



City of Harrisonburg, Virginia

Planning Commission Meeting

October 8, 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 September 10, 2014 regular meeting.

2) New Business

Special Use Permit – 120 West Wolfe Street (Brewery Manufacturing)

Public hearing to consider a request from WRockStreet, LLC with representative Casey Stemper for a special use permit per Section 10-3-85 (1) of the Zoning Ordinance to allow manufacturing, processing and assembly operations when not employing more than fifteen (15) persons on the premises in a single shift and provided that all storage and activities are conducted within a building. The proposed business would be a brewery operation. The 21,400 +/- square foot property is zoned B-1C, Central Business District Conditional, is addressed as 120 West Wolfe Street and is identified as tax map parcels 35-O-4 & 5.

Street Closing – Undeveloped 6th Street (Adjacent to 39-K-9 and 39-L-16)

Consider a request from Dean Hayward and Monika Geier-Hayward with representatives Brannon and Angie Hottinger to close a 7,500 +/- square foot, undeveloped portion of 6th Street. The 50-foot wide by 150-foot long section is located between Lee Avenue and Virginia Avenue and is adjacent to tax map parcels 39-K-9 and 39-L-16.

Zoning Ordinance Amendment – Section 10-3-97 (10) (To Allow Non-Transient Dwellings Associated with Recreational and Leisure Time Activities)

Public hearing to consider a request from Jamison Black Maple Wildlife Preserve, LLC with representative Dick Blackwell to amend the Zoning Ordinance to allow non-transient dwellings associated with recreational and leisure time activities. Recreational and leisure time activities are permitted only by special use permit, per Section 10-3-97 (10), within the M-1, General Industrial District. Currently, no dwellings are permitted in association with this use. The amendment would add language to Section 10-3-97 (10) allowing for non-transient dwellings.

Special Use Permit – 1430 Red Oak Street (Recreational Use with Non-Transient Dwellings)

Public hearing to consider a request from Jamison Black Maple Wildlife Preserve, LLC with representative Dick Blackwell for a special use permit per Section 10-3-97 (10) of the Zoning Ordinance to allow for recreational and leisure time activities with non-transient dwellings within the M-1, General Industrial District. The 16.5 +/- acre property is addressed as 1430 Red Oak Street and is identified as tax map parcel 46-C-8.

