009, even though Building 3 did not physically exist beyond the slab until 2013. Pages 6-8 show the progressive development. The amended declaration identified each planned additional building as a separate legal and real property entities and should not be lumped together in this manner. At best, it should be described as an arranged marriage.

In Item (2) the letter states that there are two entrances on Chestnut Ridge Drive serving the existing Campus View Apartments. This is technically true, but very misleading. The south entrance closest to Reservoir is the Condominium entrance. Under a use easement entered into by the Declarant, Campus View Apartments were given the right to use the roads. However, this agreement would not extend automatically to the subject property. Residents of those units would not have access to the Condominium streets without an additional agreement.

Davis Mill has indicated that they may want to include the planned additional units in their current easement agreement with us. This easement goes well beyond the roads. It includes parking access, stormwater facilities and sediment pond, and our recreational amenities. It also requires them to pay a monthly fee for this service and a one-time per unit capital fee once certificates of occupancy are received. While it may be possible to add the subject property to this agreement, until that occurs the new units are not entitled to the same rights as the other units, including road use. The Condominium would have no way to distinguish between tenants with and without access rights. If you refer to Page 5, you can see the two alternatives for the subject property to ingress and egress. Those residents would in all likelihood use our roads and recreational amenities without our permission, leaving us with no way to enforce our rights and effectively putting us in the position of giving it away for free if we cannot agree to extend the agreement to the additional units.

Please understand that the Condominium project has been a nightmare for our owners for the last six years. We have faced liens from unpaid subcontractors, our clubhouse was placed in receivership because the City did not properly record it as a common element and the Declarant has failed to pay more than \$125, 000 in assessments against units under his control. The bond company holding the Declarant assessment bond denied payment, and we have been forced to bring suit to recover our assessments. Additionally, despite the fact that they never finished the parking lot, the Declarant certified to the State, as far back as 2008, that all common elements were complete.

Last year we spent \$31,000, simply to make the roads passable where they had sunk as much as nine inches. At the time of the 2012 sale to Davis Mill, the two parties escrowed only \$56,000, to be released to the Declarant only upon completion of the lot. It should have been clear that \$56,000 was not nearly enough and we strongly suspect that the Declarant never intended to complete the lot. Davis Mill has notified us and the Declarant that if the lot is not completed by the 17<sup>th</sup> of next, month, then the money will pass to Davis Mill and they would not be required to finish the lot. Completion costs would fall to the owners, who were entitled to and have already paid for a completed lot by virtue of their sales agreements and the provisions of the Condominium Act.

It is our understanding from counsel that since the City will not permit access from Reservoir Street, the special use permit should be denied, since the residents of the proposed units would have no access to public roads and are not, by right, entitled to access over our properties. While the stated intent to erase the lot line between the current Apartment parcel and the subject property would partially address that issue, it would not protect our rights. As I said earlier, the most direct access is through our development.

Given the current condition of the roads, resulting both from substandard construction and from excessive wear and tear of the Apartment construction vehicles, we have concerns over the ability of fire and emergency vehicles to navigate some of the roads to access these new units. We also have concerns that occupants of the units to be built under the special use permit could potentially bring suit against the Condominium Owner's Association for damage to vehicles, even if using the roads without permission. Pages 9-16 of the handout contain photos and Google Earth images of the condition of the parking lot.

Although we believe we are nearing settlement with the Declarant and other defendants, the two developers involved in the negotiations have dragged settlement discussions out for nearly six months with continual questions and changes to the language of the agreement. Even if the agreement is reached, it will be far less than satisfactory, with the owners receiving none of the unpaid assessments, no attorney fees, and only a small part of the amount necessary to complete the roads and parking areas.

Additionally, Davis Mill is avoiding, as part of the settlement agreement, responsibility for 8 months of assessments on their 12 condo units that they built on the slab. Also, they have yet to deliver occupancy permits, or the \$160 initial capital payment they were required to pay as part of their agreement related to their previous purchase.

We were told that it is the prerogative of the Planning Commission to place conditions on a special use permit request; one of which would be that you could require that the applicant guarantee that the roads are complete, by paying for the completion of the project. In talking with our attorney today, she informed us that is only if the applicant has the right to use the road; therefore, the

Planning Commission cannot make the applicants enter into an agreement with the Condominium Owners to get the roads complete. We understand that you cannot make the applicant enter into an easement agreement with us, or force the applicants to pay for the completion of roads; but, according to our attorney you could require them to place a barricade to insure that our road is not used by those 24 units. If a gate or barricade existed, that allowed access by only those units that currently exist there now it would be the only way to protect our rights from people using our roads without permission to do so. We would like to make certain that before this is approved there are protections in place for the Condominium Owners from the new units using our roads without having the right to do so.

Chair Fitzgerald asked the developer if he would like to speak now regarding the comments.

Mr. Guy Blunden, 407 South Cherry Street, Richmond, VA, said he is the largest owner in the Home Owners Association for the Condominium Owners. What I heard of importance from Mr. Bender is that there would be the ability of people in the two new units to travel through the land that is owned by the HOA. It is true, the 108 existing units we have, have an easement. We have cross easements for parking and access between the apartments and the HOA. It is true that people from the new units could go across the HOA property; but, they do not have to. We have our own roads and entrance on the apartment property.

I think to recommend denial of this application because the people that would live in the buildings might drive across someone else's property is a bit preemptive. I would be very happy to instruct the people in those units not to use the HOA property. We would like to enter into an agreement with the HOA to extend the cross easements to the two new buildings. I think there are some people on the HOA who would like to force us to do so in order to construct the new buildings because it would put the HOA in a very strong position. We would not like for that to happen; especially since we have a perfectly legal and accessible entrance for the new buildings.

I would be happy to answer any questions you may have of me.

Mr. Way asked what is the possibility for placing signage around that area to let people know.

Mr. Blunden said it is very, very possible. I think it would be bit silly to say "persons in building such and such do not use this exit/entrance;" but it is perfectly possible. I do not think people in the HOA are telling guests not to use their entrance; so it seems a bit of a stretch to say the persons in the new buildings would ruin their roads.

Mr. Heatwole said one suggestion would be to put a construction entrance sign at the preferred entrance.

Mr. Blunden agreed and said I am absolutely in favor of all trucks using the apartment entrance/exit. That has been my intent all along.

Mr. Colman asked if there was a current access easement for the new units to drive across the apartment property.

Mr. Blunden said that would be me giving myself an easement and it should not be needed if subdivided.

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

Mr. Bender said let me just clarify that we do not really have objections to the buildings being built, our concern is that once they are in we want to see to it that certain things are dealt with properly. To date, dealing with our developer has been a nightmare, dealing with Davis Mills has at times been tedious, and I suspect that we can get the easements in place for the additional 24-units. My thinking behind asking for the condition, before our attorney said we could not ask for such, would be that those cross easements be in place before approval of the special use. Our attorney said the one restriction you could put in would be to ask for the gate, and obviously, the cost of the gate would be so much more than just going into an easement agreement.

Chair Fitzgerald asked if there was anyone else wishing to speak regarding the request. Hearing no one, she closed the public hearing and asked for discussion or a motion from Planning Commission.

Mr. Way moved to recommend approval of the special use permit request.

Mr. Heatwole said is there a way to put a condition or to recommend that clear direction (signage) is at the road frontage to direct construction traffic so as not to impede on the HOA property. I do not know if we can recommend that; but, I just want it to be on record that we suggest it.

Mr. Fletcher asked if the suggested condition could be repeated.

Mr. Heatwole said is there any language that we could add to the SUP requesting that the applicant place clear directions as to where the construction entrance is located.

Mr. Fletcher said are you essentially saying construction vehicles cannot enter onto the condominium property.

Mr. Heatwole replied yes.

Mr. Fletcher said a condition could be added to the SUP, but it is somewhat redundant since they do not own the property and they should not be driving across it any way. I see no reason why you cannot make it a condition of the SUP.

Mr. Heatwole said even if it is not a condition of the SUP, I just wanted it to be part of the record.

Mrs. Turner said my concern of making it a condition would be that we would have a hard time enforcing that as a zoning requirement. Also, who would we be taking to court for a Class 1 Misdemeanor for that? Would we be taking the developer of the apartments, the construction company, or the driver of the vehicle? I really do not know how we would enforce that. I appreciate the sentiment and maybe it could be a suggestion rather than a condition.

Mr. Heatwole agreed and seconded the motion to recommend approval.

Mr. Colman said he would like to mention that the use of gates or fencing could possibly block parking and the Fire Department may have issues with gating the area between the apartments and condominiums.

Mr. Baugh said if they choose to put up some type of gate, they would be required to work with the Fire Department on that. We recently approved an ordinance to make certain that if an access gate is in place the emergency services personnel are aware of it.

Chair Fitzgerald if there were any further questions or are we ready to vote. Hearing nothing, she called for a voice vote on the motion.

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

Chair Fitzgerald said the special use permit request will go before City Council on August 12<sup>th</sup> with a favorable recommendation.

***Special Use Permit – 206 Charles Street (Section 10-3-97(9) Religious Use in M-1)***

Chair Fitzgerald read the request and asked staff to review.

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

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

- Site: Mercantile building, zoned M-1
- North: Vacant parcel and tire business, zoned M-1
- East: Vacant parcel and empty building, zoned M-1
- South: Across Charles Street, vehicle repair business, zoned M-1
- West: Mercantile building and farm supply business, zoned M-1

The applicant is requesting a special use permit (SUP) per Section 10-3-97 (9) of the Zoning Ordinance to allow a religious, educational, charitable or benevolent institutional use within the M-1, General Industrial District. The property is situated on the northern side of Charles Street, near the intersection of Charles and Jefferson Streets. If approved, Iglesia Cristiana Monte de Horeb Pentecostes Church would continue to utilize the building on site for worship service. The building would not provide housing facilities for the church.

City staff became aware of the church when they applied for a sign permit for the subject property. Staff informed them that a SUP would be required for the church to continue operating at the site as such a use is not permitted by right. If approved, they could obtain a sign permit.

The applicant has stated that the church has seating for forty-eight members. Based on that number, 10 on-site parking spaces would be required. Currently, there are only four parking spaces located on the property. Section 10-3-25 (11), off-street parking regulations for churches, funeral homes, auditoriums, theaters and similar uses of public assembly, allows Planning Commission, upon site plan review, to modify these requirements when the assembly use requests borrowing parking from other public or private parking facilities in close proximity. The applicant has permission to borrow parking spaces from Valley Implement Sales, located approximately 70 feet west of the church property, along the same side of Charles Street, should Planning Commission consent. The church conducts services on Sunday mornings and two evenings during the week; whereas Valley Implement Sales is open until 5:00 pm on Monday thru Friday and noon on Saturday.

Staff has also discussed with the applicant that the existing four, on-site parking spaces, which back out directly into Charles Street, create an unsafe maneuver and that the applicants would be responsible for any issues that arise from this use of the parking area.

The applicant has been informed by staff that if they receive approval of the request, they would need to apply for a change of use permit from the Building Inspection Division. This would require that all Building Code regulations be met for the proposed use. The applicants have met with

personnel from the Building Inspection Division to discuss the necessary requirements such as needing a plan showing overall usage of the building and a seating plan chart; handicap accessible restrooms and door sizes; and marking the handicap accessible parking space with a wall or pole sign.

During a visit to the site staff observed that a convenience store was located directly adjacent to the subject property. Convenience stores are allowed within the M-1 zoning district as a special use permit; there is no record of a convenience store SUP for this site. Staff is currently working to determine if the use is a non-conforming use. If it is concluded that the use is not, the property owner could be cited in violation of zoning regulations and given 30 days to rectify the non-compliance; which may lead to applying for a SUP for a convenience store use.

Staff does not have any concerns with a religious use at this location. The uses found along this street are not intensive enough that a church at this location would be incompatible with the surrounding uses. Staff supports the special use permit request.

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

Stephanie Floros said she was speaking on behalf of Evaristo Perez-Thomas and wanted to thank Planning Commission for considering this on behalf of the church.

Chair Fitzgerald asked if there were any other persons wishing to speak in favor of, or in opposition of the request. Hearing none, she closed the public hearing and asked Planning Commission for comments or a motion.

Mr. Heatwole said given our consideration to the parking agreement already being worked out, I move to recommend approval of the special use request.

Mr. Colman seconded the motion.

Chair Fitzgerald called for a voice vote. All voted in favor of the motion to recommend approval of the special use request with the parking arrangement (5-0).

Chair Fitzgerald said this will move forward to City Council on August 12<sup>th</sup>.

***Special Use Permit – 130 Mt. Clinton Pike (Section 10-3-97 (4) Financial Institutions and Offices)***

Chair Fitzgerald read the request and asked staff to review.

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

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

Site: Undeveloped property, zoned M-1

North: Undeveloped property, zoned M-1

East: Undeveloped property, zoned M-1

South: Across Mt. Clinton Pike, non-conforming agricultural operations, zoned M-1

West: Across Acorn Drive, undeveloped property, zoned B-2C and M-1

The applicant is requesting a special use permit (SUP) per Section 10-3-97 (4) of the Zoning Ordinance to allow financial institutions and offices on a three acre tract of land located at the northeastern corner of the Mt. Clinton Pike/Acorn Drive intersection. If approved, it is planned that DuPont Community Credit Union (DCCU) would locate operations at this corner. Per Section 10-3-130 (c), when a SUP is approved by City Council, the property owner has one year to establish the use, or to commence or diligently pursue construction for the authorized use, unless at the time of permit approval Council allots a different time period to do the same. The applicant has specifically requested to have up to five years to begin construction.

The applicant's submitted letter (prepared by Blackwell Engineering) describes several details related to the SUP plan of development; the submissions expressed in the letter are part of the SUP, which if approved, must be adhered to.

The submitted details first describe that the financial institution and office uses will be restricted to utilizing no more than 8,000 square feet of building space, which could be made up within one or more buildings. They noted that traffic trip generation numbers are not projected to exceed 99 in the peak hour. Capping the size of the financial institution uses at 8,000 square feet should help in not generating 100 vehicle trips in the peak hour. (When proposed developments are projected to generate 100 vehicle trips in the peak hour, the City has the authority to require the property owner to perform a Traffic Impact Analysis (TIA).) With this detail of the application, however, the applicant should understand that any additional square footage for any other permitted use on the property may require the performance of a TIA.

In addition to the above details, the property owner would construct, and if necessary dedicate right-of-way for, a right turn lane along Mt. Clinton Pike for vehicles turning onto Acorn Drive. With regard to entrances for the proposed use, there would be two. One will be an entrance off of a shared ingress/egress between the subject property and the adjacent property to the east (part of the large tract of land identified as tax map parcel 44-C-2). The second entrance will be provided along Acorn Drive located no closer than 300 feet to the Mt. Clinton Pike/Acorn Drive intersection.

Moreover, the applicant is also reserving an area that is 30 feet in width along the entire length of the subject property's eastern boundary line for a potential public street. The reserved 30 feet is half the width needed for a public street serving an industrial area. Ultimately, an additional 30 feet would be needed from the eastern adjacent property if and when the construction of a public street is to occur. Although the Comprehensive Plan's Street Improvement Plan does not indicate a planned public street within this area, staff believes another public street may be needed to alleviate the pressure on Acorn Drive and to preserve its capacity as an industrial street. With respect to staff's concern, the applicant has provided they will dedicate, at no cost, 30 feet of public street ROW along their eastern property boundary if and when the City deems a public street is necessary. As noted by the applicant's letter, this area shall be reserved only for a period of 10 years. The applicant should understand that if the reserved area is to be taken advantage of, the property owner may need to be involved in the platting/dedication of public street ROW for the creation of a public street.

While the submitted sketch of the layout is simply an example of how DCCU could configure an entrance to the shared ingress/egress along Mt. Clinton Pike, staff suggested for them to consider locating this entrance further to the north (a distance creating at least a 100-foot tangent between the entrance and Mt. Clinton Pike) along the eastern boundary line so that if a public street is built within this area, their entrance would be located far enough from Mt. Clinton Pike to function properly. Doing so at this time would, although increase the length of the shared private drive they would have to construct, allow them to internally design their site to accommodate a more northern entrance so they would not have to deal with redesigning and relocating their entrance at a later date. The applicant acknowledged this situation and noted that if they do not accommodate an entrance further to the north at this time, they would be financially responsible for relocating their entrance along the potential future public street.

Although not a matter associated with the SUP, regardless of how this property develops, the property owner will be required to construct sidewalk along the property's Mt. Clinton Pike and Acorn Drive street frontage. In addition, development of the property will likely require extension of a public sanitary sewer main as the closest mains are located about 400 feet to the east and roughly 500 feet to the west of the property.

With respect to the Comprehensive Plan, the subject property currently aligns with the City's Land Use Guide—the property is zoned M-1 and is designated General Industrial by the Land Use Guide. All of the adjacent property and much of the surrounding area also aligns with the Land Use Guide as the majority of the Mt. Clinton Pike and Acorn Drive area is zoned M-1 and is designated General Industrial. With that noted however, much of this area does not include the intense manufacturing and processing uses that are permitted by-right in the M-1 district. Rather, the nearby properties include undeveloped lots, non-conforming agriculturally used property, the Virginia Department of Agriculture and Consumer Services building, Rockingham County's School Board office building, and the technology oriented uses located along Mt. Clinton Pike and Technology Drive.

Staff is supportive of the requested SUP and does not believe allowing financial institutions and offices at this corner would have an undue impact on the other uses in this area or negatively impact the City's long term plans for industrial operations for this area. Furthermore, at this time, the proposed use would be compatible with the existing surrounding uses. The applicant should understand, however, that because the property is surrounded by M-1 zoned lots, the financial use could be adjacent to intense industrial operations, which they may deem as undesirable neighbors.