3) Unfinished Business

4) Public Input

5) Report of secretary and committees

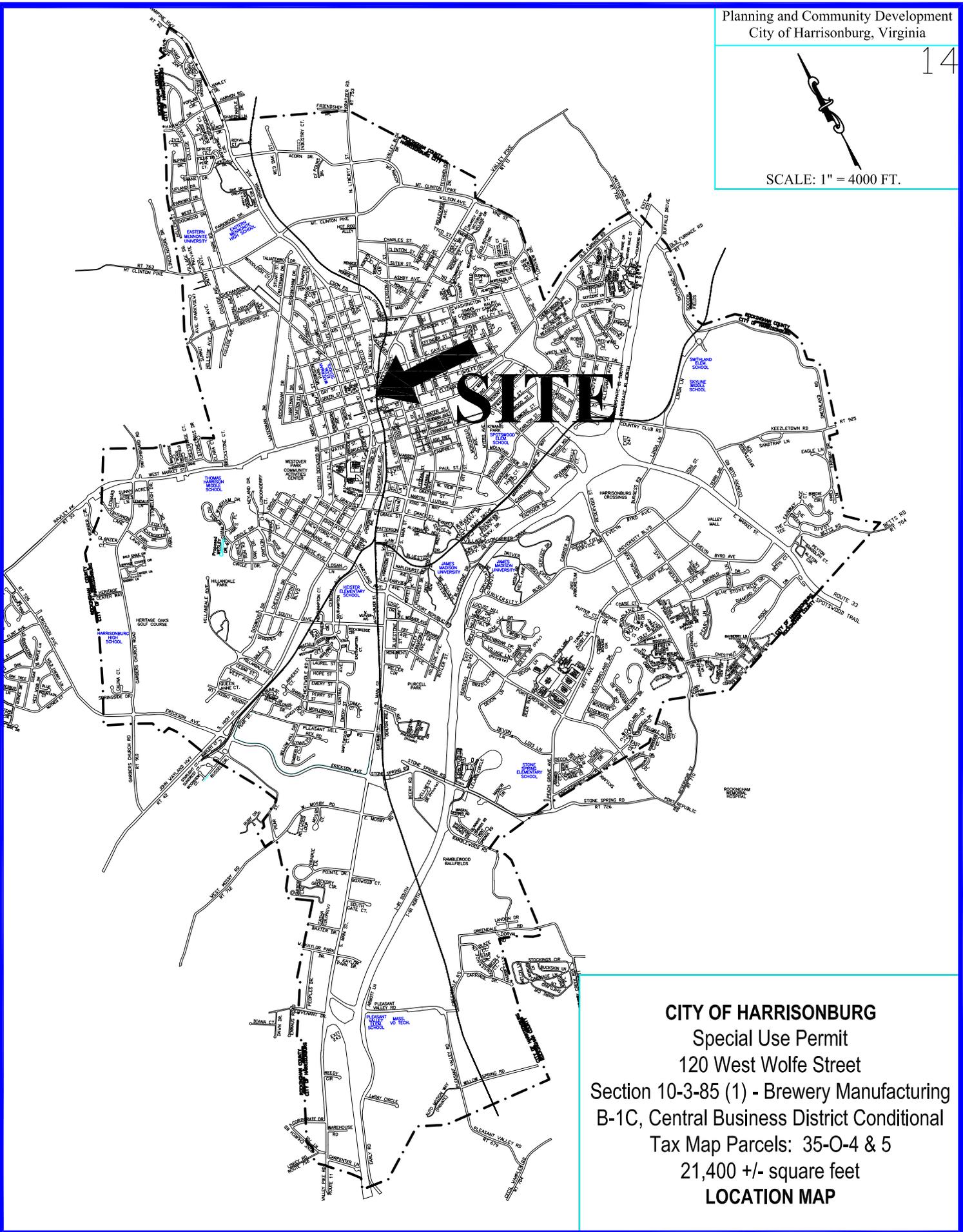
6) Other Matters

7) Adjournment

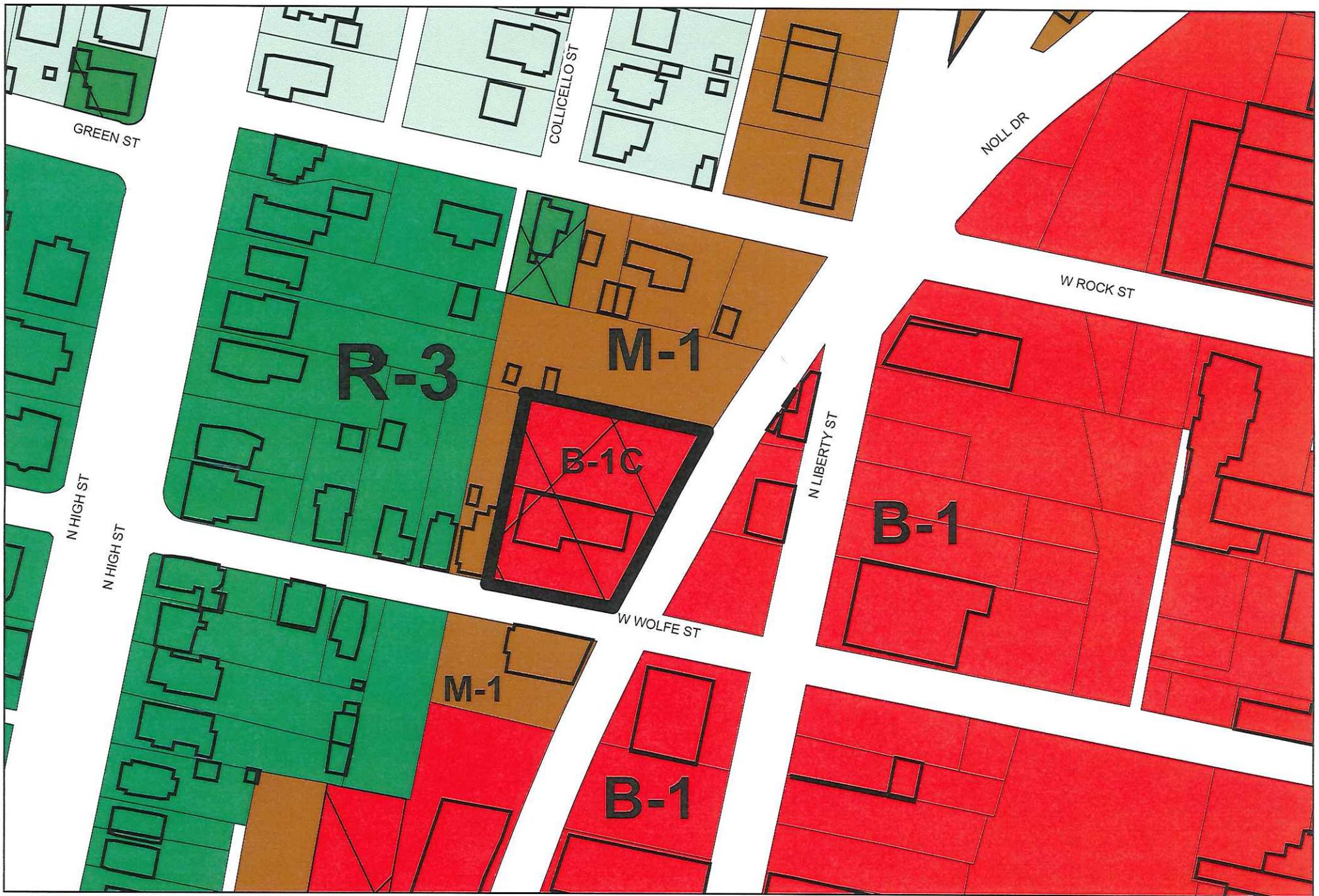
Staff will be available November 10, 2014 at 4:30 p.m. for those interested in going on a field trip to view the sites for the November 12, 2014 agenda.



SCALE: 1" = 4000 FT.



CITY OF HARRISONBURG
Special Use Permit
120 West Wolfe Street
Section 10-3-85 (1) - Brewery Manufacturing
B-1C, Central Business District Conditional
Tax Map Parcels: 35-O-4 & 5
21,400 +/- square feet
LOCATION MAP



SUP 10-3-85 (1) Brewery Manufacturing
120 West Wolfe Street



City of Harrisonburg, Virginia

DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

STAFF REPORT

October 8, 2014

SPECIAL USE PERMIT – 120 WEST WOLFE STREET (10-3-85 (1) BREWERY MANUFACTURING)

GENERAL INFORMATION

Applicant: WRockStreet, LLC

Tax Map: 35-O-4 & 5

Acreage: 21,400 +/- square feet

Location: 120 West Wolfe Street

Request: Public hearing to consider a request for a special use permit per Section 10-3-85 (1) of the Zoning Ordinance to allow manufacturing, processing and assembly operations when not employing more than fifteen (15) persons on the premises in a single shift and provided that all storage and activities are conducted within a building. The proposed use would allow a brewery.

LAND USE, ZONING, AND SITE CHARACTERISTICS

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

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

Site: Vacant building and food trucks, zoned B-1C

North: Vacant property (owned by the applicants), zoned M-1

East: Across the Norfolk Southern Rail Line, vacant paved lot, zoned B-1

South: Across West Wolfe Street, vacuum repair shop, zoned M-1

West: Non-conforming dwelling unit, zoned M-1

EVALUATION

The applicant is requesting a special use permit per Section 10-3-85 (1) of the Zoning Ordinance, to allow a manufacturing use within the B-1, Central Business District. If approved, Back Bay Brewery is proposing to operate a brewery operation and taproom at 120 West Wolfe Street. Per the requirements of the SUP, no more than 15 employees can be working on a single shift and all storage and activities must be conducted within a building.

Back Bay Brewery currently operates in the Virginia Beach area and desires to establish a remote brewery location where they would brew approximately one barrel of beer a month. Along with selling the beer manufactured on site, the brewery would sell beer brewed at their Virginia Beach locality as well. The brewery is anticipated to have no more than five employees and operate Tuesday through Sunday. A floor plan submitted by the applicant shows the 1,710+/- square foot brewery will consist of brewery equipment, bar, tasting room and seating areas. The applicant has included both parcels with this request, in anticipation of accommodating outdoor patio seating for the brewery on the rear lot in the future.

The subject properties were rezoned in March 2009, from M-1 to B-1C, to allow for a proposed mixed use development of commercial and residential uses. Very specific proffers were submitted by the applicant, which included redevelopment of the entire site. One of the proffers provided dealt with parking for the site; that proffer stated "parking for residential units will be one space per bedroom and parking for commercial space will be one space for each 300 sq. ft." In October 2011 the applicants revised the rezoning proffers by adding a proffer to allow the owners to utilize the current building and property as described within the earlier rezoning and to allow all B-1 special uses as approved by City Council. (The current regulating proffers are attached with this report.) Concurrently with the revised rezoning, the applicants received a special use permit to operate a vehicle repair shop at the property. Because parking for this location was a concern, and the one proffer dealing with parking only took into consideration by-right commercial uses, a condition was placed on the SUP that "one parking space shall be provided per bay plus one additional space shall be provided associated with the office space of the business. Parking spaces shall be clearly marked and delineated on site." The automotive repair shop no longer operates from this location. Tax map 35-O-5 is currently home to several food trucks.

In addition to establishing a brewery at this location, the applicant is working with a coffee company to operate from a 450 square foot area of the existing building, and as noted above, there are several food trucks which occupy, and operate from the rear parcel. The remainder of the existing building would be used for storage for the brewery and food trucks. Because of the many uses presently operating from, and proposed for the property, staff has had numerous conversations regarding parking with the applicant. Currently, there are no parking regulations regarding food trucks; therefore, they have simply been allowed to operate in commercially zoned areas, but do not have to provide any parking. The coffee company is considered a permitted commercial use within the conditional B-1 zoning of property and the applicant would have to provide two parking spaces for the use (one space for each 300 sq. ft.). Because the proposed brewery is a SUP request, it does not have a proffered parking requirement that must be met. As well, any future additions to the uses on site may cause additional parking concerns.

The applicant has provided a drawing indicating that eight parking spaces are proposed for the site. As well, the applicant provided an email from an adjoining property owner who is willing to enter into discussions regarding leasing of their vacant property (TM 35-O-1) at the intersection of West Wolfe Street and North Liberty Street in order to ease any parking shortages for the proposed brewery use. There is public parking along portions of North Liberty Street in this vicinity and also a public parking lot (TM 34-P-13 & 14) adjacent to Liberty Park, approximately 400 feet from the subject property.

The applicant has indicated that deliveries to the brewery will occur approximately once every three weeks. Deliveries are made by a 21-foot "box type" delivery truck and would take place in the early morning, before the brewery or food trucks are open. It is anticipated that the parking lot would provide adequate maneuvering area for truck deliveries. No accessory vehicle is proposed to be housed at the site in association with the brewery.

Overall, staff believes the brewery use should have no adverse effect on the health, safety or comfort of those working and living in the area and it is fitting with other uses generally found in the B-1 zoning district. Staff recommends approving this request with the following conditions:

1. The applicants shall provide six parking spaces on-site associated with the proposed brewery use. Parking spaces shall be clearly delineated. Any future additions or enlargement of the brewery use shall require approval of a new SUP.
2. If in the opinion of Planning Commission or City Council, the use becomes a nuisance, the SUP can be recalled for further review, which could lead to the need for additional conditions, restrictions, or the revocation of the permit.

2011 CURRENT PROFFERS FOR TAX MAP PARCELS 35-0-4 & 5.

August 8, 2011

City of Harrisonburg Community Development
Director of Community Development
Ms. Stacey Turner
409 South Main Street
Harrisonburg, VA 22801

Subject: Rezoning of T.M. Parcels 35-O-4, 35-O-5

Dear Ms. Turner:

As a condition of rezoning, the Owners and Developers (the "Developer") proffer that the development of the subject property (the "Property") on this application shall be in accordance with §15.2-2298 of the Code of Virginia and the Zoning Ordinance of the City of Harrisonburg and for the conditions set forth in this submission, if and only if, the zoning request for B-1, Central Business District, is granted. The Owners wish to revise the proffers previously submitted in letters dated July 1, 2008 and February 4, 2009. This is being done to address concerns on the part of the City's Planning Staff. If this request for rezoning is denied or approved with conditions not agreed to by the Developer and the Owners, the proffers and conditions shall immediately be null and void and of no further force or effect. If the rezoning request is granted, these proffers and conditions will supersede all proffers and conditions that may now exist on the Property.

This application contains three exhibits described as follows:

Exhibit A – Site Plan prepared by Blackwell Engineering, PLC and dated February 4, 2009.

Exhibit B – Three (3) examples of proposed buffer fencing types.

Exhibit C – Example of building façade and architecture.

1. The Site Plan provided in Exhibit A is proffered as to general layout, approximate square footage of the building and dedicated parking. The amount of commercial space will be up to 2816 sq.ft., and the amount of residential space will be up to 6570 sq. ft. The number of residential units will not exceed 7. The number of bedrooms will not exceed 9. The building will be Mixed Use.
2. The occupancy of each residential unit will not exceed a single family or two unrelated persons per unit.
3. Parking for residential units will be one space per bedroom. Parking for commercial space will be one space for each 300 sq. ft.
4. Use Restrictions. The following uses as delineated in Harrisonburg's Zoning Ordinance, Article P. B-1 Central Business District, § 10-3-84 shall be permitted on the Property:
 - 1) Retail stores, convenience shops, personal service establishments, restaurants, food and drug stores,
 - 2) Governmental, business, and professional offices and financial institutions,
 - 3) Hotels, motels, and buildings used for dwelling units, CBD, as defined under Article F, except that such occupancy may be superseded by building regulations,
 - 4) Theaters, community rooms, museums and galleries and other places of assembly for the purpose of entertainment or education,
 - 5) Religious, educational, charitable and benevolent institutional uses which do not provide housing facilities,
 - 6) General service or repair shops, when not employing more than ten (10) persons on the premises in a single shift (not including persons whose principal duties are off the premises) and providing that all storage and activities are conducted within a building,
 - 8) Accessory uses incidental to any permitted uses which are attached to or within the principal building.
5. Applications will be made for all Special Uses where necessary.
- 6 Buffer. A 6' fence of one type shown in Exhibit B will be placed on the west boundary of the property.
7. Landscaping will include a minimum of two (2) deciduous trees or planters and a minimum of 10 bushes in locations as shown on the conceptual plan.
8. The buildings will have a brick façade on the south side of the building facing Wolfe St. and the east side facing the railroad, and no vinyl siding will be used on any part of the façade. A brick walkway or brick stamped decorative concrete will be provided on the south and east sides of the building where elevation permits. The style of the buildings will be esthetically similar to Exhibit C. A bicycle rack will be located on the property.
9. Severability. The unenforceability, illegality, elimination, revision, or amendment of any proffer set forth herein, in whole or in part, shall not affect the validity or enforceability of the other proffers or the unaffected part of any such proffer.

10. Until the site is developed per the plan discussed herein, the Owners will be entitled to use the current buildings and the property as permitted by right as described in Paragraph 4 above and all Special Uses approved by City Council.