Staff appreciates the applicant's willingness to construct a shared entrance along Mt. Clinton Pike as doing so will cut back on the number of entrances needed along this corridor. We also appreciate the applicant's submission to build a right turn lane along Mt. Clinton Pike and to reserve a 30-foot strip of property along their eastern boundary for potential dedication for a public street.

Staff recommends in favor of the special use permit and further recommends granting the property owner the ability to have five years from the date of approval to begin construction for the authorized use.

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

Mr. Dick Blackwell of Blackwell Engineering said Adam has explained everything quite well. It has been a working situation with the City; particularly with the Public Works Department as far as turn lanes and entrances. We have done basically everything that was asked of us. I would like to go on record as saying that we went to Public Works to do a traffic impact analysis for input since we are not using an entire parcel for one use. When you do a traffic impact analysis, the reviewing agency, the City in this case, takes a look at the scope of work that they are going to require to be studied. In this case we just met with Jim Baker and his staff and they worked with us to determine what they would need. So everything that we have offered is something that they felt was needed by the traffic impact analysis. I do question if the 30-foot reserved area for a future road is a good location; it is only 300 feet from a proposed signalized intersection.

I believe you have seen other buildings that DuPont Credit has done; they are all very attractive. Through studies DuPont has done, they feel there is the need for an institution in this area along Mt. Clinton Pike; particularly if the M-1 land is developed in the future as industrial, with the employee pool.

If there are any questions I would be happy to answer them.

Mr. Colman said I have a concern about that entrance or reserved road being there as well; but I am fine if that is what Public Works wants.

Mr. Blackwell said I think there is a slim chance that the road would go through; therefore we believe it is wise not to construct the entire 100-feet of the reserved road to nowhere.

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

Mr. Way said I actually have a wide range of questions for staff. Last month we saw a rezoning request in this same area for a change from the M-1 classification. Are there any concerns about the reduction in the amount of M-1 land or fragmentation of M-1 land?

Mr. Fletcher said at this stage no. As with the previous rezoning this SUP was discussed with the Economic Development Director and he was in favor of recommending in favor of the type of SUP for this parcel.

Mr. Colman said that is true, this is not a rezoning.

Mr. Fletcher said remember any special use that is approved on any parcel, still allows for all the underlying by-right uses.

Mr. Colman moved to recommend approval of the special use permit with the extension of five years.

Mr. Way seconded the motion.

Mr. Baugh said I do not believe I have a conflict on this; but out of an abundance of caution I want to note on the record that I have not participated in the discussion and I intend to abstain on this vote. I will discuss this further with the City Attorney as for coming before the City Council.

Chair Fitzgerald called for a voice vote on the motion. All voted in favor of the SUP request with the five year extension (4-0). Chair Fitzgerald said this will move forward to City Council on August 12<sup>th</sup> with a favorable recommendation.

**Unfinished Business**

None.

**Public Input**

None.

**Report of Secretary and Committees**

Mr. Baugh said at City Council last night the rezoning on North Main Street was approved just as before this body; the same for the approval of the Downtown Streetscape Plan. The M-1 zoning amendments were postponed and I believe we are going to discuss those again in just a minute at this meeting. The Major Family Day Home application was tabled. One of the Council Members seemed to have some public safety concerns and there were some other neighbors that came forward with concerns. Staff is getting more detailed and affirmative information from the Fire Department and the Rescue Squad.

Mr. Fletcher said there is no proactive zoning report this month.

**Other Matters**

Mr. Fletcher said after listening to last month's minutes, we think it is best that this body go back and amend the motion regarding the zoning ordinance amendments for junkyards. The way the motion was presented was specifically for only three sections of the zoning ordinance and not all of the sections listed for changes. Therefore, we think it needs to be redone including all of the five sections that were proposed for amendments. Perhaps the best way to do this is if someone moves to approve the zoning ordinance amendments as presented by staff.

Mr. Heatwole moved to recommend approval of the zoning ordinance amendments for the junkyard special use permit as presented by staff.

Mr. Colman seconded the motion.

Mr. Way asked if it was ethical to vote a different way this time. I was very on the fence last time and did not know if it would be appropriate.

Chair Fitzgerald asked Mr. Baugh if he had ever changed his mind on a vote from Planning Commission to City Council.

Mr. Baugh replied not very often, but I reserve the right to do so.

Chair Fitzgerald called for a voice vote.

All voted in favor (5-0) of the motion to recommend approval of the zoning ordinance amendments for the junkyard special use permit as presented by staff.

Chair Fitzgerald said this will move forward to Council on August 12<sup>th</sup> as well.

Mr. Fletcher said the second matter, not listed on the agenda, but something we wanted to discuss with Planning Commission is regarding the way public uses or governmental agencies apply or conform to the zoning ordinance. There was a time in the past that it was interpreted that the City would follow its own zoning regulations; that is why you see public uses listed as a by-right use in all zoning classifications. The City then went through a period where we said we do not have to follow our regulations. We have come full circle on this now, back to the reality that it is good

policy and practice to follow our zoning regulations. However, there are going to be certain situations where there could be issues where public uses cannot abide by every single zoning regulation in the best interest of the City. For example, the new water tank that is going to be built on the EMU Campus is permitted by right; but, it does not meet the height regulations that are regulated within the R-3 zoning district. What we are asking for on this is your input on the idea of having a special use permit added to every zoning district that gives public uses the ability to deviate from the zoning ordinance. This would allow for public hearings on issues, such as I have described, where the City, in the best interests of providing a service, cannot abide by all the regulations.

Mr. Way said this would allow for some type of a process when those things occur.

Mr. Fletcher said yes, a documented process to allow those things to occur.

Chair Fitzgerald said I like that idea.

Mr. Colman said it makes perfectly good sense.

There was some discussion among Planning Commission regarding the variance process through the Board of Zoning Appeals and this proposed Special Use allowance. Ultimately, Planning Commission agreed that staff should move forward with such an amendment to the zoning regulations.

Mr. Fletcher said next month's agenda has an alley closing tabled from tonight, a 2232 hearing for the water tower at EMU, possibly the zoning ordinance amendments for public uses SUP's, and lastly a rezoning request for a split-zoned parcel at North Main Street and Ashby Avenue. There is also the possibility of a SUP request for a Junkyard in M-1.

Mrs. Turner said we want to note that the water tower does not conform to the regulated height, possibly setbacks, etc, of the zoning ordinance. But we are moving forward on the previous idea that we did not have to conform to our zoning regulations.

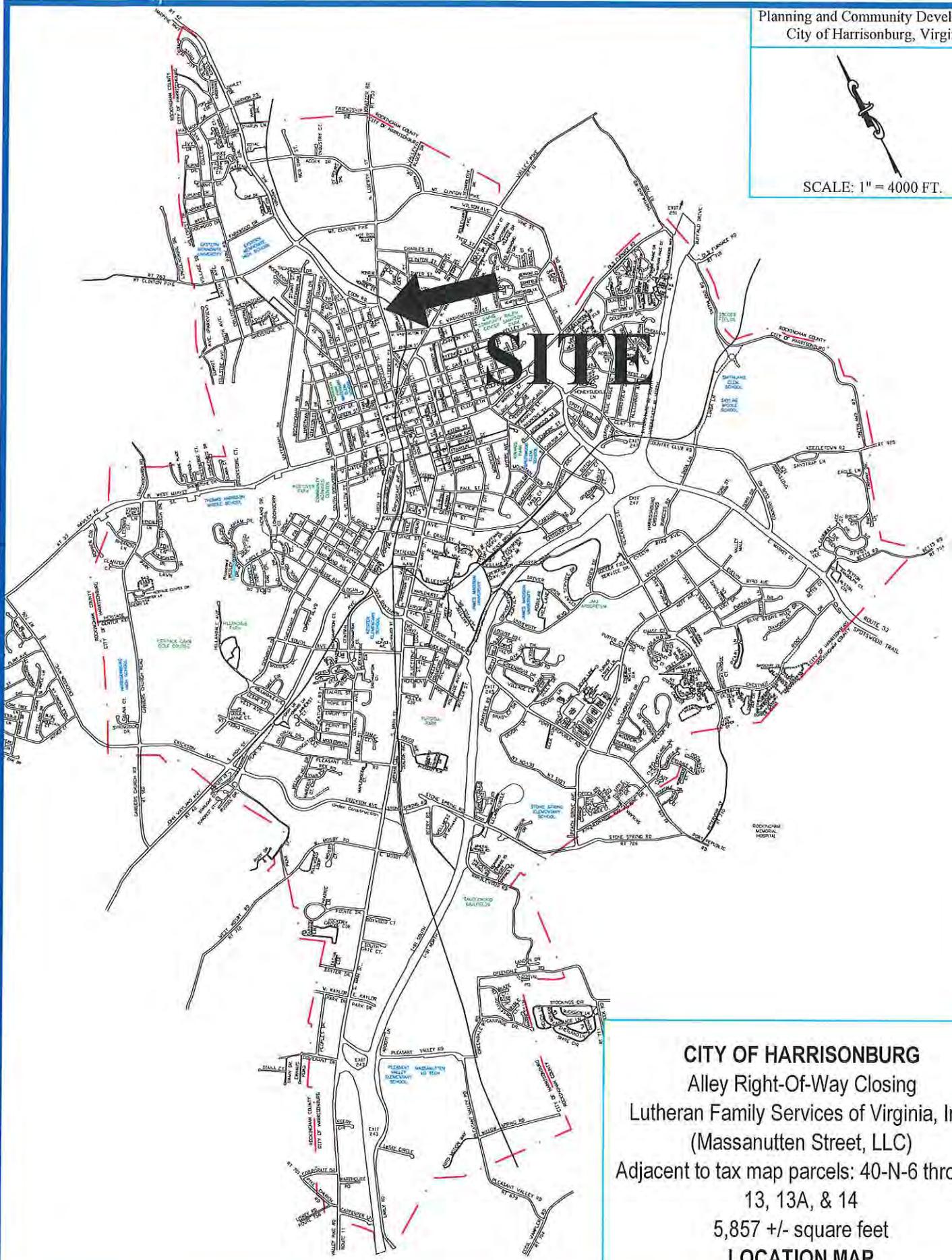
Chair Fitzgerald asked if there was anything further.

### **Adjournment**

Planning Commission adjourned at 8:45 p.m.



SCALE: 1" = 4000 FT.



**CITY OF HARRISONBURG**  
Alley Right-Of-Way Closing  
Lutheran Family Services of Virginia, Inc.  
(Massanutten Street, LLC)  
Adjacent to tax map parcels: 40-N-6 through  
13, 13A, & 14  
5,857 +/- square feet  
**LOCATION MAP**



# Alley Right-of-Way Closing

## Lutheran Family Services of VA Inc (Massanutten St LLC)



# City of Harrisonburg, Virginia

DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

## STAFF REPORT August 13, 2014

### STREET CLOSING – ADJACENT TO 40-N-6 THROUGH 13, 13A & 14 (LFSVA)

#### GENERAL INFORMATION

- Applicant:** Lutheran Family Services of Virginia, Inc. (LFSVA) the sole “member” of the property owner Massanutten Street, LLC
- Tax Map:** Adjacent to 40-N-6 through 13, 13A, & 14
- Acreage:** 5,857 +/- square feet
- Location:** A 410 +/- foot in length section of an undeveloped public alley located between Jackson Street and West Washington Street and parallel to North Liberty Street.
- Request:** Consider a request to close a 14 +/- foot wide by 410 +/- foot long section of an undeveloped public alley. The area requested for closure totals approximately 5,857 square feet.

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

- Site:** Undeveloped 14-foot wide public alley
- North:** Public street right-of-way of substandard Jackson Street and industrial uses, zoned M-1
- East:** Minnick School, zoned M-1
- South:** Continuation of the 14-foot wide, undeveloped public alley extending to West Washington Street
- West:** Residential dwellings (single family homes and duplexes), zoned R-2

#### EVALUATION

The applicant, the owner/operator of the Minnick School, is requesting to close 5,857 +/- square feet of the 14-foot wide undeveloped public alley right-of-way (ROW) adjacent to their property. The entire alley stretches between Jackson Street and West Washington Street for a length of about 660 feet; however, the section requested for closure extends from Jackson Street southward about 410 feet—the length adjacent to the applicant’s property. If approved as requested, there would remain approximately 250 feet in length as undeveloped public alley ROW extending to West Washington Street.

The Minnick School has operated at the Massanutten Street location since 2007 after they received approval of a special use permit per Section 10-3-97 (9) to allow the school within the M-1, General Industrial District.

As is standard practice, if the City approves the closing request, 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. If approved, the applicant could obtain the entire width of the alley for the first 50 feet extending from Jackson Street as they own the private property on both sides of this section of the alley. As noted by the submitted letter, the applicant is interested in obtaining any portion of the alley that adjoining property owners do not wish to purchase.

During the review process, the applicant contacted each of the adjoining property owners to notify them of their intentions to close the alley. This letter, and copies of the certified mailings, is included within the packet of information. The alley closing application request was originally scheduled to be heard at Planning Commission's July regular meeting, however, while in review, an issue arose regarding potential minimum building setback requirements and to work-out this issue the applicant had to delay the request until Planning Commission's August regular meeting. Since adjoining property owners are not notified by the City during the Planning Commission review, the applicant kept the adjoining property owners aware of the application process and sent them a follow-up letter providing notice of the hearing's delay. A copy of this letter is also included within the packet. (The setback matter was eventually resolved.)

There is sanitary sewer infrastructure located within the northern section of the area requested for closure. (See the aerial map included within the packet, which demonstrates the general location of the sewer lines within this area.) Staff will recommend the City Attorney reserve an easement within this area for the City to be able to maintain this infrastructure. The easement shall be at minimum 20-foot wide centered on the utility line. In addition, Columbia Gas of Virginia, Inc. has a 2-inch gas line that runs the length of the entire alley. Staff will recommend the City Attorney reserve an easement over the entire section of the alley to be closed so that Columbia Gas can maintain their infrastructure. Because easements will be located within the entire section of the alley to be closed, no structures can be located within this area.

The submitted survey of the alley demonstrates the area which the applicant is guaranteed to obtain if the City approves the closing. The applicant should be aware, however, that before the second reading can occur at City Council, the survey must be revised to demonstrate how the alley property is to be distributed among the applicant's and the surrounding property owners' property. The survey must also demonstrate the areas in which the City will reserve easements for the utilities discussed herein.

Aside from the utilities as described, the City does not need to maintain ownership of the alley ROW to provide any other City services. Staff recommends closing the 5,857 +/- square feet of undeveloped alley ROW with the following two conditions:

1. The City shall reserve, at minimum, a 20-foot wide sanitary sewer easement, centered on the infrastructure within the alley.
2. The City shall reserve an easement over the entire section of the alley to be closed to allow Columbia Gas of Virginia, Inc. to maintain their infrastructure.



# City of Harrisonburg

Municipal Building  
345 South Main Street  
Harrisonburg, VA 22801

## Certified Copy

Action Item: ID 14-069

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**File Number: ID 14-069**

Refer a request to Planning Commission for the City to vacate an alley along the property of Massanutten Street, LLC tax map 40-N-14.

Presented By: City staff

Referred to Planning Commission

I, Erica Kann, certify that this is a true copy of Action Item No. ID 14-069, passed by the City Council on 5/27/2014.

**Attest:**

A handwritten signature in cursive script, appearing to read "Erica S. Kann", is written over a horizontal line.

**Erica Kann**

**June 10, 2014**

**Date Certified**



Lutheran  
Family Services  
of Virginia

May 13, 2014

Office of City Clerk  
City of Harrisonburg  
Municipal Building  
345 South Main Street  
Harrisonburg, VA 22802

Ladies and Gentlemen:

Enclosed please find our Application for Street or Alley Closing" form, along with supporting documentation and the required \$50.00 fee. We are hereby requesting that the City of Harrisonburg close the alley as noted on the enclosed survey plat, and that the City further vacate any and all access easements to the alley.

Lutheran Family Services, Inc. ("LFSVA") is a nonprofit organization exempt from taxation under Internal Revenue Code Section 501(c)(3). LFSVA provides educational and social services throughout Virginia; employing more than 400 Virginians in our 20 service locations. In Harrisonburg, we operate one of our four Minnick Education Centers, located at 774 Massanutten Avenue, where we provide educational services to children with autism and ED. The property at this address is shown as being owned by Massanutten Street, LLC; LFSVA is the sole "member" of Massanutten Street LLC. We have enclosed documentation of LFSVA's exempt status as a charitable organization, and documentation showing that LFSVA is the sole member of Massanutten Street LLC.

We request that the subject alley be closed by the City and that the City vacate any access easements to the subject alley. The alley adjoins the northwest border of our property, and has not been used as an alley for many years. We understand from our legal counsel, Steven Blatt, that because we are a nonprofit organization, if the City grants our request to close this alley, we will own 100% of the alley property located adjacent to Lots 13 and 14, and ½ of the alley adjacent to Lots 15 through 21. Furthermore, if the adjacent property owners elect not to purchase the half of the alley that is adjacent to the existing alley, we would be eligible to assume ownership of this alley property as well.

We respectfully request that the City Council favorably consider our application, and subsequently refer the application to the Planning Commission for their consideration. We have engaged Gil Colman to work with us on some landscaping plans for our property, and we understand that he will need to recuse himself from any discussion by the Planning Commission, but he may be able to address any questions or concerns that may arise. We will be happy to provide any additional information you may need to aid in consideration of our request. Please contact me should you have questions or need more information.