OWNER/DEVELOPER:



John C. Stemper

APPLICATION FOR SPECIAL USE PERMIT
120 W. WOLFE ST. HARRISONBURG VA 22801
LOTS 035 O 4 AND 5

- Detailed Description of Proposed Use:** We are currently in discussions with Back Bay Brewery of Virginia Beach, VA to establish a remote brewery on the above site. They will likely brew approximately one barrel of beer a month at this location. Beer may also be shipped from the Tidewater Area to our site during off-hours. We are including the back lot in this application to accommodate outdoor patio seating. This operation will use no more than 5 employees maximum in a shift. Hours of Operation are anticipated to be:

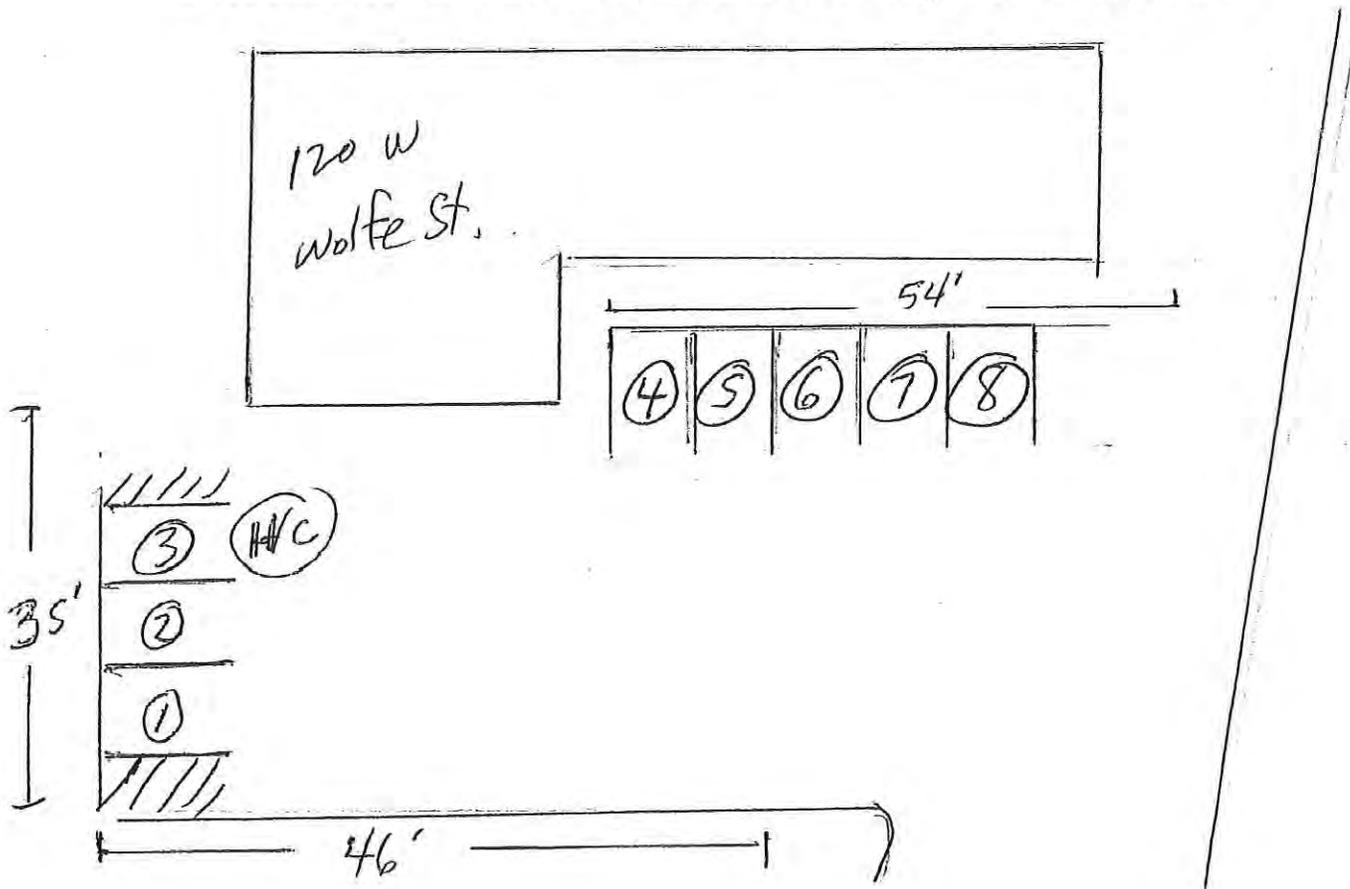
--Tuesday – Thursday: 3pm to 10pm

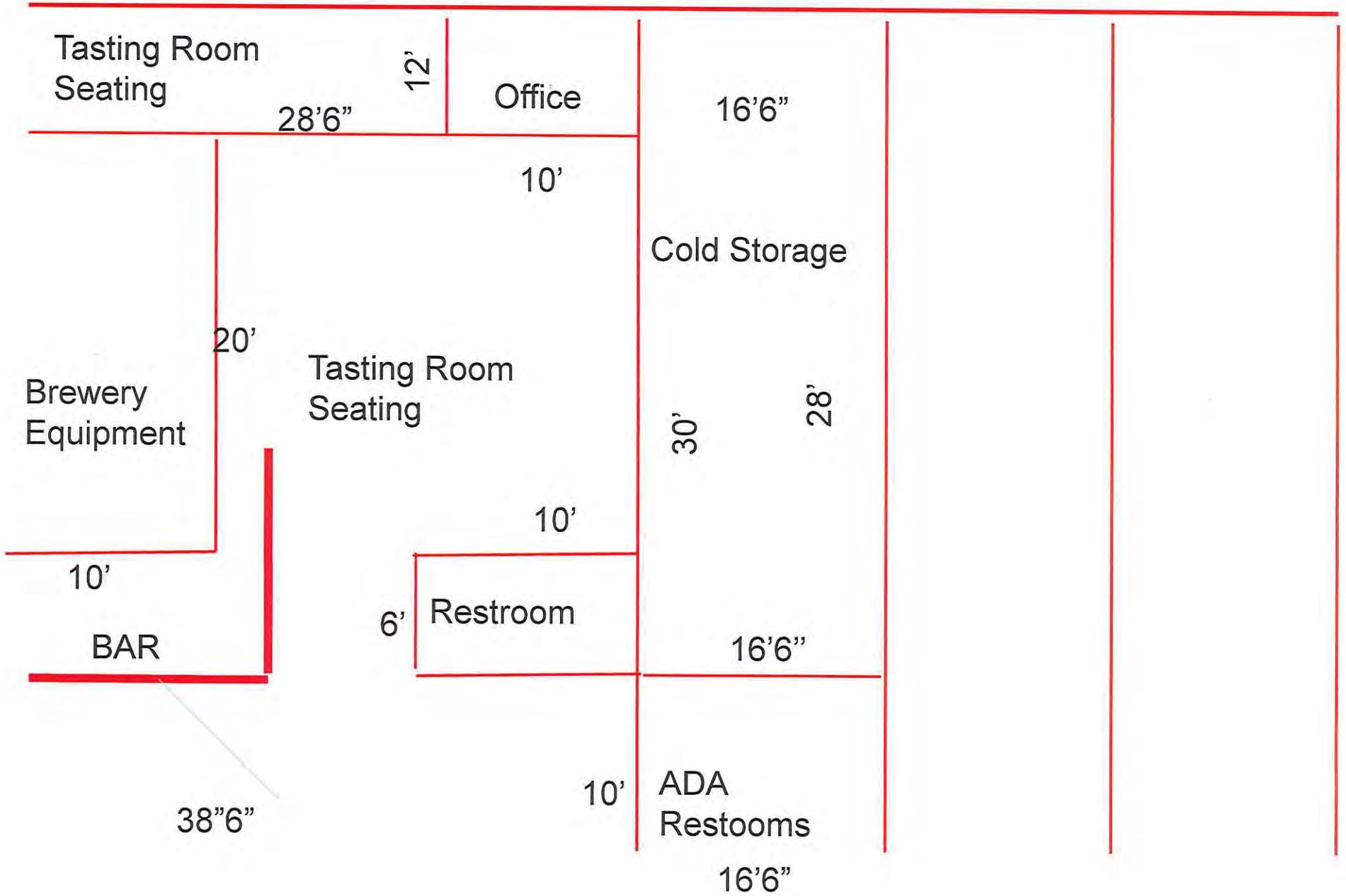
--Friday – Saturday: 12 pm to 12 am

--Sunday – 11am to 8 pm

We are also in discussions with a coffee company to rent approximately 450 Sq. Ft. for use as a coffee shop. Discussions are just getting started, but we are assuming use of this space in our Parking discussion below.

- Parking:** Realizing that parking is often a concern downtown, we are proposing more parking than required under the regulations, as shown below. Specifically, we are planning 8 spots in total— three along the west border of the property, including a handicapped spot and 5 additional spots along the garage area. In addition, we have an informal understanding with neighboring lot owners to use their lots if necessary. This is in addition to free City Park parking less than a block away. Finally, we own nearly an acre of land adjacent to the proposed lots that can be used if necessary. However, we don't anticipate needing this area for our permit.





Date Application Received: 09-05-14

Application for Special Use Permit City of Harrisonburg, Virginia

Fee: \$375.00 plus \$30.00 per acre

Total Paid: \$ 405.00 ✓ pd ^{OB.}

Property Owner's Name: WRockStreet, LLC

Street Address: 231 Dixie Ave Email: LeoCook32@GMail.com

City: Harrisonburg State: Virginia Zip: 22801

Telephone: Work _____ Fax _____ Mobile 407.255.9300

Owner's Representative: John Casey Stemper

Street Address: 231 Dixie Ave. Email: JCStemper@GMail.com

City: Harrisonburg State: Virginia Zip: 22801

Telephone: Work _____ Fax _____ Mobile 540.476.1501

Description of Property and Request

Location (Street Address): 120 W. Wolfe St., Harrisonburg VA 22801 21,400 (2)

Tax Map Number Sheet: 035 Block: 0 Lot: 4 1/5 Lot Area: 21,400 ~~10,860~~

Existing Zoning Classification: B-1 C

Special Use being requested: ~~Remote Brewery/Taproom See Attachment 1.~~

Brewery Manufacturing (2) 10-3-85(1)

Please provide a detailed description of the proposed (use additional pages may be attached): See Attachment 1

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

North: WRockStreet, LLC 231 Dixie Ave, Harrisonburg VA 22801

South: Peale Properties, LLC 129 W. Wolfe St. Harrisonburg VA 22801

East: _____

West: Robert D and Gretchan Maust, 3711 Hidden Meadow La. Keezeltown, VA 22832

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

Signature: Charles Cook
Property Owner

ITEMS REQUIRED FOR SUBMISSION

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

- Fees Paid
- Property Located on Tax Map
- _____
- _____

Alison Banks

From: Charles Cook [leocook32@gmail.com]
Sent: Wednesday, October 01, 2014 9:52 AM
To: Alison Banks; Adam Fletcher; casey stemper
Subject: Fwd: Parking

Alison and Adam:

Here is an email from Mike Hendricksen confirming that Matchbox is willing to enter discussions regarding the leasing of parking space in the lot next to 120 W. Wolfe St. Please let me know if you want to discuss.

Best Regards,

Leo Cook

----- Forwarded message -----

From: Mike Hendricksen <mike@matchboxrealty.com>

Date: Wed, Oct 1, 2014 at 9:47 AM

Subject: Parking

To: Charles Cook <leocook32@gmail.com>

Leo,

If you are granted a Special Use Permit to operate a brewery on your W. Wolfe St. property, and this causes parking shortage issues, Matchbox Realty would be glad to enter discussions regarding your leasing of parking space from Matchbox. Terms and conditions of such leasing will be determined during discussions.

Regards,

Mike

Michael A. Hendricksen, MSRE, CCIM, CPM



Matchbox Realty & Management Services, Inc.

COO | Portfolio Manager | Associate Broker
202 North Liberty Street Suite 101
Harrisonburg, VA 22802