Very truly yours,

David A. Pruett, CPA  
Chief Financial Officer

Enclosures

# ALLEY VACATION SURVEY

## HARRISONBURG, VIRGINIA

SCALE: 1"=50'  
DATE: 6 MAY 14

N. LIBERTY STREET

JACKSON STREET

N 11° 32' 09" E  
50.00'

MASSANUTTEN STREET, LLC  
3148/627  
40-N-13 & 13A

JAYNE & RUSSELL  
RENTALS LLC  
2565/98  
40-N-12

DIANA LUDHOLTZ  
LANTZ - 843/373  
40-N-11

DIANA LUDHOLTZ  
LANTZ - 843/373  
40-N-10

TUE HUANG SYHABANDITH  
SYSOONTHONE 894/452  
40-N-9

TUE HUANG SYHABANDITH  
SYSOONTHONE 894/452  
40-N-8

VICTOR M. ORTIZ  
4035/614  
40-N-7

J & D PROPERTIES  
HARRISONBURG LLC  
4045/466  
40-N-6

N 65° 18' 00" W  
7.19'

JWK LAND  
LLC - 3274/575  
40-N-22

S 67° 01' 00" E  
14.28'

UTILITY EASEMENT TO  
CITY 1127/129

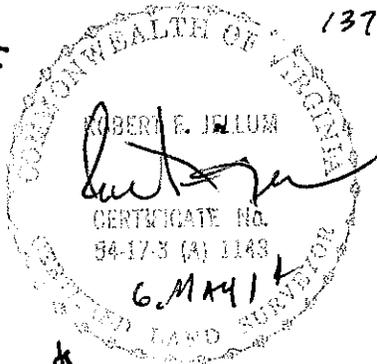
PROPERTY LINE HEREBY  
VACATED UPON APPROVAL  
OF THIS VACATION.

N 67° 01' 00" W  
7.14'

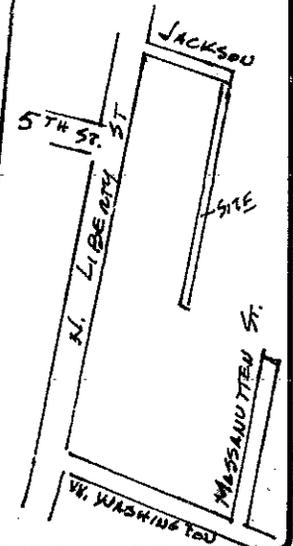
MASSANUTTEN STREET, LLC  
3148/627  
40-N-14

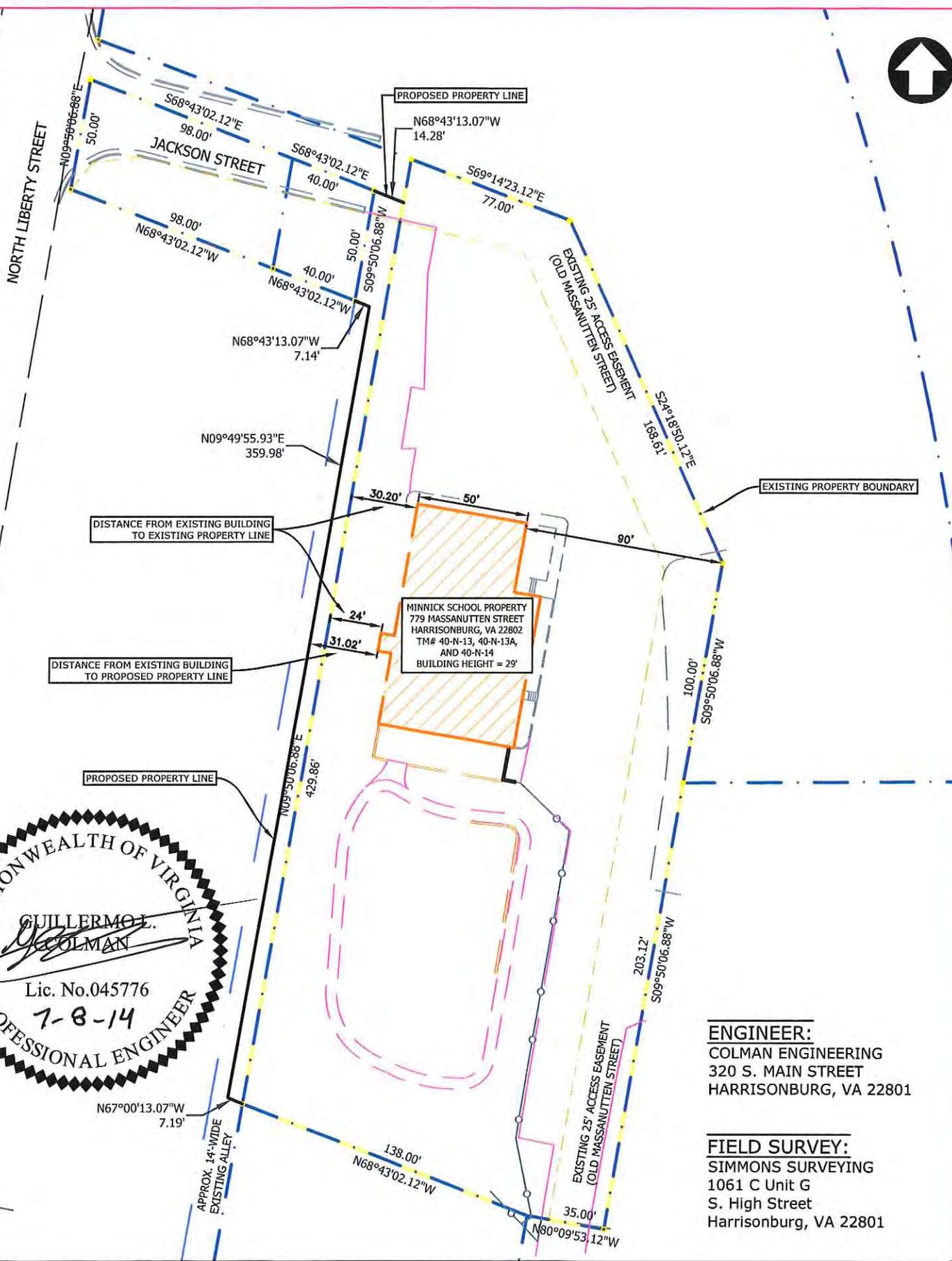
UTILITY EASEMENT FOR CITY  
E-F = N 22° 03' 21" W 18.33'  
F-C = S 67° 01' 00" E 10.34'  
C-E = S 11° 32' 09" W 13.22'  
67#

ACCESS EASEMENT FOR MASS. ST., LLC  
A-B = N 11° 32' 09" E 10.69'  
B-C = S 67° 01' 00" E 14.28'  
C-D = S 11° 32' 09" W 8.88'  
D-E = N 74° 17' 48" W 14.04'  
137#



VICINITY  
SKETCH

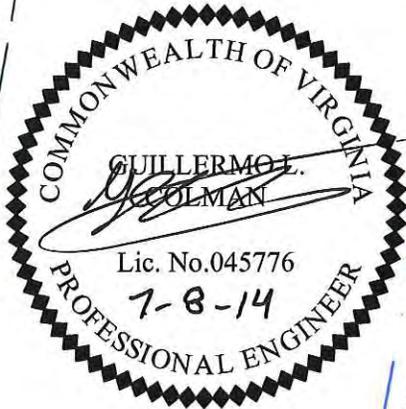




DISTANCE FROM EXISTING BUILDING TO EXISTING PROPERTY LINE

DISTANCE FROM EXISTING BUILDING TO PROPOSED PROPERTY LINE

MINNICK SCHOOL PROPERTY  
779 MASSANUTTEN STREET  
HARRISONBURG, VA 22802  
TM# 40-N-13, 40-N-13A,  
AND 40-N-14  
BUILDING HEIGHT = 29'



**ENGINEER:**  
COLMAN ENGINEERING  
320 S. MAIN STREET  
HARRISONBURG, VA 22801

**FIELD SURVEY:**  
SIMMONS SURVEYING  
1061 C Unit G  
S. High Street  
Harrisonburg, VA 22801



P.O. Box 1764 | Harrisonburg, VA 22802 | Ph: (540) 246-4911  
E-mail: contact@colmanengineering.com | www.colmanengineering.com

**SITE LAYOUT**  
MINNICK SCHOOL HARRISONBURG, VA  
LUTHERAN FAMILY SERVICES OF VIRGINIA  
2609 McVITTY RD.  
ROANOKE, VA 24018

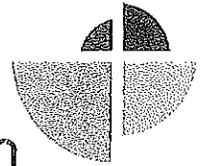
PROJECT #: CE201420  
DATE: 07/8/14  
SCALE: 1"=60'

DWG No. **1**



**Legend**

-  MAN HOLES
-  SEWER LINES



## Lutheran Family Services of Virginia

June 26, 2014

J & D Properties Harrisonburg, LLC  
1891 Virginia Avenue  
Harrisonburg, VA 22802

Ladies and Gentlemen:

Our organization, Lutheran Family Services of Virginia, Inc. is a not-for-profit organization providing educational and social services to more than 400 Virginians from more than 20 service locations. One of our service locations is the Minnick School located at 779 Massanutten Street in Harrisonburg, Virginia.

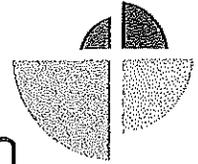
On May 13, 2014, our organization filed an "Application for Street or Alley Closing" with the City of Harrisonburg. We have requested that the City close the "alley" that currently exists between our property on Massanutten Street and property that you own on North Liberty Street. This property has not been in service as an alley for many years, although it continues to exist as such on the tax maps of the City. The reason for our application to the City is simple; we want to make sure that the children who attend our Minnick School have a safe environment in which to learn and to play. With the recent re-opening of the poultry processing plant adjacent to our school and the increased traffic resulting therefrom, we need to take reasonable steps to ensure the safety of our children. We have worked with a local architect to create a plan to renovate the grounds of our school property with some landscaping and some buffer fencing that will clearly denote a "safe zone" for our children, and plan to start construction on this project in July. While we realize that the possibility is remote, as long as the 14' "alley" exists on the north side of the property, the alley could be opened again for traffic, which would have cars and trucks passing within a few feet of the playground used by our students.

It is our understanding that if the City approves our application, you may elect to purchase the half of the alley (a seven-foot wide strip of land) that borders your property from the City at a price to be established by the City. If you elect not to purchase the portion of the alley adjacent to your property, then it will be available for us to acquire. We have been informed by the City Planner for Harrisonburg that our application will be considered by the Planning Commission at their July meeting.

Please feel free to contact me at 540-562-8462 if you have questions, or you may call the City Planner's office at 540-432-7700.

Very truly yours,

David A. Pruett, CPA  
Chief Financial Officer



Lutheran  
Family Services  
of Virginia

July 7, 2014

J & D Properties Harrisonburg, LLC  
1891 Virginia Avenue  
Harrisonburg, VA 22802

Ladies and Gentlemen:

This is a follow-up to the letter we sent to you dated June 26, 2014 regarding our application with the City of Harrisonburg to vacate the "alley" that adjoins our property at 779 Massanutten Street, and your property on Liberty Street.

After discussion with representatives in the City Planner's office, we have asked that our application be tabled and not discussed at their July meeting. Instead, our application will be considered by the Planning Commission at their August meeting, which will be held August 13, 2014 at 7:00 p.m. at the Harrisonburg City Council chambers.

Please feel free to contact me should you have questions or need more information.

Very truly yours,

David A. Pruett, CPA  
Chief Financial Officer

7013 2250 0001 6258 7654

**U.S. Postal Service™**  
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HARRISONBURG VA 22802

**OFFICIAL USE**

Postage	\$ 00.49	1020
Certified Fee	\$ 03.30	13
Return Receipt Fee (Endorsement Required)	\$ 02.70	Postmark Here
Restricted Delivery Fee (Endorsement Required)	\$ 00.00	
Total Postage & Fees	\$ 06.49	06/27/2014

Sent To: Jayme P Russell Rentals LLC  
 Street, Apt. No. or PO Box No. 7941 Eden Valley Rd.  
 City, State, ZIP+4 Harrisonburg VA 22802

PS Form 3800, August 2006 See Reverse for Instructions

7013 2250 0001 6258 7630

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HARRISONBURG VA 22802

**OFFICIAL USE**

Postage	\$ 00.49	1020
Certified Fee	\$ 03.30	Postmark Here
Return Receipt Fee (Endorsement Required)	\$ 02.70	
Restricted Delivery Fee (Endorsement Required)	\$ 00.00	
Total Postage & Fees	\$ 06.49	06/27/2014

Sent To: Victor M. Ortiz  
 Street, Apt. No. or PO Box No. 736 N. Liberty Street  
 City, State, ZIP+4 Harrisonburg VA 22802

PS Form 3800, August 2006 See Reverse for Instructions

7013 2250 0001 6258 7616

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HARRISONBURG VA 22802

**OFFICIAL USE**

Postage	\$ 00.49	1020
Certified Fee	\$ 03.30	13
Return Receipt Fee (Endorsement Required)	\$ 02.70	Postmark Here
Restricted Delivery Fee (Endorsement Required)	\$ 00.00	
Total Postage & Fees	\$ 06.49	06/27/2014

Sent To: J&D Properties Harrisonburg LLC  
 Street, Apt. No. or PO Box No. 1891 Virginia Ave.  
 City, State, ZIP+4 Harrisonburg VA 22802

PS Form 3800, August 2006 See Reverse for Instructions

7013 2250 0001 6258 7647

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HARRISONBURG VA 22802

**OFFICIAL USE**

Postage	\$ 00.49	1020
Certified Fee	\$ 03.30	Postmark Here
Return Receipt Fee (Endorsement Required)	\$ 02.70	
Restricted Delivery Fee (Endorsement Required)	\$ 00.00	
Total Postage & Fees	\$ 06.49	06/27/2014

Sent To: Diane Ludholtz Lantz  
 Street, Apt. No. or PO Box No. 764 Liberty Street  
 City, State, ZIP+4 Harrisonburg VA 22802

PS Form 3800, August 2006 See Reverse for Instructions

7013 2250 0001 6258 7623

**U.S. Postal Service™**  
**CERTIFIED MAIL™ RECEIPT**  
 (Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at [www.usps.com](http://www.usps.com)

HARRISONBURG VA 22802

**OFFICIAL USE**

Postage	\$ 00.49	1020
Certified Fee	\$ 03.30	13
Return Receipt Fee (Endorsement Required)	\$ 02.70	Postmark Here
Restricted Delivery Fee (Endorsement Required)	\$ 00.00	
Total Postage & Fees	\$ 06.49	06/27/2014

Sent To: Tue Hevang Syghand P. H. Sysonthone  
 Street, Apt. No. or PO Box No. 754 North Liberty Street  
 City, State, ZIP+4 Harrisonburg VA 22802

PS Form 3800, August 2006 See Reverse for Instructions

Date application received: 5/19/14

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

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

Applicant's Name: Lutheran Family Services of Virginia, Inc.

Street Address: 2609 McVitty Road E-mail: dpruett@lfsva.org

City: Roanoke State: Virginia Zip: 24018

Telephone: Work 540-562-8462 Fax 540-774-1084 Mobile 540-353-5466

Representative (if any): Julie Swanson, CEO, David Pruett, CFO and/or Ray Ratke, COO

Street Address: 2609 McVitty Road E-mail: dpruett@lfsva.org

City: Roanoke State: Virginia Zip: 24018

Telephone: Work 540-562-8462 Fax 540-774-1084 Mobile 540-353-5466

**Description of Request**

Location Request is for the City to vacate an easement - see attached for specifics of request

Square footage of area to be closed: 5,857 +/- sq. ft. AS

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

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

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

North: See attached for list of adjacent property owners

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

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

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

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

Signature: David A. Pruett, CFO Applicant

Date: 5/13/2014

**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 \_\_\_\_\_

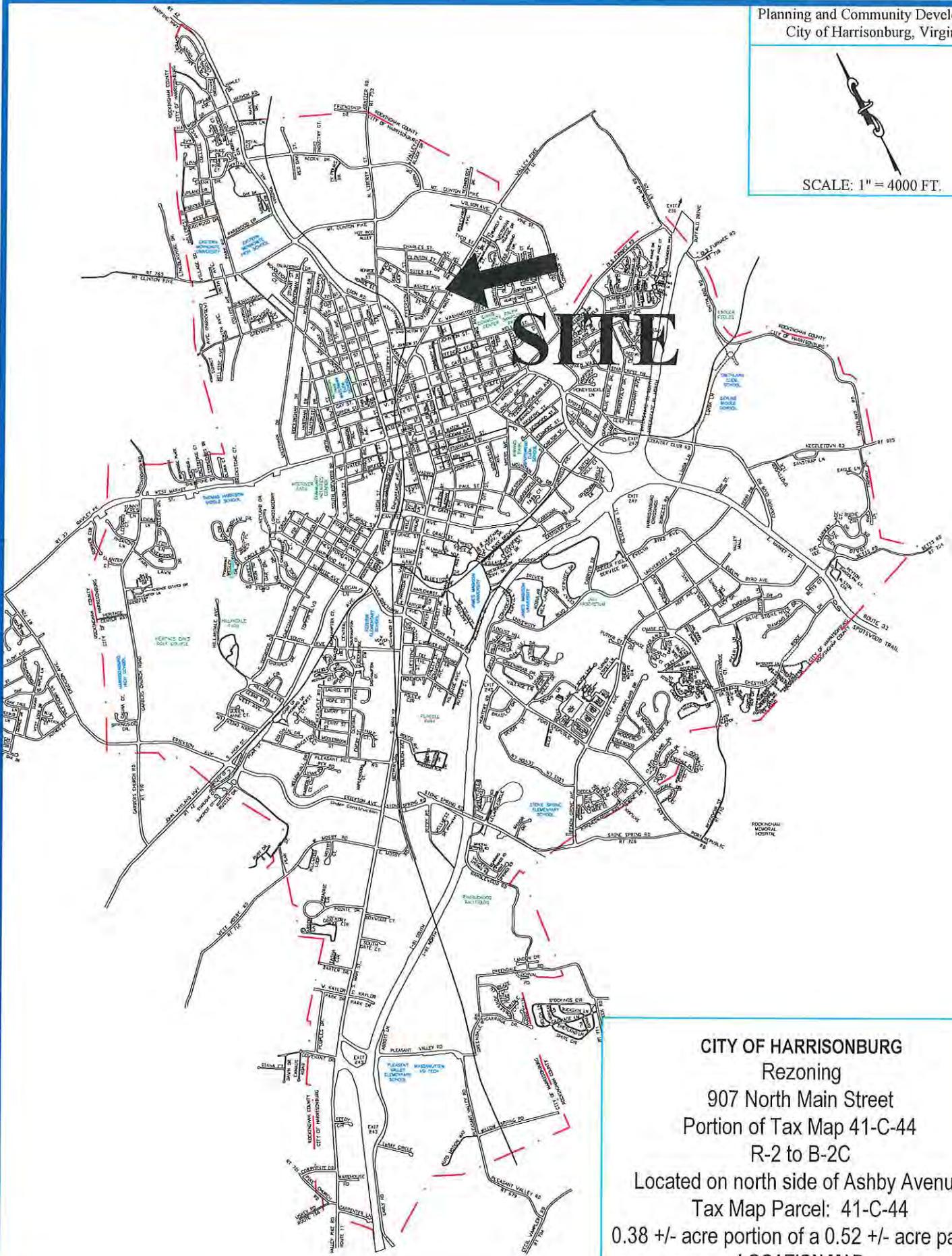
*Please be advised, adjoining property owners shall be expected to buy that portion of the street/alley which abuts their property before second reading and final closing! The cost shall be a fair market value determined by the Commissioner of Revenue.*