PROPERTY PROPOSED TO BE REZONED

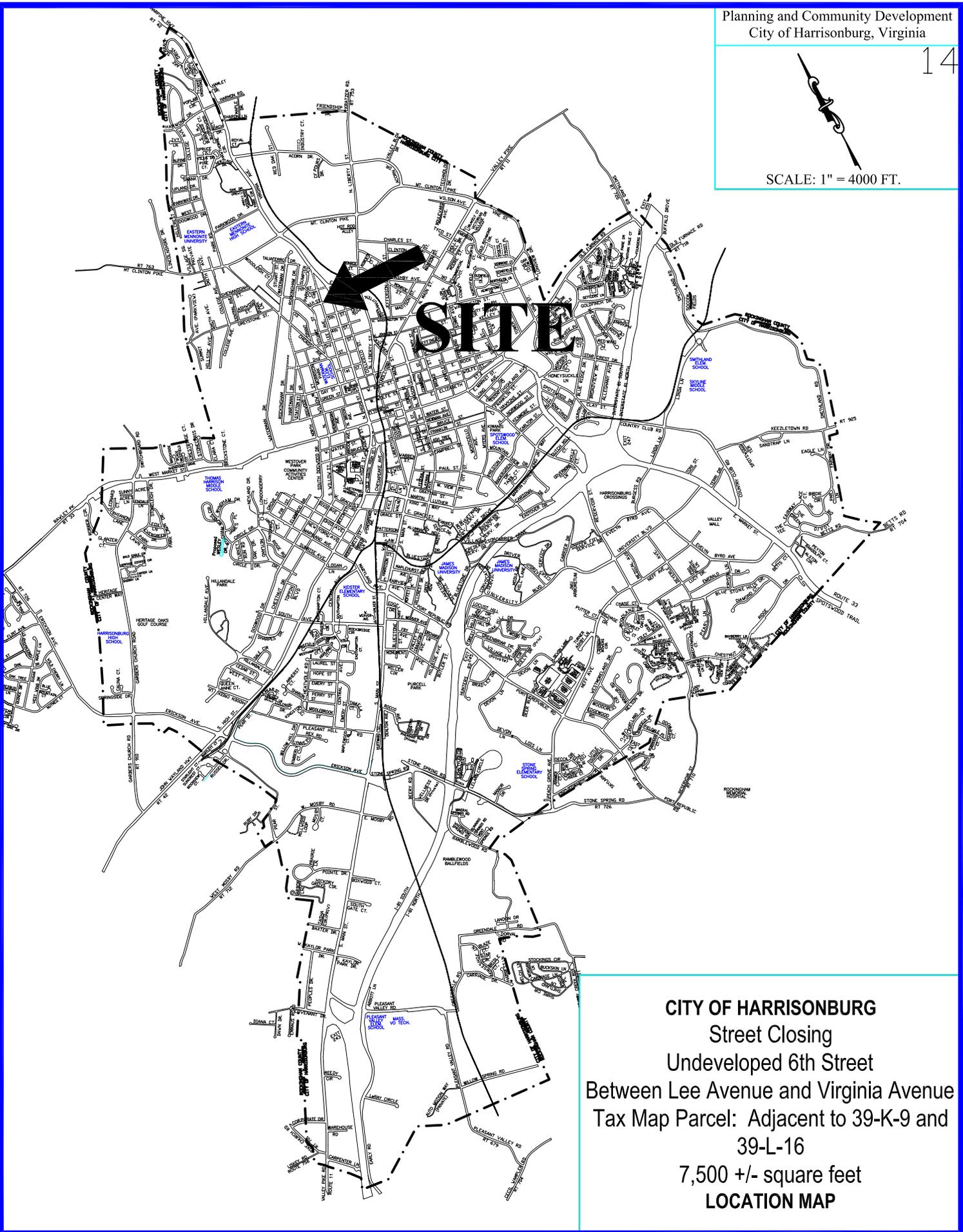
TM#	ZONING		ADDRESS	OWNER	OWNER ADDRESS		ACRES
	Current	Rezoned as:					
35-O-8	M-1	B-1	139 W ROCK ST	WROCKSTREET, LLC	231 DIXIE AVE	HARRISONBURG, VA 22802	0.081
35-O-6	M-1	B-1	139 W ROCK ST	WROCKSTREET, LLC	231 DIXIE AVE	HARRISONBURG, VA 22802	0.408
35-O-4	M-1	B-1	120 W ROCK ST	JOHN L JR & JOY L DOVE	1830 MASSANETTA SPRINGS ROAD	HARRISONBURG, VA 22801	0.239
35-O-5	M-1	B-1	120 W ROCK ST	JOHN L JR & JOY L DOVE	1830 MASSANETTA SPRINGS ROAD	HARRISONBURG, VA 22801	0.281

ADJACENT PROPERTIES

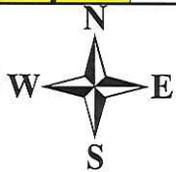
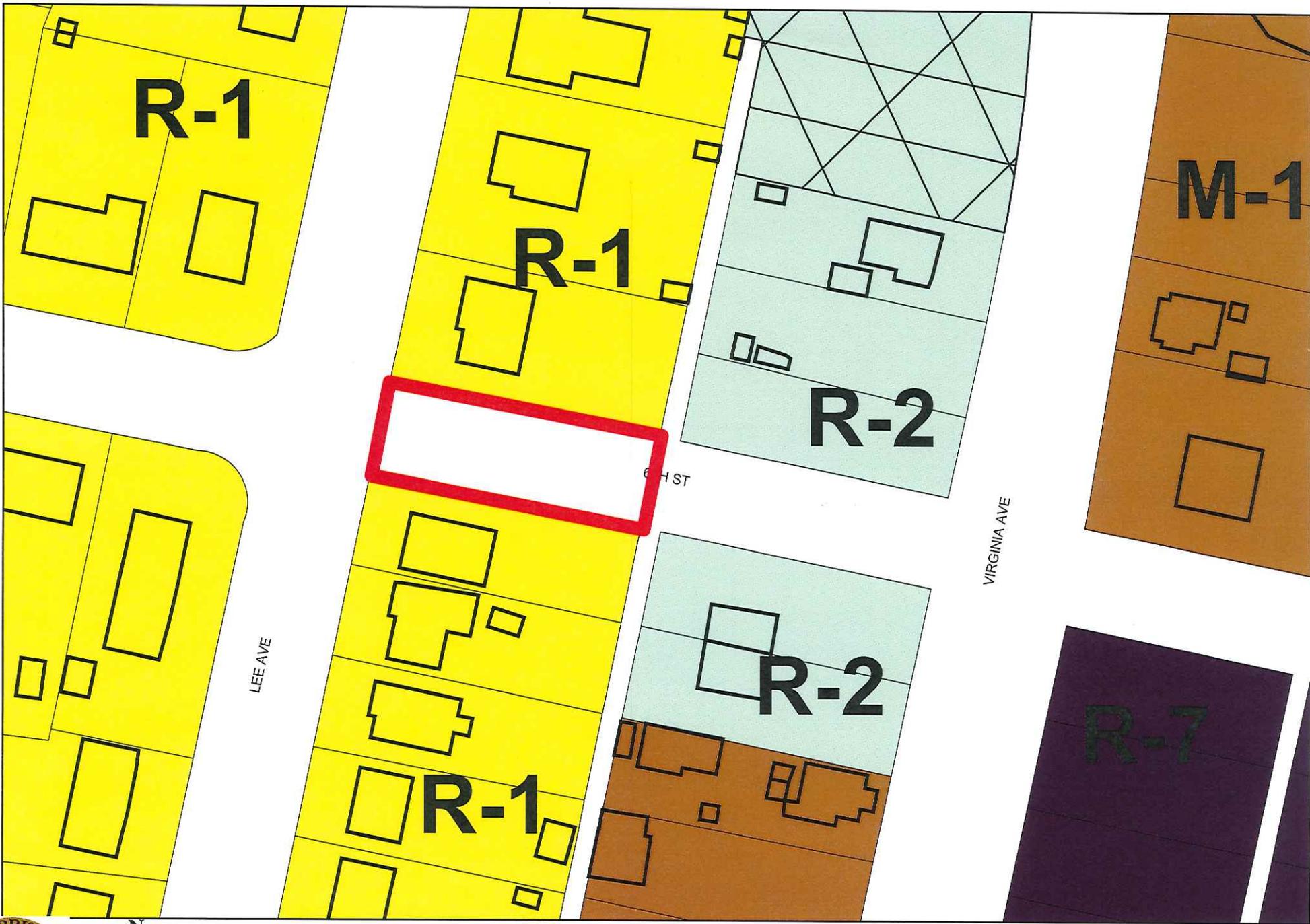
	TM#	ZONING	ADDRESS	OWNER	OWNER ADDRESS	CITY	ACRES
1	35-O-7	M-1	129 W ROCK ST	JOSEPH E WOOD, LIFE ESTATE	129 W ROCK ST	HARRISONBURG, VA 22802	0.194
2	35-O-7A	M-1	265 N LIBERTY ST, UNIT A	L & S HOLDING COMPANY	P.O. BOX 247	HARRISONBURG, VA 22803	0.131
3	34-M-12	B-1	292 N LIBERTY ST	LYNN GRATTAN LAMBERT	1541 PORT REPUBLIC ROAD	HARRISONBURG, VA 22801	0.159
4	34-M-10	B-1	282 N LIBERTY ST	HARRISONBURG R&HA	P.O. BOX 1071	HARRISONBURG, VA 22803	0.298
5	35-O-3	B-1	255 N LIBERTY ST	L & S HOLDING COMPANY	P.O. BOX 247	HARRISONBURG, VA 22803	0.043
6	35-O-2	B-1	245 N LIBERTY ST	WALTER F GREEN III	381 PAUL ST	HARRISONBURG, VA 22801	0.101
7	35-O-1	B-1	205 N LIBERTY ST	D CITY LLC	1531 HILLCREST DR	HARRISONBURG, VA 22802	0.147
8	35-S-4	B-1	167 N LIBERTY ST	ALVIN J & MARY CATHERINE LANDES	765 SUGAR MAPLE LANE	HARRISONBURG, VA 22801	0.217
9	35-S-5	M-1	129 W WOLFE ST	PEALE PROPERTIES, LLC	129 W WOLFE ST	HARRISONBURG, VA 22801	0.222
10	35-O-18	M-1	148 W WOLFE ST	ROBERT D & GRETCHEN MAUST	3711 HIDDEN MEADOW LANE	KEEZLETOWN, VA 22832	0.124
11	35-O-17	R-3	150 W WOLFE ST	CEASL LLC	231 DIXIE AVE	HARRISONBURG, VA 22801	0.126
12	35-O-12	R-3	240 N HIGH ST	COURT SQUARE PROPERTIES LLC	80 E MARKET ST	HARRISONBURG, VA 22801	0.252
13	35-O-11	R-3	250 N HIGH ST	MICHAEL R & TONI D MEHLING	250 N HIGH ST	HARRISONBURG, VA 22802	0.250
14	35-O-10A	R-3	155 W ROCK ST, UNIT A	ROBERT M REEDY	841 LEE AVE	HARRISONBURG, VA 22802	0.240
15	35-O-8A	M-1	143 W ROCK ST	CLARENCE J & MARGIE L WILLIAMS	1181 WESTMORELAND DR	HARRISONBURG, VA 22801	0.115
16	35-L-12	R-2	310 COLLICELLO ST	ROBERT R SR & NANCY HODGES	310 COLLICELLO ST	HARRISONBURG, VA 22802	0.137



SCALE: 1" = 4000 FT.



CITY OF HARRISONBURG
Street Closing
Undeveloped 6th Street
Between Lee Avenue and Virginia Avenue
Tax Map Parcel: Adjacent to 39-K-9 and
39-L-16
7,500 +/- square feet
LOCATION MAP



**Street Closing - Undeveloped 6th Street
Adjacent to 39-K-9 & 39-L-16**



City of Harrisonburg, Virginia

DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

STAFF REPORT

October 8, 2014

STREET CLOSING – UNDEVELOPED 6TH STREET (ADJACENT TO 39-K-9 AND 39-L-16)

GENERAL INFORMATION

- Applicant:** Dean Hayward and Monika Geier-Hayward with representatives Brannon and Angie Hottinger
- Tax Map:** Adjacent to 39-K-9 and 39-L-16
- Acreage:** 7,500 +/- square feet
- Location:** Western half of undeveloped 6th Street right-of-way located between Virginia Avenue and Lee Avenue
- Request:** Consider a request to close a 50-foot wide by 150-foot long section of undeveloped 6th Street.

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

- Site:** Undeveloped 6th Street public street right-of-way
- North:** Single family home, zoned R-1
- East:** Undeveloped 10-foot wide, north-south alley and undeveloped 6th Street extending eastward toward Virginia Avenue
- South:** Single family home, zoned R-1
- West:** Lee Avenue intersection with developed portion of 6th Street

EVALUATION

Brannon and Angie Hottinger (the applicants), residents of 930 Lee Avenue, are requesting to close a 50-foot wide by 150-foot long (7,500 +/- square feet) section of undeveloped 6th Street. The area requested for closure is located within the block between Virginia Avenue and Lee Avenue. In total, this block is about 310 feet in length, which includes the width of a 10-foot wide undeveloped public alley that runs north-south and equally bisects the public street ROW. If approved, the entire western half of this block, west of the alley, would be closed and become private property; the alley and eastern portion of the block would remain undeveloped public ROW.

The entire 6th Street ROW, a length of about a quarter mile, extends from its intersection with Edom Road/undeveloped Jackson Street on its eastern edge to its intersection with Stuart Street on its western edge. Undeveloped Collicello Street, Virginia Avenue, and Lee Avenue—all north-south directional

streets—intersect the 6th Street ROW. The only developed section of 6th Street is located between Lee Avenue and Stuart Street, about 350 feet, which is within the Holiday Hills neighborhood.

In March 2013, City Council approved a closing request to vacate the entire block of undeveloped 6th Street from its intersection with Edom Road/undeveloped Jackson Street to the intersection of Virginia Avenue. This closing was in association with the Collicello North R-7 development project. To date, this block of undeveloped 6th Street has not been transferred to private ownership.

If both the current area requested for closure and the block of undeveloped 6th Street associated with the Collicello North project become private property, then the only undeveloped section of the 6th Street ROW that would remain would be the eastern half of the block adjacent to the area requested for vacation.

With regard to the current request, there are two properties that are adjacent to the section requested for closure; 930 Lee Avenue, north of the ROW (the residence of the applicants) and 928 Lee Avenue, south of the ROW. If the City approves the closing, both property owners adjacent to the ROW will have the opportunity to purchase up to 50 percent of the ROW width along the entire length adjoining their property.