LIST OF ADJOINING PROPERTY OWNERS, MASSANUTTEN STREET ALLEY  
CLOSING

1. Tax Map Number 40-N-12, Jayme & Russell Rentals LLC, 7941 Eden Valley Road, Harrisonburg, Virginia 22802.
2. Tax Map Number 40-N-11, Diana Ludholtz Lantz, 764 Liberty Street, Harrisonburg, Virginia 22802.
3. Tax Map Number 40-N-10, Diana Ludholtz Lantz, 764 Liberty Street, Harrisonburg, Virginia 22802.
4. Tax Map Number 40-N-8 and 9, Tue Heuang Syhabandith Sysounthone, 754 North Liberty Street, Harrisonburg, Virginia 22802.
5. Tax Map Number 40-N-7, Victor M. Ortiz, 736 North Liberty Street, Harrisonburg, Virginia 22802.
6. Tax Map Number 40-N-6, J & D Properties Harrisonburg LLC, 1891 Virginia Avenue, Harrisonburg, Virginia 22802.



SCALE: 1" = 4000 FT.



**CITY OF HARRISONBURG**

Rezoning

907 North Main Street

Portion of Tax Map 41-C-44

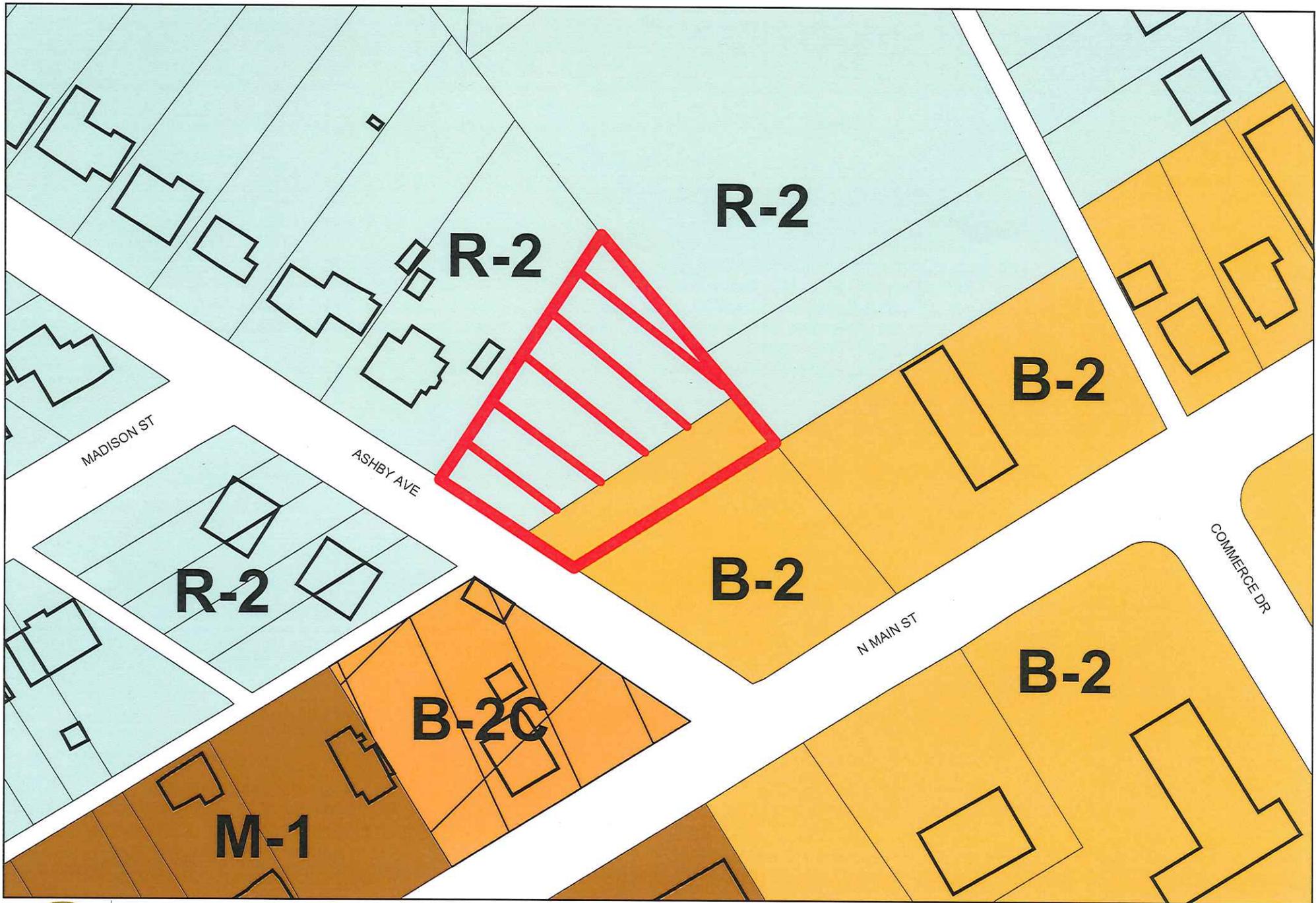
R-2 to B-2C

Located on north side of Ashby Avenue

Tax Map Parcel: 41-C-44

0.38 +/- acre portion of a 0.52 +/- acre parcel

**LOCATION MAP**



**Rezoning - R-2 to B-2C**  
**Portion of Tax Map 41-C-44 (907 North Main Street)**



# City of Harrisonburg, Virginia

DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

## STAFF REPORT

August 13, 2014

### REZONING – 907 NORTH MAIN STREET (PORTION OF 41-C-44 ALONG ASHBY AVENUE)

#### GENERAL INFORMATION

- Applicant:** Farhad Koyee, Bahar Mikael, and Sabir Haji
- Tax Map:** 41-C-44
- Acreage:** 0.38 +/- acre portion of a 0.52 +/- acre parcel
- Location:** Along Ashby Avenue (addressed as 907 North Main Street)
- Request:** Public hearing to consider a request to rezone a portion of a property from R-2, Residential District to B-2C, General Business District Conditional.

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

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

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

- Site:** Undeveloped split-zoned property, zoned R-2 and B-2
- North:** Single family homes and undeveloped property, zoned R-2
- East:** Undeveloped property, zoned R-2 and office space and non-conforming apartments, zoned B-2
- South:** Undeveloped property zoned B-2, and across Ashby Avenue, a non-conforming residential dwelling, zoned B-2C
- West:** Across Ashby Avenue, duplex units, zoned R-2

#### EVALUATION

The applicants are requesting to rezone a split-zoned parcel located along Ashby Avenue that is one lot removed from the corner parcel along the northern side of the North Main Street/Ashby Avenue intersection. The request is to rezone the R-2 portion of the property, which is approximately 16,900 square feet in size, to B-2C. The remaining 6,000 square foot section of the property is already zoned B-2. Along with owning the subject parcel, the applicants/property owners also own the corner parcel, which is zoned B-2.

The property's split zoning is due to a 1979 rezoning. At that time, the applicant (a previous property owner) applied to rezone the entire lot to B-2 so they could utilize the parcel and the

corner parcel together to accommodate a larger commercial development. Several property owners on Ashby Avenue and Madison Street opposed the rezoning and ultimately City Council approved only a 40-foot strip of the subject property to be rezoned from R-2 to B-2, which is how the property's zoning remains today.

Later, in 2009, the property owner, at that time (different from the previous and current property owners), requested the subject parcel, the corner parcel, and two parcels to the north to be rezoned from B-2 and R-2 to M-1C, General Industrial District Conditional. Their proffers included retaining the following industrial uses: warehousing and other storage facilities provided that the size, volume and contents shall be governed by applicable safety regulations; mercantile establishments and office facilities accessory to and supportive of the sale, processing and storage of goods and materials as permitted in this district; accessory buildings and uses customarily incidental to any of the above listed uses; public uses; and public and privately owned parking lots and parking garages. That applicant also proffered buffering the property from the adjacent residential areas. Their intended development plan was to install mini-storage units. Staff recommended denial and Planning Commission also unanimously recommended denial of the request. The applicant ultimately withdrew their application and it was never heard at City Council.

With the current request, the applicants are proffering the following:

- Along the entire length of the western and northern property lines, where the adjacent property is zoned residentially, for a width of 10-feet, the existing vegetation (including all trees and shrubbery) shall be maintained to assist in providing a buffer between the property and the adjacent residentially zoned property. In addition, evergreen trees shall be planted and maintained within the 10-foot buffer zone with the intent to form a dense screen. The evergreen trees shall be three to four feet in height at the time of planting and shall be planted at no greater than 5-foot centers.
- A six-foot solid, opaque fence shall be installed along the same boundaries as identified above.

If approved, the above conditions would only be applicable to the approximate 16,900 square foot portion of the property. The fence may or may not be installed within the first 10-feet of the property lines, but must be installed along the stated boundaries. The existing B-2 portion of the subject parcel would not be restricted to the submitted proffers. This is important to understand because there is a small section of residentially zoned property to the north of the existing B-2 portion of the parcel.

Along with the proposed buffering, current minimum building setback regulations within the B-2 portion of the Zoning Ordinance will also provide helpful separation of uses protection between the commercial and residential properties. Regardless of the property's zoning, a 30-foot minimum building setback must be applied along Ashby Avenue. Then, regarding side and rear yard setbacks, a 30-foot setback must also be applied along property lines that adjoin residentially zoned property; this includes the western and northern property lines. Furthermore, if a structure is built that is greater than 35 feet in height, an additional one-foot of building setback must be applied along the lines that adjoin residentially zoned property for every foot above 35 feet. If property lines adjoin commercially zoned property, a 10-foot building setback

may be applied. It is important to remember, however, these setbacks are for structures and that parking lots are not bound by the same setback requirements.

The applicant has discussed with staff their intended plan to develop on this property, which includes utilizing the subject parcel and the corner parcel together to develop retail space and a vehicle repair shop. If the rezoning is approved however, all permitted B-2 uses could operate from this site and the property owners could apply for any listed special uses.

The subject property (and the corner parcel that they also own) is designated Commercial by the Land Use Guide. The subject property's western property line and portions of the northern property line mark the Land Use Guide's boundary between the Commercial designation and adjacent residentially zoned property being designated Medium Density Mixed Residential. The City designated the entire subject property Commercial with the approval of the current 2011 Comprehensive Plan update; the 2004 Comprehensive Plan designated the subject parcel Commercial for the B-2 portion and Medium Density Mixed Residential for the R-2 portion.

As demonstrated further by the Comprehensive Plan, the subject parcel (and the corner parcel) falls within a Corridor Enhancement Area. Parcels that are located within these corridors strongly influence the City's accessibility, attractiveness, and its economic vitality. The City recognizes the importance of these areas and the impact they have on the overall quality and character of the city, and therefore, strongly encourages all proposals and construction to embody quality development and to contain exemplary attributes such as improved streetscapes, multi-modal transportation enhancements, conservation of special features, and other upgrades while also incorporating aesthetic signage. Existing zoning regulations (i.e. minimum setback regulations, parking lot landscaping standards, etc.) and Design and Construction Standards Manual requirements should help influence and control the interests we have for such properties. Staff did not encourage additional controls for matters related to signage as the property is designated Commercial.

It is important to understand, and the applicant is aware, regardless of how the property develops, they will be required to construct sidewalk along the entire property frontage of the parcels they are developing. Depending upon how this corner area develops, the dividing line between lot 43 and 44 may need to be vacated. Ultimately, the subdivision and/or the development of the property could require them to dedicate public street right-of-way (ROW) along the frontage of both Ashby Avenue and North Main Street as neither of those streets appears to have the minimum amount of public street ROW width needed for all public street improvements. Furthermore, when the corner parcel is developed, the Master Transportation Plan designates street improvements along its North Main Street frontage to include a center turn lane and to remove parking on North Main Street. The Plan also specifies that this section of North Main Street does not have adequate bicycle facilities, thus the developer could be required to not only dedicate ROW, but also build the necessary street improvements. Since sidewalk already exists along North Main Street, they could be required to remove it and move it back further to accommodate the widening and bicycle facilities. Depending upon how this corner area develops, the City may also wish to have all site entrances located along Ashby Avenue, with no North Main Street access.

Neither the applicant nor staff knows exactly where the western and northern property lines are located in relation to the existing tree line and other vegetation. These areas already provide a relatively nice existing buffer between the residential uses to the west and north of the subject

property. However, the intent of the buffering proffers are not only to preserve as much of the existing buffer as possible but also to enhance and strengthen these and any areas that may not already be protected by installing an opaque fence and additional evergreen vegetation to form a dense screen.

Given the well-intended proffers and the fact that the City has planned for this parcel to contain commercial uses, staff recommends approving rezoning the existing R-2 portion of the property to B-2C, General Business District Conditional.

Date: 08/04/2014

Proffered letter

Re: 907 N. Main St. Harrisonburg, VA 22802

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

- Along the entire length of western and northern property lines, where the adjacent property is zoned residentially, for a width of 10-feet, the existing vegetation (including all trees and shrubbery) shall be maintained to assist in providing a buffer between the property and the adjacent residentially zoned property. In addition, evergreen trees shall be planted and maintained within the 10-foot buffer zone with the intent to form a dense screen. The evergreen trees shall be three to four feet in height at the time of planting and shall be planted at no greater than 5-foot centers.
- A six-foot solid, opaque fence shall be installed along the same boundaries as identified above.

  
Farhad Koyee  
8/4/14

Deed

ROCKINGHAM COUNTY  
Chaz W. Evans-Haywood  
CLERK OF COURT  
Harrisonburg, VA 22801



Instrument Number: 2014- 00014503

As

Recorded On: June 17, 2014

Deed of Bargain & Sale

Parties: ILEX LLC

To  
KOYEE FARHAD

Recorded By: BANKERS TITLE OF SHENANDOAH LLC

Num Of Pages: 4

Comment: PARCEL HBURG

**\*\* Examined and Charged as Follows: \*\***

Deed of Bargain & Sale	6.50	10 or Fewer Pages	14.50	Deed Processing Fee	20.00
Transfer Fee City	1.00				
<b>Recording Charge:</b>	<b>42.00</b>				
	<b>Tax Amount</b>	<b>Consideration Amount</b>	<b>RS#/CS#</b>		
Transfer Tax Grantee	558.33	167,500.00		State Grantor Tax	0.00 214 Grantee City Tax 139.58
				State Grantee Tax	418.75 220 Grantor County 0.00
				213 Grantee County Tax	0.00 223 Grantor City 0.00
Transfer Tax Grantor	167.50	167,500.00		State Grantor Tax	83.75 214 Grantee City Tax 0.00
				State Grantee Tax	0.00 220 Grantor County 0.00
				213 Grantee County Tax	0.00 223 Grantor City 83.75
<b>Tax Charge:</b>	<b>725.83</b>				

**\*\* THIS PAGE IS PART OF THE INSTRUMENT \*\***

I hereby certify that the within and foregoing was recorded in the Register of Deeds Office For: ROCKINGHAM COUNTY, VA

**File Information:**

**Record and Return To:**

Document Number: 2014- 00014503  
Receipt Number: 292718  
Recorded Date/Time: June 17, 2014 04:29:36P  
Book-Vol/Pg: Bk-OR VI-4425 Pg-261  
Cashier / Station: A Wolverton / Cash Station 3

BANKERS TITLE OF SHENANDOAH LLC  
2040 DEYERLE AVE  
SUITE 202  
HARRISONBURG VA 22801



THE STATE OF VIRGINIA  
COUNTY OF ROCKINGHAM

I certify that the document to which this authentication is affixed is a true copy of a record in the Rockingham County Circuit Court Clerk's Office and that I am the custodian of that record.

CLERK OF COURT  
ROCKINGHAM COUNTY, VIRGINIA

Jun 17, 2014

*Title insurance is provided by Investors Title Insurance Company.*

**Consideration: \$167,500**

**Assessed Value: \$167,500**

**Tax Map No. 41-C-43 and 44**

THIS DEED, made this 11th day of June, 2014, by and among ILEX, LLC, a Virginia limited liability company, Grantor, and FARHAD KOYEE, BAHAR MIKAEL and SABIR HAJI, Grantees,

WITNESSETH:

That for and in consideration of the sum of Ten Dollars (\$10.00), cash in hand paid by the Grantees to the Grantor, before the execution and delivery hereof and of other good and valuable consideration given, the receipt of all of which is hereby acknowledged, the Grantor does hereby grant and convey with General Warranty and English Covenants of Title, unto Farhad Koyee, Bahar Mikael, and Sabir Haji, Grantees, in equal interests, as joint tenants with rights of survivorship, all that certain lot or parcel of land, together with all rights, privileges, appurtenances and easements thereunto belonging or in anywise appertaining, located in the northwest corner of the intersection of Ashby Avenue and North Main Street, in the City of Harrisonburg, Virginia, and described according to a survey made by James C. Wilkins, C.L.S., dated May, 1963, as follows:

"Beginning at an iron pin set at the point of intersection of the northwest line of North Main Street and the northeast line of Ashby Avenue; thence, with the northeast line of the said Ashby Avenue, N. 52° 00' 57" W. 241.19 feet to an iron pin set at a corner with Elmer Roller's lot; thence, with the said lot N. 39° 08' 38" E. 185.08 feet to an iron pin found in Wampler's line; thence, with the said Wampler's line, S. 32° 40' 03" E. 295.00 feet to an iron pin set at the northwest line of the aforesaid North Main Street; thence, with the said street, S. 63° 04' 57" W. 96.41 feet to the beginning, and enclosing an area of 36,463 square feet, more or less."

The real estate herein conveyed is the same property conveyed to the Grantor herein by Deed dated June 22, 2009, which said deed is duly of record in the Clerk's Office of the Circuit Court of Rockingham County, Virginia, in Deed Book 3545, page 144.

This conveyance is made subject to all recorded easements, conditions, restrictions and agreements as they may lawfully apply to the real estate hereby conveyed or any part thereof.

Reference is hereby made to the aforesaid deed and survey plat for further description and derivation of title to the property described herein.

This deed was prepared without benefit of a title examination by its preparer; however, a title examination was performed by Bankers Title Shenandoah.

WITNESS the following signature and seal:

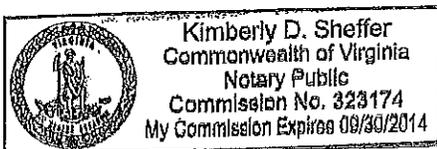
ILEX, LLC

By: [Signature] For Ilex LLC as manager. (SEAL)  
Its: Manager

COMMONWEALTH OF VIRGINIA,  
CITY/COUNTY OF Henrieville, to-wit:

The foregoing instrument was acknowledged before me in the jurisdiction aforesaid this Monday of June, 2014, by E. Glenn Lark, as manager on behalf of ILEX, LLC.

My commission expires: Sept. 30 2014  
Notary Registration No.: 323174



[Signature]  
Notary Public

Grantees' Address:

1951 Rhianon Lane

Harrisonburg, VA 22801

CLIENT: DREDDULEX LLC TO KOYCE MIKABL & HAJI DEED

Date Application Received: 7/1/2014

Total Paid: \$405<sup>00</sup> OB.

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

### Section 1: Property Owner's Information

Name: Farhad Koyee

Street Address: 1951 Rhianon Ln Email: farhadkoyee11@yahoo.com

City/State/Zip: Harrisonburg VA 22801

Telephone (work): 540-433-4911 (home or cellular): 540-433-4911 (fax): \_\_\_\_\_

### Section 2: Owner's Representative Information

Name: \_\_\_\_\_

Street Address: \_\_\_\_\_ Email: \_\_\_\_\_

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

Telephone (work): \_\_\_\_\_ (home or cellular): \_\_\_\_\_ (fax): \_\_\_\_\_

### Section 3: Description of Property

Location (street address): 907 N. Main St, Harrisonburg VA 22802

Tax Map Number: Sheet: 41 Block: C Lot: 44 Total Land Area (acres or square feet): Portion of lot 0.38

Existing Zoning District: R-2 Proposed Zoning District \*: B-2C <sup>MF</sup>

Existing Comprehensive Plan Designation: Commercial

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

### Section 4: Application Fee

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

- (a). Would the development from this rezoning require a Traffic Impact Analysis by VDOT?  
Yes \_\_\_\_\_ No

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

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

- (b). Would the development from this rezoning require a Traffic Impact Analysis review by the City?  
Yes \_\_\_\_\_ No

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

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

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

North: \_\_\_\_\_

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

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

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

### Section 6: Certification

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

Property Owner

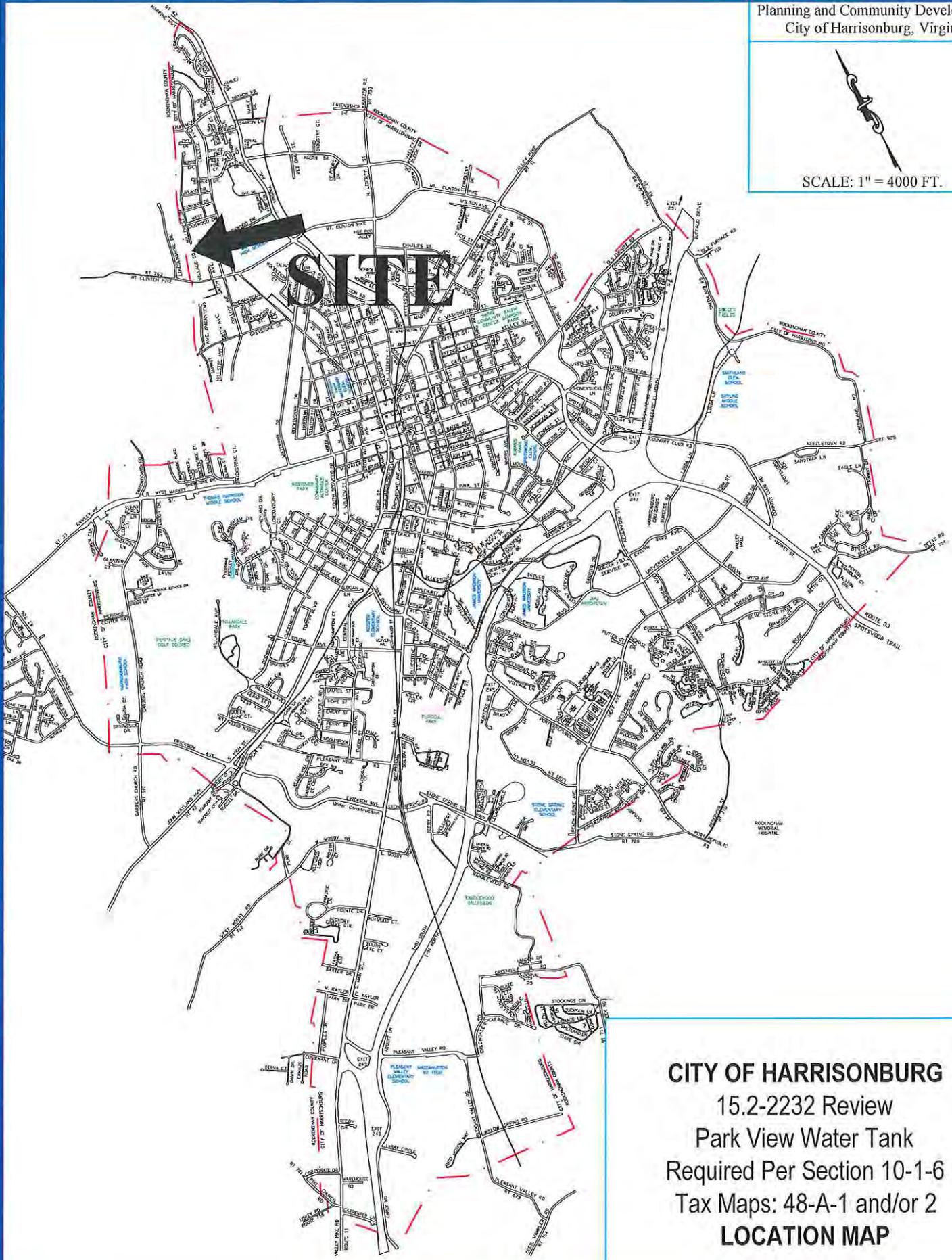
**See Back for Items Required for Submission**

## Adjacent property owners

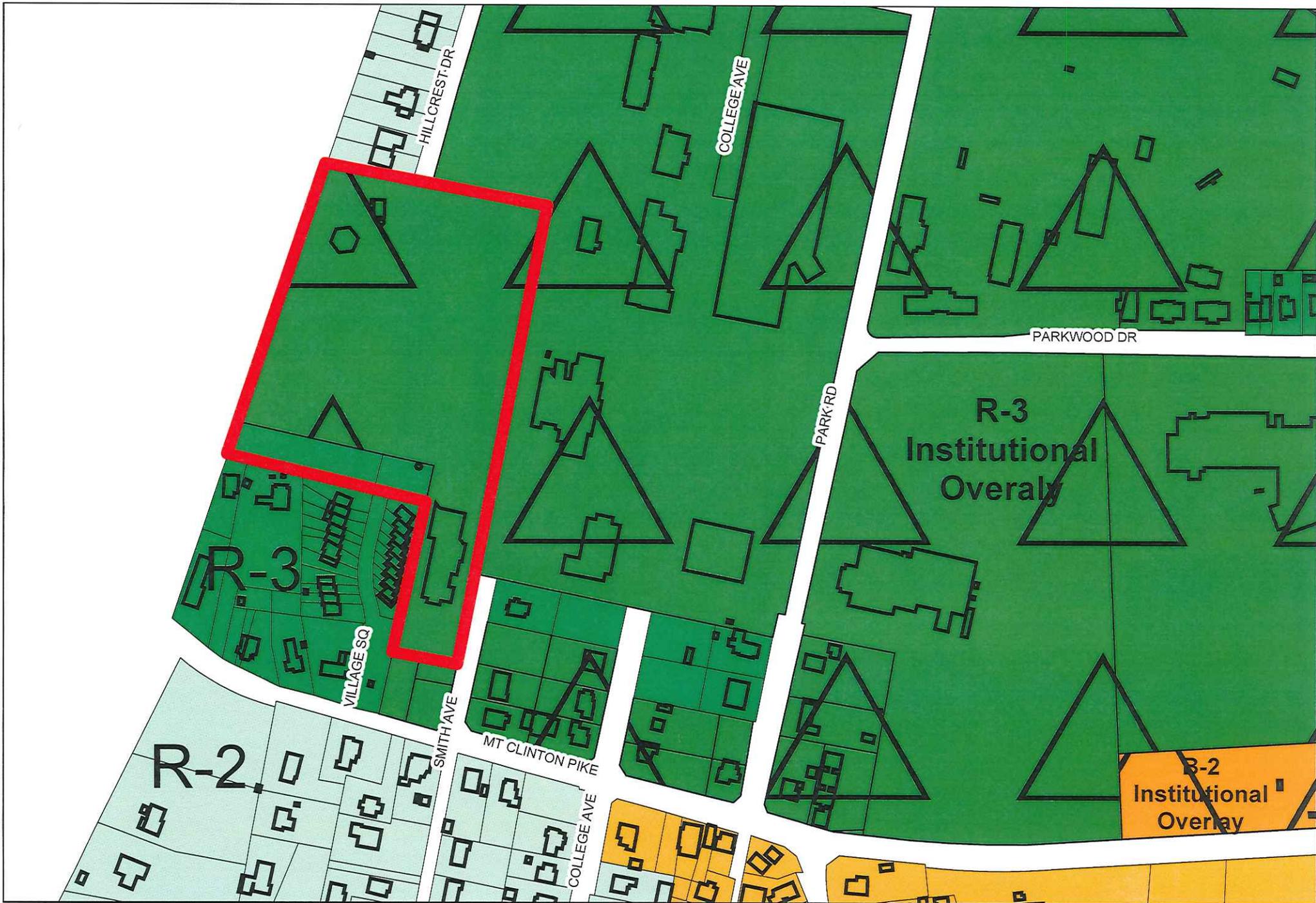
- ① Sonya Shamo  
90 Ashby Ave  
Hibury VA 22802
- ② Keith & Lina  
P.O. Box 25  
Pennlaird, VA 22846
- ③ Glenn Loucks  
919 N. Main St  
Harrisonburg, VA 22802
- ④ Mike Southard Rental Property  
4301 Timber Ridge Dr  
Mt. Crawford VA 22841
- ⑤ Nonancy LLC  
1910 Rhianon Ln  
Harrisonburg, VA 22801



SCALE: 1" = 4000 FT.



**CITY OF HARRISONBURG**  
15.2-2232 Review  
Park View Water Tank  
Required Per Section 10-1-6  
Tax Maps: 48-A-1 and/or 2  
**LOCATION MAP**



# 15.2 - 2232 Review - Park View Water Tank



# City of Harrisonburg, Virginia

DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

## STAFF REPORT

August 13, 2014

### 15.2-2232 REVIEW – PARK VIEW WATER TANK

#### GENERAL INFORMATION

- Applicant:** City of Harrisonburg
- Tax Map:** 48-A-1 and/or 2
- Acreage:** 10.05 +/- acres
- Location:** 1181 Smith Avenue
- Requests:** Consider a request to review the proposed Park View Water Tank Project per City Code Section 10-1-6 to determine if the public facility is in substantial accord with the Comprehensive Plan by the Code of Virginia Section 15.2-2232.

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

The Comprehensive Plan designates this area as Institutional. This designation states that these areas are for development by certain nonprofit and public institutional uses such as private colleges and universities, hospitals, offices of nonprofit organizations, community assembly uses and institutions that provide for the shelter and care of people.

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

- Site:** Eastern Mennonite University Seminary, Discipleship Center building, and parking lot, zoned R-3/I-1
- North:** Single family dwellings, zoned R-2; and Eastern Mennonite University campus, zoned R-3/I-1
- East:** Eastern Mennonite University campus, zoned R-3/I-1
- South:** Single family dwellings and townhouses, zoned R-3
- West:** Across City/County boundary, single family homes, zoned R-2 (County)

#### EVALUATION

Per Section 10-1-6 of the City Code, the proposed Park View Water Tank Project is under review. 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.”

Section 15.2-2232 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. On June 24, 2014 City Council referred this item to be reviewed by Planning Commission; this directive did not include holding a public hearing.

Staff believes the proposed project and site are substantially conforming to the Comprehensive Plan per the following goal, objective, and strategy:

- Goal 11: To support a vital city with community facilities, infrastructure, and services, which are efficient, cost-effective and conserving of resources.
  - Objective 11.1: To continue to provide high quality public water service.
    - Strategy 11.1.1: To construct needed water supply, treatment, storage, and pressure improvements, including: Storage tank and upgrade of booster pump station in the Parkview Pressure Zone.

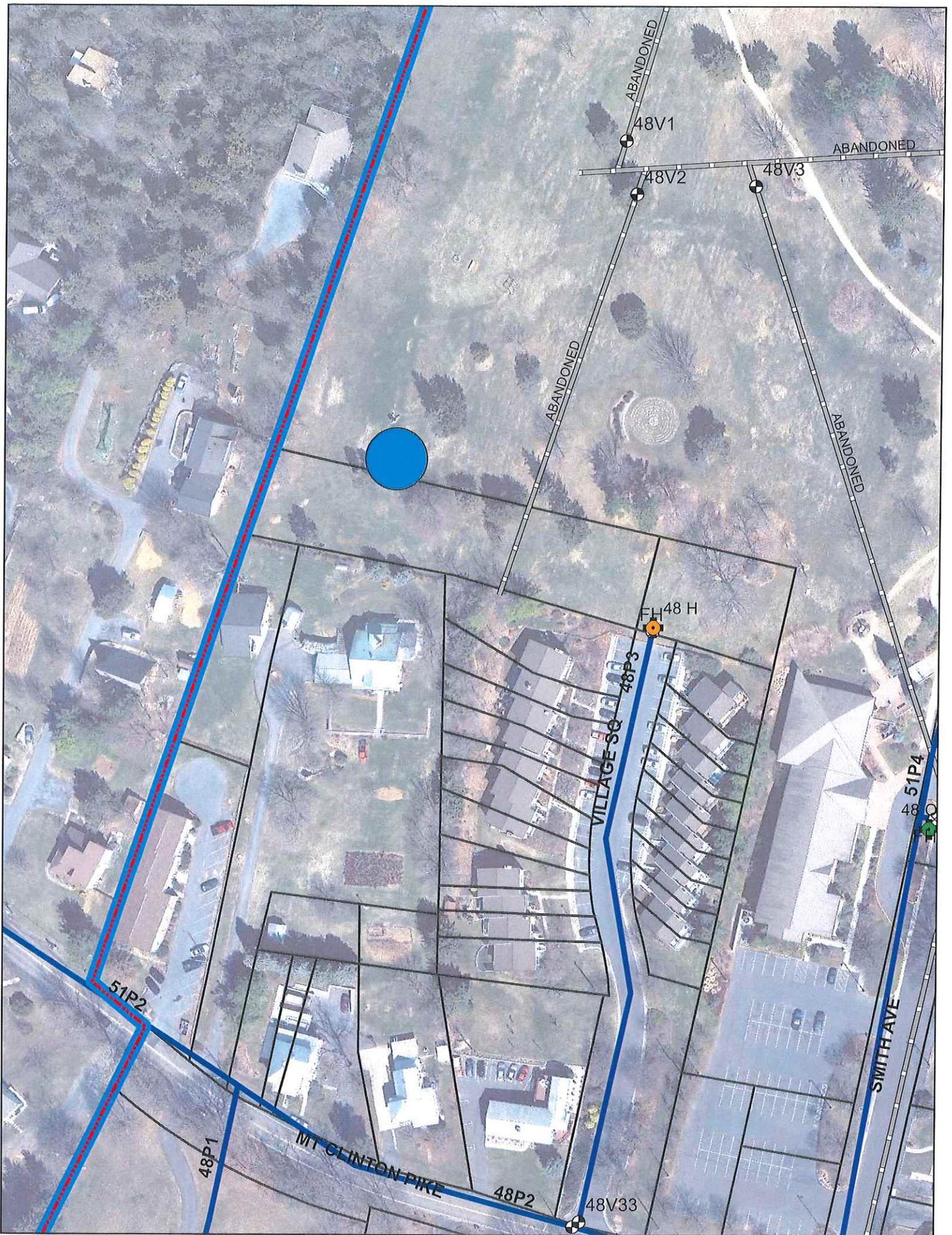
The 1991 Comprehensive Plan identified that the Park View Sector of the City had areas with low water volume. The Public Utilities Department has known for many years that the water tank would best serve the area if it were located on the Eastern Mennonite University (EMU) hill and in 1996 had an engineer study the Park View Sector. This study also identified the EMU hill as the best location for tank placement.

The 1998 Comprehensive Plan noted that proposed improvements to the water distribution system were needed in the Park View area to upgrade existing fire service delivery. The 2004 Comprehensive Plan, more or less, had the same goal, objective, and strategy as in the 2011 Plan. Both the 2004 and 2011 Comprehensive Plans specifically note that the Parkview Pressure Zone is an area of concern in the current storage and distribution center and that this area is in need of upgrade for the booster pump station and the storage tank.

The application of Goal 16 within the 2011 Comprehensive Plan, which includes coordinating and collaborating with EMU, is also employed, as EMU recently accepted the idea of placing the water tank on their property and is working with the City on the project. In addition to working with EMU, the City has also solicited input from the Park View area and the City residents generally, both through meetings and on-line.

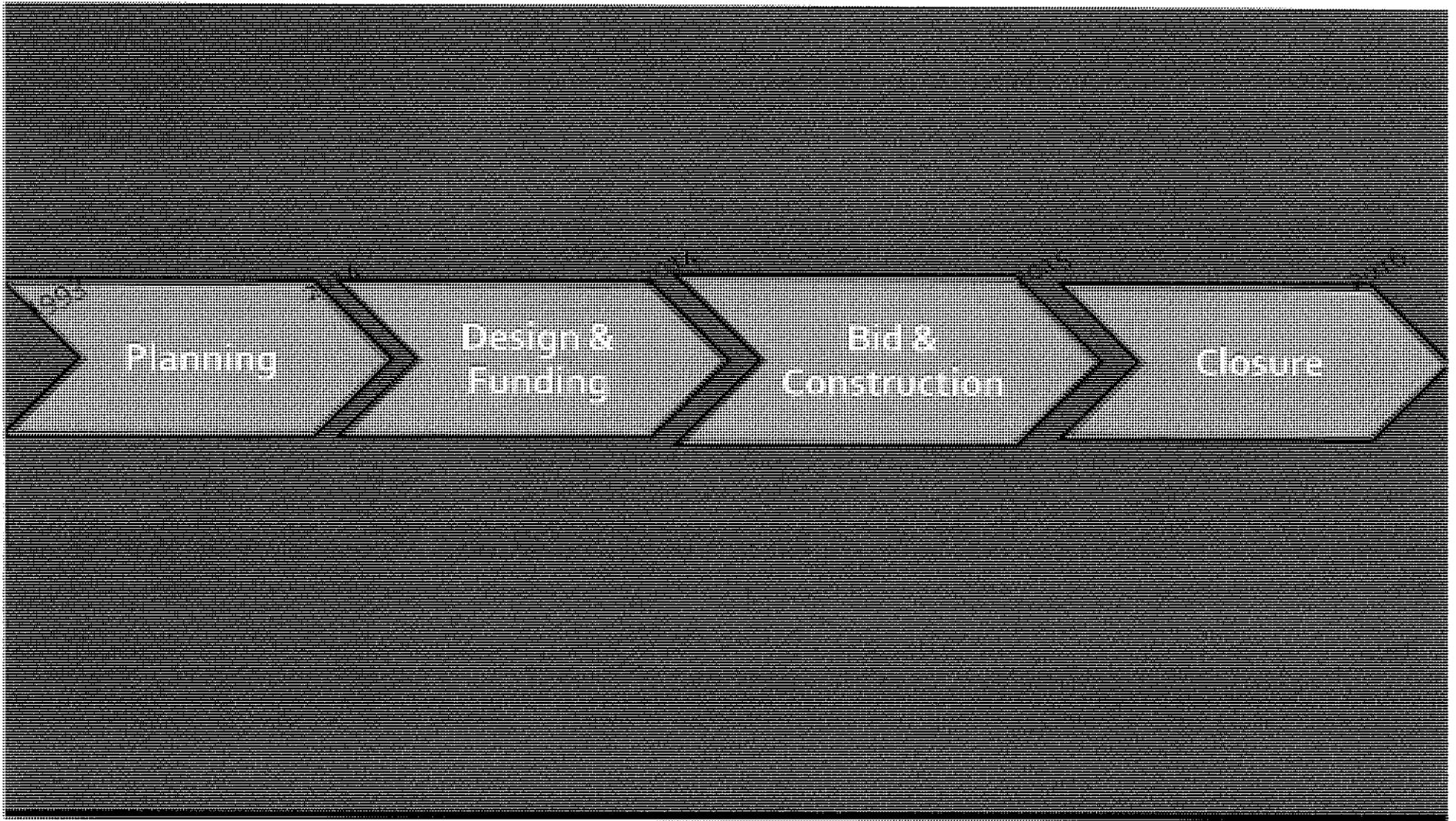
Staff believes the general and approximate location, character, and extent of this facility is substantially in accord with the Comprehensive Plan. As noted by the existing and past Comprehensive Plans, this public facility has been needed and has been planned for some time.

Staff recommends the Commission communicate the same findings to City Council that the Park View Water Tank project conforms to the Comprehensive Plan.



# Park View Water Tank Project





# Park View Tank and Pump Station Project Timeline

# Park View Tank and Pump Station Planning Phase Timeline



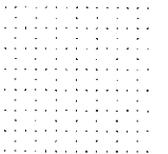


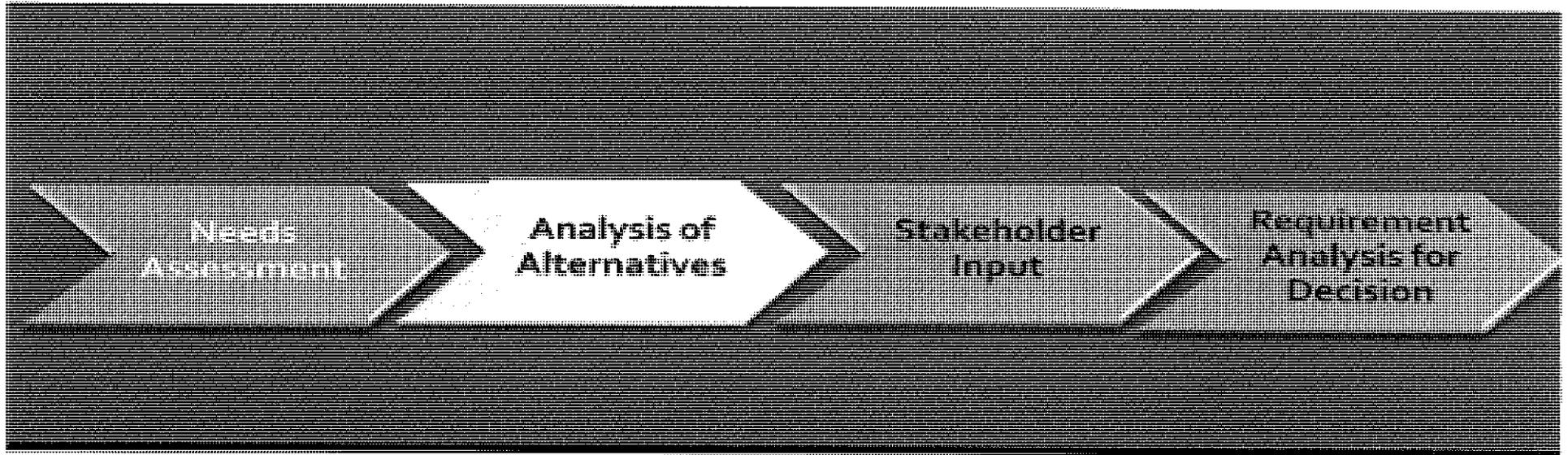
**Tank**

**Pump Station**

**Insurance Services Office (ISO)**

**Mr. David Gray  
Engineering Division  
Harrisonburg Public Utilities**





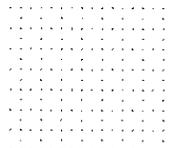
## Alternatives To Fulfill Needs

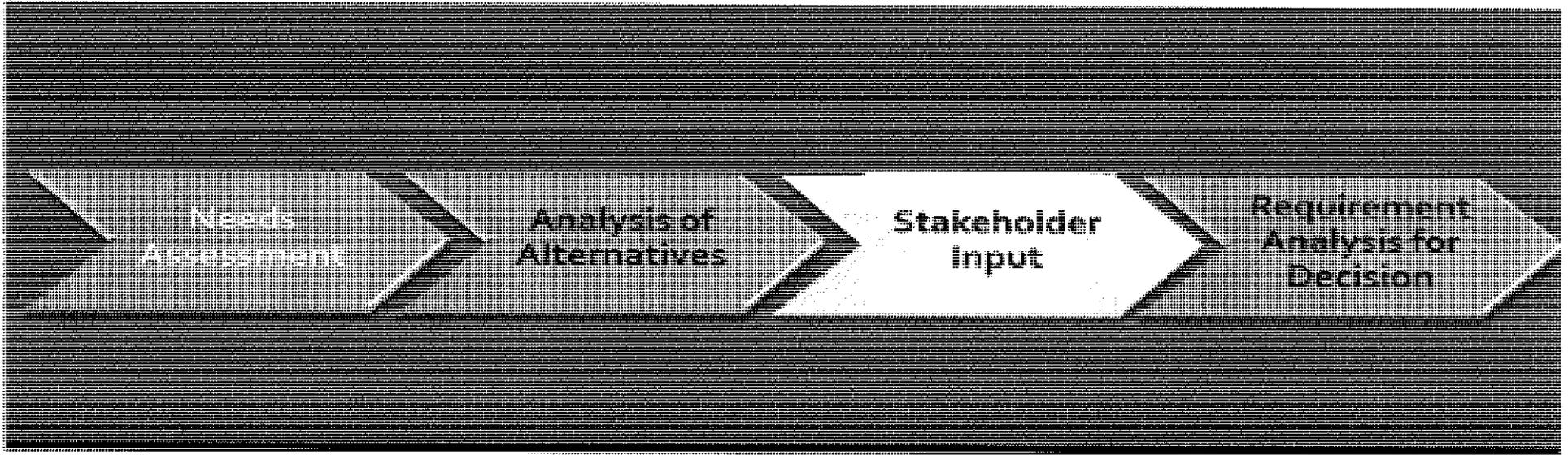
### Alternative Tank Sites

### Primary Tank Sites

## Validation Of Primary Tank Site

Mr. Tom Fitzgerald  
Engineering Consultant  
Wiley & Wilson





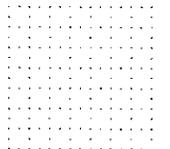
**Landowners of Potential Sites**

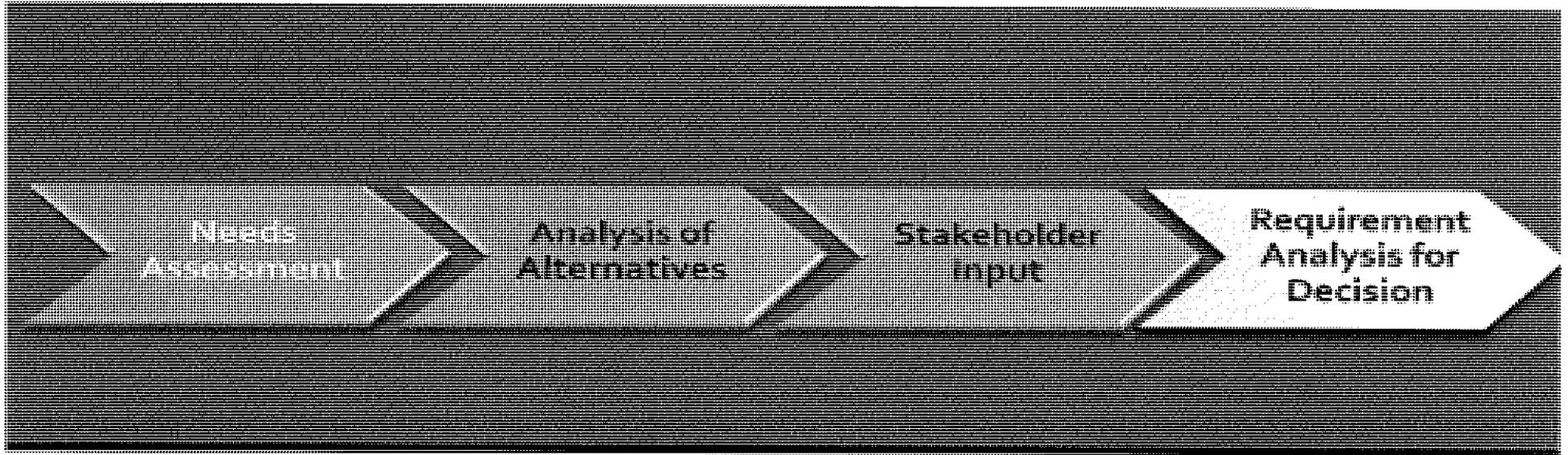
**Landowner of Primary Site**

**Neighbors and Community at Large**

**Final Input**

**Ms. Mary-Hope Vass  
Public Information Officer  
City of Harrisonburg**



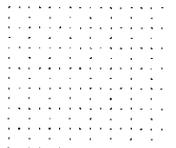


## **Collection of Requirements**

## **Cost/Feasibility/Benefit Analysis**

## **Scope/Cost/Schedule**

**Mr. Mike Collins**  
**Director of Public Utilities**  
**City of Harrisonburg**



# Why do we need a new tank?

***Asset Management*** . . . is a systematic process of operating, maintaining, upgrading and disposing of assets cost-effectively.

# History of the Current Park View Tank

- Current tank was constructed in 1960 to serve the small Park View community and Eastern Mennonite College.
- Tank holds 75,000 gallons of water
- Park View area was annexed to the City in 1983

# Needs Assessment

- The existing tank has been professionally inspected in 1993, 2006 and 2011.
- During these inspections minor repair needs have been identified to keep the tank operational.
- The City has installed a cathodic protection system to protect the tank from rust decay, but only slows the process.

# Needs Assessment

- To continue to operate the tank beyond 2016 major repairs will be required.
- The tank must be stripped and repainted and several safety and structural issues addressed.
- Estimate from the 2011 inspection totaled \$267,500 in repairs (Likely much higher).

# Pump Station Needs

- The existing pump station on Greystone Street was constructed with the tank in 1960.
- The pump station has a maximum output capacity of 300 gallons per minute
- The pumps are now obsolete and repairs are becoming increasingly more difficult.

# ISO – Fire Fighting Water

- The ISO (Insurance Services Office) establishes standards for the amount of water that should be available to fight a fire.
  - 750 gpm for residential dwellings
  - 1,000 gpm for many commercial structures
  - Upwards of 1,500 gpm for institutional structures

# ISO – Needed Fire Flow

## PARK VIEW TANK PROJECT EXHIBIT



### PARK VIEW TANK PROJECT DRIVERS

- #1. EXISTING RESIDENTIAL AND COMMERCIAL STRUCTURES THROUGHOUT PARKVIEW ARE CURRENTLY PROTECTED IN TERMS OF FIRE FLOW RATE AND DURATION.
- #2. EXISTING LARGE EMU ASSETS ARE NOT PROTECTED TO THE RECOMMENDED FIRE FLOW RATE AND DURATION.
- #3. CITY DESIGN AND CONSTRUCTION STANDARDS HAVE ADOPTED ISO POLICY - FUTURE DEVELOPMENT ON THE EMU CAMPUS WILL NOT BE PERMITTED WHERE THE ISO CONDITIONS ARE NOT MET.

### LOCAL FIRE FLOW REQUIREMENTS

- RESIDENTIAL < 4750 GPM
- COMMERCIAL < 1,000 GPM
- INSTITUTIONAL > 1,500 GPM
- FIELD VERIFIED AVAILABLE FLOW > REQUIRED
- FIELD VERIFIED AVAILABLE FLOW = REQUIRED



# Why do we need these projects?

- The existing tank and pump station are nearing the end of their useful life
- The neighborhood has grown beyond what the system was designed for in 1960.
- Additional fire protection would benefit the neighborhood



# Alternative Tank Sites

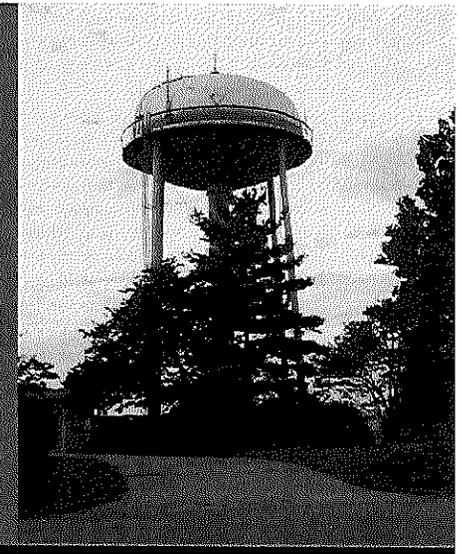
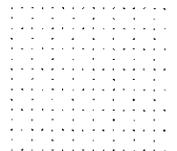


Figure 1: Park View Area Water System Improvements – Alternate Site Map

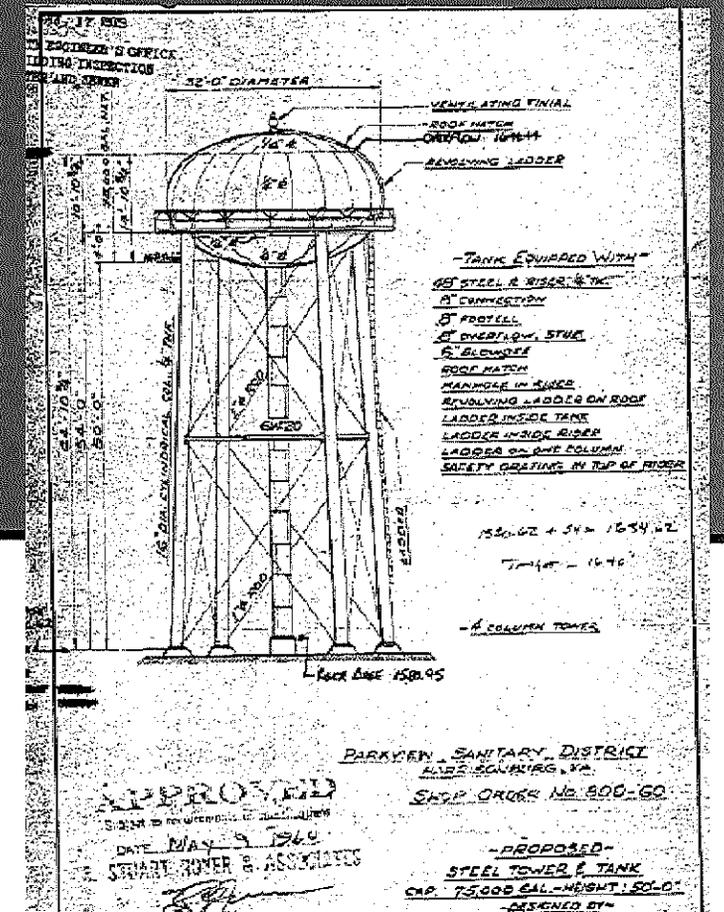


1. Ground Tanks
2. Elevated Tanks
3. Pump Stations
4. Pipeline Improvements



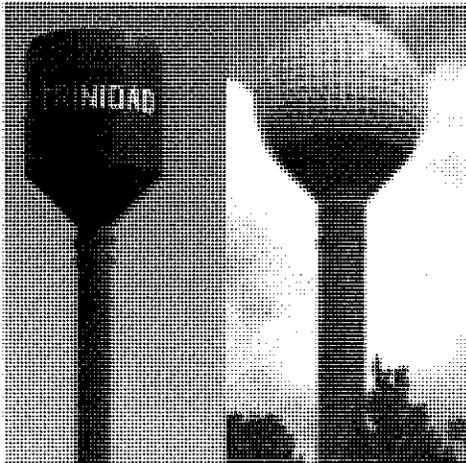
# Primary Tank Sites

Figure 2: Park View Area Water System Improvements – Waterline Routings



1. Piping Upgrades
2. Pumping Upgrades
3. Ground Tanks
4. Elevated Tank

# Validation Of Primary Tank Site



Typical Pedestal Tank Configurations  
(Photos Courtesy of Tank Builders, Inc. and Caldwell Tanks, Inc.)



Typical Composite Tank Configurations  
(Photos Courtesy of Caldwell Tanks, Inc. and Chicago Bridge and Iron, Inc.)

1. Tank Size
2. Access Needs
3. Ancillary Costs
4. Basis of Design

*Based on projected demand profile for this area it is recommended the City construct a minimum of a 500,000 gallon tank and upgrade the PVPS to peak capacity of 1,300 gpm to meet current and future system demands. This size tank is expected to require approximately 0.33 acres of land for construction of improvements, with typical pedestal footprint on the order of 30-feet in diameter. A 60-foot diameter, 500,000 gallon tank would be configured with an overflow height of 1663' and have an operating range of 23-feet while maintaining the minimum hydraulic grade of 1640' in the PVPZ, this configuration would increase the maximum operating pressure in the PVPZ by 8 psi over current conditions.*

# Public Information Goals

- To keep all stakeholders in the community informed
- Provide resources and information on the overall project
- Collect feedback and ideas from the community
- This is accomplished through various methods of outreach

# Methods of Outreach

- Individual meetings with stakeholders
- Meetings within the community
- Website ([www.HarrisonburgVA.gov/Park-View-Water-Tank](http://www.HarrisonburgVA.gov/Park-View-Water-Tank))
- Online forum ([www.BeHeardHarrisonburg.org](http://www.BeHeardHarrisonburg.org))
- Public information session
- Press releases, media coverage

# Be Heard Harrisonburg

[www.BeHeardHarrisonburg.org](http://www.BeHeardHarrisonburg.org)

- Online forum available for residents to post comments about city projects
- Residents must go through a simple registration process
- Online conversation and idea collection process among community members and city officials

# Ways to Provide Input on This Project

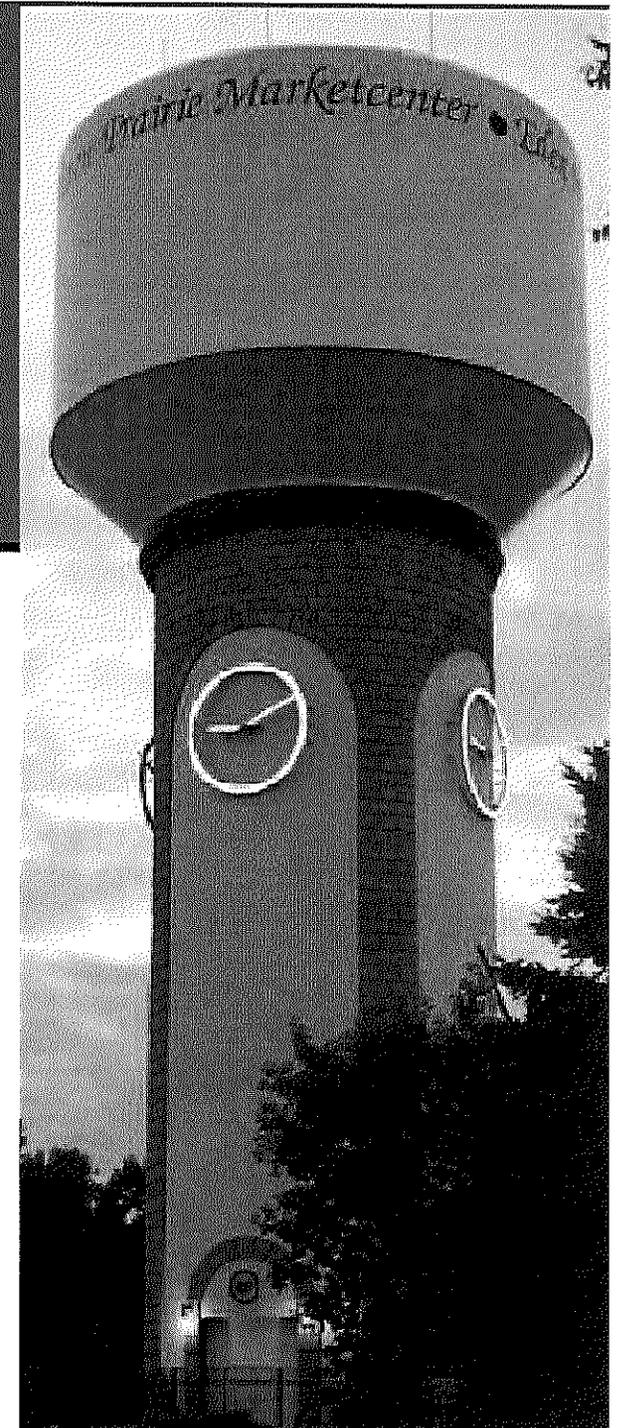
- Online forum ([www.BeHeardHarrisonburg.org](http://www.BeHeardHarrisonburg.org))
- Comment sheets available tonight
- Emailing a city staff member
- All comments will be due by the end of January 2014

# Core Project Requirements

- Water pressure = Tank elevation
- Connectivity = Pump station and demand
- ISO = Volume
- Cost = Buildable and operable
- Opportunity and risk management
- Sustainable = Community value

# Options for Community Input

- Type of water tank
- Color and style
- Graphics and text
- Architectural amenities
- Landscaping
- Access
- Ancillary uses
- Lighting



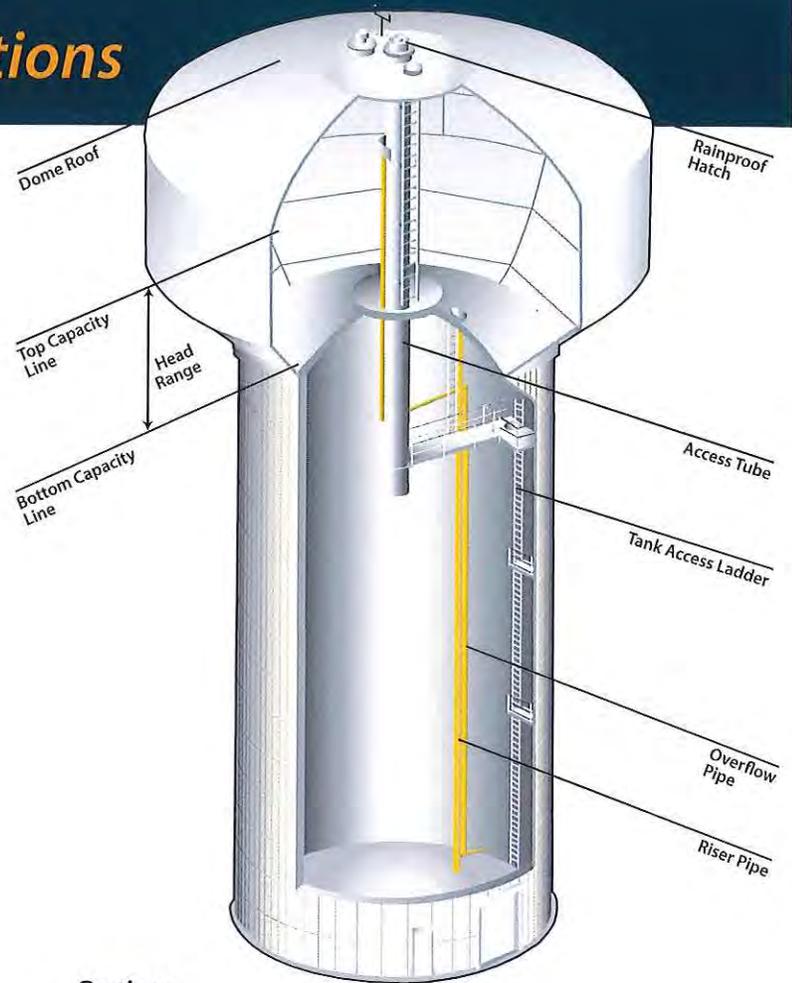
# What are the next steps?

- Submit comments to city staff by the end of January 2014
- Rationalize the comments received and confirm preferred design
- Presentations to Harrisonburg Planning Commission and City Council for approval
- Final decision on scope cost and schedule
- Complete the design of tank and pump station
- Construction is anticipated to begin in 2015!

# Standard Features & Options

## Standard Features

- One 36 in. wide by 84 in. high personnel door with flush threshold
- Crushed stone floor inside base
- Stainless steel riser pipe with expansion joint
- Stainless steel overflow pipe to grade with splash block
- Galvanized ladders and platforms in support structure
- Safety devices on ladders as required by state and federal regulations
- Galvanized walkway with handrails from top of support structure to access tube
- One 48 in. diameter access tube
- Painted ladder in access tube
- Painter's rings at top of support structure
- Tank drain
- One 24 in. wide by 36 in. high painter's ring hatch with louver
- One 30 in. tank bottom manhole with access ladder to walkway
- Two 30 in. diameter roof hatches
- One 24 in. diameter painter's ventilation roof hatch
- Minimum 1/4" thick steel roof plates
- Seal welding underside of roof
- Fail-safe roof vent
- Interior lighting in support structure and access tube



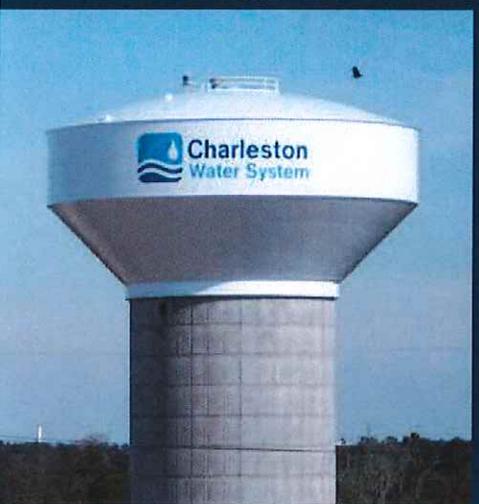
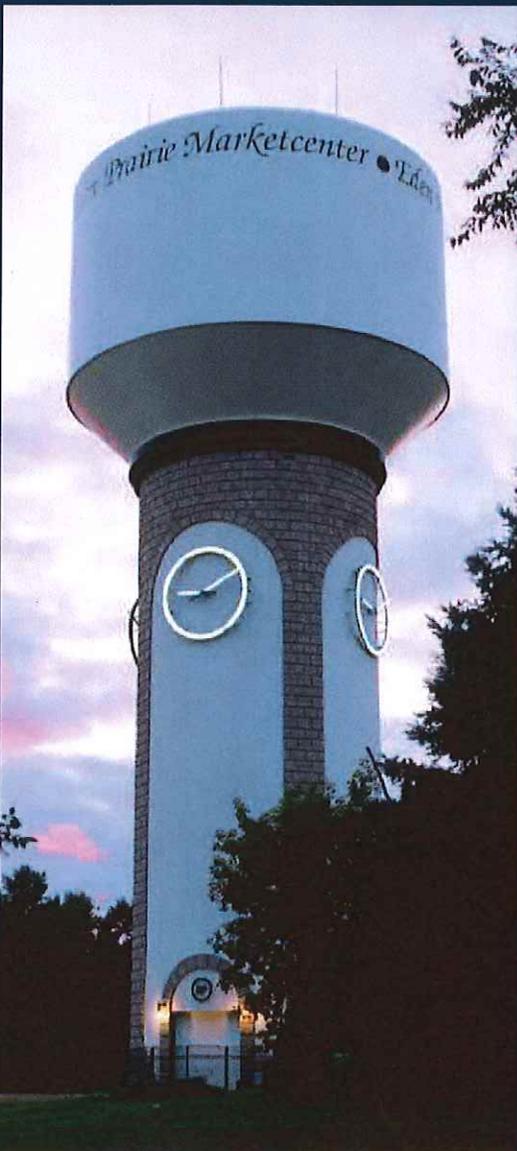
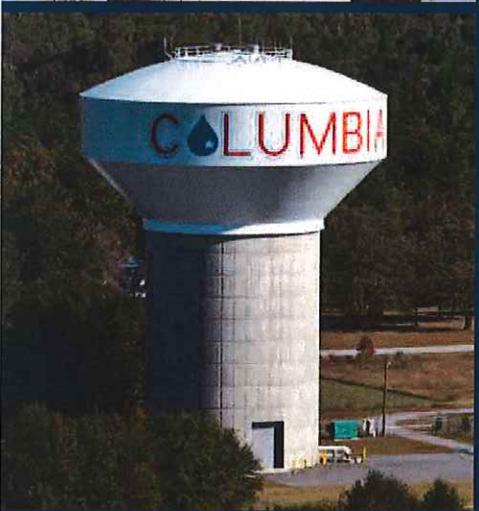
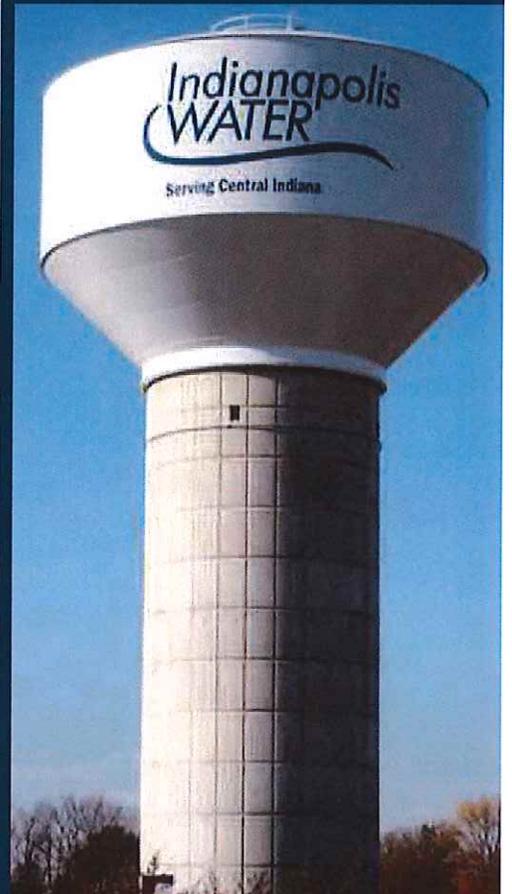
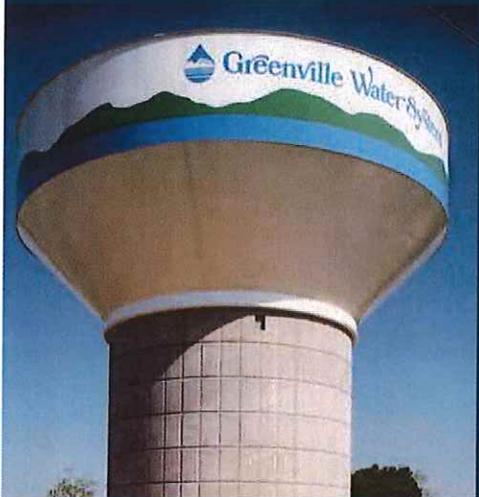
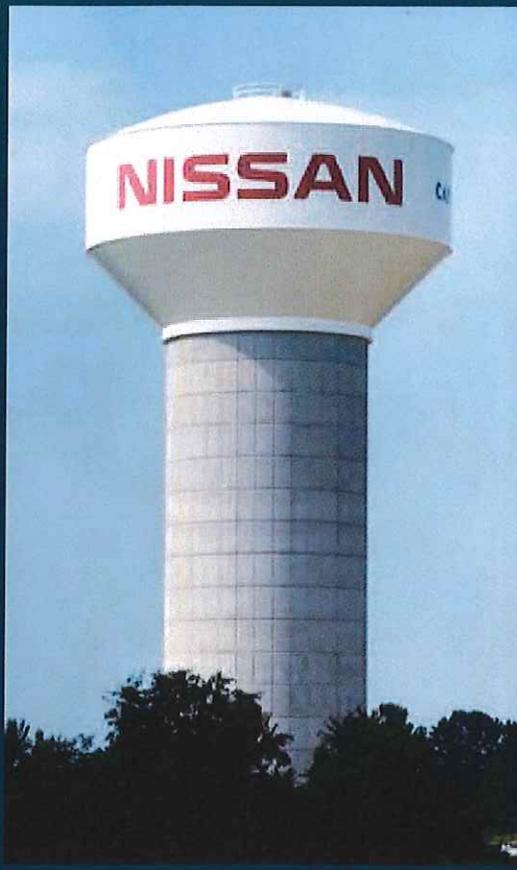
## Options

- Lettering, logos and decorative graphics
- Alternate style (as Waterspheroid)
- Architectural concrete support structure
- FreshMix™ circulation system
- Structural framing, multiple floors and ceilings inside the support structure
- Additional openings in support structure (e.g., windows)
- Double personnel door
- Overhead doors
- Valve vault inside base
- Concrete floor inside base
- Control room in support structure
- Dual risers
- Riser insulation and heat tracing
- Alternative ladder arrangements inside of support structure
- Upsized 60 in. diameter access tube
- Internal tank ladder on access tube
- Roof handrail
- External security or decorative lighting
- FAA lighting
- Instrumentation
- Telemetry
- Cathodic protection
- Lightning protection
- Antennae penetrations and supports

## Standard Capacities and Dimensions

Capacity U.S. Gallons	Tank Diameter ft-in.	Head Range* ft-in.	Support Structure Diameter ft-in.
500,000	50 - 0	37 - 6	28 - 0
750,000	59 - 0	40 - 0	32 - 0
1,000,000	70 - 0	40 - 0	36 - 0
1,250,000	79 - 0	40 - 0	40 - 0
1,500,000	87 - 0	40 - 0	44 - 0
2,000,000	93 - 0	45 - 0	52 - 0
2,500,000	105 - 0	45 - 0	60 - 0
3,000,000	118 - 0	45 - 0	60 - 0
3,500,000	118 - 0	50 - 0	60 - 0

\*CB&I has other head ranges available for each capacity tank. Please contact us if you need assistance.



Above: Brownsburg, IN – 1,000,000 gallons

Top left: Alabaster, AL – 1,500,000 gallons

Top middle: Canton, MS – 1,500,000 gallons

2nd left: Fountain Inn, SC – 2,000,000 gallons

3rd left: Columbia, SC – 2,000,000 gallons

Bottom left: West Point, GA – 1,000,000 gallons

Bottom middle: Eden Prairie, MN – 2,000,000 gallons

# COMPOSITE TANK

500,000 GALLON

50' Ø BOWL

30' ± BASE





**Mount Clinton Pike and Route 42**

# ORDINANCE AMENDMENT

**To Allow Public Uses to Deviate from  
Requirements of the Zoning Ordinance  
by Approval of a Special Use Permit**



# City of Harrisonburg, Virginia

DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

## STAFF REPORT

August 13, 2014

### ZONING ORDINANCE AMENDMENT

**Amend Sections: 10-3-34, 10-3-40, 10-3-46, 10-3-48.4, 10-3-52, 10-3-55.4, 10-3-56.4, 10-3-57.4, 10-3-58.4, 10-3-63, 10-3-71, 10-3-79, 10-3-85, 10-3-91, 10-3-97, and 10-3-180**

Staff is proposing an amendment to several sections of the Zoning Ordinance in order to allow public uses to better conform to zoning regulations. A public use is defined as *“Any instance where a lot or parcel of land, or any improvement on a lot or parcel of land, is used by (1) the City, or (2) another governmental entity having a contractual relationship with the City for the use of such lot or parcel or improvement.”*

In the City’s recent history, we have relied on the fact that the City is not legally obliged to follow its own zoning regulations. However, recent discussion on 2232 review has led staff to the conclusion that it is best for the City to follow zoning requirements.

Public uses are permitted by right within all zoning districts; however, there are times when, in the best interest of providing services, the City cannot adhere to all the requirements of the Zoning Ordinance (i.e. height restrictions, minimum building setback requirements, parking regulations, etc.). The Zoning Ordinance provides a variance procedure through the Board of Zoning Appeals (BZA) public hearing process to allow for relief from yard and lot area requirements, if the property owner can prove a hardship. A BZA variance, however, does not give relief from all requirements of the Zoning Ordinance, such as parking or landscaping regulations.

Staff is proposing the language *“Public Uses which deviate from the requirements of Title 10, Chapter 3”* be added as a subsection to the special uses within the following zoning districts offering public uses the opportunity to request deviating from zoning regulations: R-1, R-2, R-3 (Multiple Dwelling), R-3 (Medium Density), R-4, R-5, R-6, R-7, MX-U, MH-1, MH-2, B-1A, B-1, B-2, M-1, and U-R.

The special use permit would provide for a documented, public hearing process to allow public uses, which may not meet all the requirements of the Zoning Ordinance, to occur and still be in compliance.

Staff recommends approving this amendment to allow public uses to deviate from the requirements of the Zoning Ordinance by approval of a SUP.

ORDINANCE AMENDING AND RE-ENACTING SECTION  
10-3-34  
OF THE  
CODE OF ORDINANCES  
CITY OF HARRISONBURG, VIRGINIA

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

**That Section 10-3-34 Uses permitted only by special use permit shall be amended by adding subsection (11) as shown:**

(11) Public Uses which deviate from the requirements of Title 10, Chapter 3.

The remainder of Section 10-3-34 is reaffirmed and reenacted in its entirety, except as hereby modified.

This ordinance shall be effective from the \_\_\_\_\_ day of \_\_\_\_\_, 2014.  
Adopted and approved this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

---

**MAYOR**

ATTESTE:

---

CLERK PRO TEMPORE

ORDINANCE AMENDING AND RE-ENACTING SECTION  
10-3-40  
OF THE  
CODE OF ORDINANCES  
CITY OF HARRISONBURG, VIRGINIA

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

**That Section 10-3-40 Uses permitted only by special use permit shall be amended by adding subsection (12) as shown:**

(12) Public Uses which deviate from the requirements of Title 10, Chapter 3.

The remainder of Section 10-3-40 is reaffirmed and reenacted in its entirety, except as hereby modified.

This ordinance shall be effective from the \_\_\_\_\_ day of \_\_\_\_\_, 2014.  
Adopted and approved this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

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

ATTESTE:

\_\_\_\_\_  
CLERK PRO TEMPORE

ORDINANCE AMENDING AND RE-ENACTING SECTION  
10-3-46  
OF THE  
CODE OF ORDINANCES  
CITY OF HARRISONBURG, VIRGINIA

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

**That Section 10-3-46 Uses permitted only by special use permit shall be amended by adding subsection (8) as shown:**

(8) Public Uses which deviate from the requirements of Title 10, Chapter 3.

The remainder of Section 10-3-46 is reaffirmed and reenacted in its entirety, except as hereby modified.

This ordinance shall be effective from the \_\_\_\_\_ day of \_\_\_\_\_, 2014.  
Adopted and approved this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

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

ATTESTE:

\_\_\_\_\_  
CLERK PRO TEMPORE

ORDINANCE AMENDING AND RE-ENACTING SECTION  
10-3-48.4  
OF THE  
CODE OF ORDINANCES  
CITY OF HARRISONBURG, VIRGINIA

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

That Section 10-3-48.4 Uses permitted only by special use permit shall be amended by adding subsection (11) as shown:

(9) Public Uses which deviate from the requirements of Title 10, Chapter 3.

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

This ordinance shall be effective from the \_\_\_\_\_ day of \_\_\_\_\_, 2014.  
Adopted and approved this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

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

ATTESTE:

\_\_\_\_\_  
CLERK PRO TEMPORE

ORDINANCE AMENDING AND RE-ENACTING SECTION  
10-3-52  
OF THE  
CODE OF ORDINANCES  
CITY OF HARRISONBURG, VIRGINIA

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

**That Section 10-3-52 Uses permitted only by special use permit shall be amended by adding subsection (7) as shown:**

(7) Public Uses which deviate from the requirements of Title 10, Chapter 3.

The remainder of Section 10-3-52 is reaffirmed and reenacted in its entirety, except as hereby modified.

This ordinance shall be effective from the \_\_\_\_\_ day of \_\_\_\_\_, 2014.  
Adopted and approved this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

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

ATTESTE:

\_\_\_\_\_  
CLERK PRO TEMPORE

ORDINANCE AMENDING AND RE-ENACTING SECTION  
10-3-55.4  
OF THE  
CODE OF ORDINANCES  
CITY OF HARRISONBURG, VIRGINIA

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

That Section 10-3-55.4 Uses permitted only by special use permit shall be amended by adding subsection (7) as shown:

(7) Public Uses which deviate from the requirements of Title 10, Chapter 3.

The remainder of Section 10-3-55.4 is reaffirmed and reenacted in its entirety, except as hereby modified.

This ordinance shall be effective from the \_\_\_\_\_ day of \_\_\_\_\_, 2014.  
Adopted and approved this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

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

ATTESTE:

\_\_\_\_\_  
CLERK PRO TEMPORE

ORDINANCE AMENDING AND RE-ENACTING SECTION  
10-3-56.4  
OF THE  
CODE OF ORDINANCES  
CITY OF HARRISONBURG, VIRGINIA

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

That Section 10-3-56.4 Uses permitted only by special use permit shall be amended by adding subsection (h) as shown:

(h) Public Uses which deviate from the requirements of Title 10, Chapter 3.

The remainder of Section 10-3-56.4 is reaffirmed and reenacted in its entirety, except as hereby modified.

This ordinance shall be effective from the \_\_\_\_\_ day of \_\_\_\_\_, 2014.  
Adopted and approved this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

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

ATTESTE:

\_\_\_\_\_  
CLERK PRO TEMPORE

ORDINANCE AMENDING AND RE-ENACTING SECTION

10-3-57.4

OF THE

CODE OF ORDINANCES

CITY OF HARRISONBURG, VIRGINIA

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

That Section 10-3-57.4 Uses permitted only by special use permit shall be amended by adding subsection (h) as shown:

(h) Public Uses which deviate from the requirements of Title 10, Chapter 3.

The remainder of Section 10-3-57.4 is reaffirmed and reenacted in its entirety, except as hereby modified.

This ordinance shall be effective from the \_\_\_\_\_ day of \_\_\_\_\_, 2014.  
Adopted and approved this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

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

ATTESTE:

\_\_\_\_\_  
CLERK PRO TEMPORE

ORDINANCE AMENDING AND RE-ENACTING SECTION  
10-3-58.4  
OF THE  
CODE OF ORDINANCES  
CITY OF HARRISONBURG, VIRGINIA

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

That Section 10-3-58.4 Uses permitted only by special use permit shall be amended by adding subsection (7) as shown:

(7) Public Uses which deviate from the requirements of Title 10, Chapter 3.

The remainder of Section 10-3-58.4 is reaffirmed and reenacted in its entirety, except as hereby modified.

This ordinance shall be effective from the \_\_\_\_\_ day of \_\_\_\_\_, 2014.  
Adopted and approved this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

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

ATTESTE:

\_\_\_\_\_  
CLERK PRO TEMPORE

ORDINANCE AMENDING AND RE-ENACTING SECTION  
10-3-63  
OF THE  
CODE OF ORDINANCES  
CITY OF HARRISONBURG, VIRGINIA

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

That Section 10-3-63 Uses permitted only by special use permit shall be amended by adding subsection (1) as shown:

(1) Public Uses which deviate from the requirements of Title 10, Chapter 3.

The remainder of Section 10-3-63 is reaffirmed and reenacted in its entirety, except as hereby modified.

This ordinance shall be effective from the \_\_\_\_ day of \_\_\_\_\_, 2014.  
Adopted and approved this \_\_\_\_ day of \_\_\_\_\_, 2014.

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**MAYOR**

ATTESTE:

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CLERK PRO TEMPORE

ORDINANCE AMENDING AND RE-ENACTING SECTION  
10-3-71  
OF THE  
CODE OF ORDINANCES  
CITY OF HARRISONBURG, VIRGINIA

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

That Section 10-3-71 Uses permitted only by special use permit shall be amended by adding subsection (1) as shown:

(1) Public Uses which deviate from the requirements of Title 10, Chapter 3.

The remainder of Section 10-3-71 is reaffirmed and reenacted in its entirety, except as hereby modified.

This ordinance shall be effective from the \_\_\_\_\_ day of \_\_\_\_\_, 2014.  
Adopted and approved this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

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

ATTESTE:

\_\_\_\_\_  
CLERK PRO TEMPORE

ORDINANCE AMENDING AND RE-ENACTING SECTION  
10-3-79  
OF THE  
CODE OF ORDINANCES  
CITY OF HARRISONBURG, VIRGINIA

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

**That Section 10-3-79 Uses permitted only by special use permit shall be amended by adding subsection (2) as shown:**

(2) Public Uses which deviate from the requirements of Title 10, Chapter 3.

The remainder of Section 10-3-79 is reaffirmed and reenacted in its entirety, except as hereby modified.

This ordinance shall be effective from the \_\_\_\_\_ day of \_\_\_\_\_, 2014.  
Adopted and approved this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

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

ATTESTE:

\_\_\_\_\_  
CLERK PRO TEMPORE

ORDINANCE AMENDING AND RE-ENACTING SECTION

10-3-85

OF THE

CODE OF ORDINANCES

CITY OF HARRISONBURG, VIRGINIA

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

**That Section 10-3-85 Uses permitted only by special use permit shall be amended by adding subsection (9) as shown:**

(9) Public Uses which deviate from the requirements of Title 10, Chapter 3.

The remainder of Section 10-3-85 is reaffirmed and reenacted in its entirety, except as hereby modified.

This ordinance shall be effective from the \_\_\_\_\_ day of \_\_\_\_\_, 2014.  
Adopted and approved this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

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

ATTESTE:

\_\_\_\_\_  
CLERK PRO TEMPORE

ORDINANCE AMENDING AND RE-ENACTING SECTION  
10-3-91  
OF THE  
CODE OF ORDINANCES  
CITY OF HARRISONBURG, VIRGINIA

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

That Section 10-3-91 Uses permitted only by special use permit shall be amended by adding subsection (16) as shown:

(16) Public Uses which deviate from the requirements of Title 10, Chapter 3.

The remainder of Section 10-3-91 is reaffirmed and reenacted in its entirety, except as hereby modified.

This ordinance shall be effective from the \_\_\_\_\_ day of \_\_\_\_\_, 2014.  
Adopted and approved this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

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

ATTESTE:

\_\_\_\_\_  
CLERK PRO TEMPORE

ORDINANCE AMENDING AND RE-ENACTING SECTION  
10-3-97  
OF THE  
CODE OF ORDINANCES  
CITY OF HARRISONBURG, VIRGINIA

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

**That Section 10-3-97 Uses permitted only by special use permit shall be amended by adding subsection (15) as shown:**

(15) Public Uses which deviate from the requirements of Title 10, Chapter 3.

The remainder of Section 10-3-97 is reaffirmed and reenacted in its entirety, except as hereby modified.

This ordinance shall be effective from the \_\_\_\_\_ day of \_\_\_\_\_, 2014.  
Adopted and approved this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

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

ATTESTE:

\_\_\_\_\_  
CLERK PRO TEMPORE

ORDINANCE AMENDING AND RE-ENACTING SECTION  
10-3-180  
OF THE  
CODE OF ORDINANCES  
CITY OF HARRISONBURG, VIRGINIA

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

**That Section 10-3-180 Uses permitted only by special use permit shall be amended by adding subsection (10) as shown:**

(10) Public Uses which deviate from the requirements of Title 10, Chapter 3.

The remainder of Section 10-3-180 is reaffirmed and reenacted in its entirety, except as hereby modified.

This ordinance shall be effective from the \_\_\_\_\_ day of \_\_\_\_\_, 2014.  
Adopted and approved this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

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

ATTESTE:

\_\_\_\_\_  
CLERK PRO TEMPORE