As shown on the 2011 aerial photograph within the packet, the residents on both sides of the ROW utilize portions of the street as a driveway. Per the City's GIS, the ROW has been used in this fashion since at least 2002, and per Google Earth images, since at least 1994 and possibly earlier. The applicants also currently utilize part of the ROW as a raised garden bed. In conversation with Mr. Hottinger, he stated that it is not uncommon to witness individuals driving through the undeveloped ROW from Lee Avenue to get to Virginia Avenue and vice versa. (It should be understood that one cannot physically drive from Lee Avenue through to Virginia Avenue without crossing the private properties of 969 and 971 Virginia Avenue—a duplex structure fronting Virginia Avenue—due to the topography of the ROW at the intersection of Virginia Avenue. Although the 2011 aerial image included within the packet does not indicate vehicular traffic usage within the ROW, 2007 and 2002 aerial photographs—also included within the packet—clearly indicate vehicular use.) Mr. Hottinger noted that at least one neighbor, south of 928 Lee Avenue, utilizes the ROW to access the undeveloped alley to reach the rear of their property. He further mentioned that if he acquired the entire width of the ROW, he plans to allow some neighbors to use the subject area.

The City does not utilize the subject area, or this block of undeveloped 6th Street, to provide any City services. There are no water or sewer lines located within this area nor does the Harrisonburg Electric Commission need this space for their services. Columbia Gas of Virginia, however, has an eight inch high pressure pipeline located within the subject area. This pipeline is one of the main feeds to the City and must maintain its service. Columbia Gas recommends a 50-foot easement centered on the infrastructure, therefore, if the line were located directly in the center of ROW, the City would reserve an easement over the entire section for Columbia Gas. However, the applicant recently had the infrastructure located and it appears to be positioned in an east-west direction about 8 to 10-feet south of the northern ROW line for most of the subject area's length, but then turns southward near the intersection of Lee Avenue. Columbia Gas understands that the City will only reserve an easement that provides 25-feet to the south and/or east of the pipeline and the remaining distance of the ROW to the north and/or west of the pipeline. Prior to the second reading of the alley closing at City Council, the applicant must submit a survey of the area indicating how the ROW will be dispersed among adjoining properties and the easement for Columbia Gas must also be identified and noted on the plat.

Staff does not believe private developers would ever desire to construct this block of 6th Street. Given the surrounding developed street network, the topography of the ROW in relation to Lee Avenue and Virginia Avenue, and the poor sight distance along Virginia Avenue, staff does not desire for this block of 6th Street to be developed and further believes it would be difficult and costly to construct. The amount of cutting that would be involved to build a public street through this section of undeveloped 6th Street would create significant slopes and likely require retaining walls along the adjacent properties.

The applicants' submitted letter explains that they spoke to neighbors surrounding the area and that they did not object to the closing. This situation, however, is not exactly as straight forward as is presented. On August 14th, staff met with Lisa Ha, a citizen interested in utilizing the subject closing area for a driveway. Ms. Ha contracted, along with her husband Timothy Smith, to purchase the undeveloped R-2 zoned lots of 1021 and 1031 Virginia Avenue (tax map parcels 39-K-1 and 2, respectively) with the intent to vacate the dividing line to create one lot and to build one single family home for her family's residence. (These properties are shown on the aerial images within the packet.) The property addressed as 1021 Virginia Avenue is one of two properties adjacent to the undeveloped 6th Street ROW, but east of the subject closure area. Ms. Ha was interested in knowing whether the City would allow them to create a driveway from Lee Avenue through the undeveloped 6th Street ROW and the adjacent alley to their property that they were in contract to buy along Virginia Avenue. Although the existing 1031 Virginia Avenue property has a driveway, which over the years has served as the driveway for the existing single family home at 1041 Virginia Avenue, Ms. Ha did not want to utilize this driveway to serve their planned house as the sight distance at this location along Virginia Avenue is poor. (As of Friday, October 3rd, Ms. Ha and her husband own 1021 Virginia Avenue but remain in contract to purchase 1031 Virginia Avenue.)

On August 20th, after staff discussed whether it would be possible for Ms. Ha to utilize the ROW, staff sent an email informing her of the additional information we would need to make a final determination; we also advised her to communicate her plans with the adjoining property owners. (This email is included in the packet.) On August 26th, Mr. Hottinger talked with staff about requesting to close the subject area ROW. Staff officially accepted the application on August 29th. Staff understands that by September 11th, Ms. Ha had met with an engineer to consult on the grade and sight distance issues and also met with representatives from the Department of Public Works to continue moving forward on trying to work out a driveway agreement. On September 26th, Ms. Ha noted that she would begin working on her paperwork to submit a Public Access Permit for her driveway plans within the undeveloped 6th Street ROW; she was already aware, however, the Department of Public Works would not approve nor deny her permit until City Council made a decision on the 6th Street closing request. As of mid-day Friday, October 3rd, her Public Access Permit has not been submitted to the Department of Public Works.

Staff recommended to both parties to try and come to an agreement on this matter and understands that they have communicated, but have unfortunately not made a satisfactory arrangement.

As described herein, the City does not need to maintain ownership of this area to provide any City services, nor does staff desire to have this section of undeveloped 6th Street built, and therefore, staff does not object to closing this section of 6th Street. If the closing is desired for approval, staff recommends the appropriate width easement be reserved for Columbia Gas to maintain its infrastructure.

August 29, 2014

Planning Commission
City of Harrisonburg, Virginia

To Whom It May Concern:

We are interested in purchasing 6th Street (not in use at this time) area that runs adjacent to 930 Lee Avenue,

The proposed use is to expand our parcel size and to prevent traffic from back lot/lots from accessing Lee Avenue from 6th Street. We understand that this would be in the R-1 zoning and with sq. ft. not exceeding 10,000 sq. ft., this would not be a separate lot. But on the other hand, we feel that the upper part of 6th Street is zoned R-2 and could be used from back lot/lots to be able to use the existing entrance to enter Virginia Avenue and/or sold as a separate parcel. We have talked to the neighbors surrounding this area, and they have no objection nor any interest in buying this area. They do agree to not having a road going through that area.

To our knowledge the only utility is a gas line 10 feet off of the south side of 930 Lee Avenue. We are in agreement with allowing easements for that.

If you have any questions or need further information, please contact me at 246-3452. Thank you for your consideration.

Sincerely,

Brannon L. Hottinger

A handwritten signature in black ink, appearing to read "Brannon L. Hottinger", with a long horizontal line extending to the right.

Date application received: 8/29/14

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

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

Applicant's Name: DEAN HAYWARD & MONIKA GEIER-HAYWARD

Street Address: 990 Conferacy Dr. E-mail: MDHAYWARD@HOTMAIL.COM

City: Penn Laird State: VA Zip: 22802

Telephone: Work 610 217 4541 Fax _____ Mobile 540 383 7978

* Representative (if any): Brannon Hottinger + Angie Hottinger

Street Address: 930 Lee Ave E-mail: Ktownhottinger@Verizon.NET

City: Harrisonburg State: VA Zip: 22802

Telephone: Work 540-246-3452 Fax _____ Mobile 540-246-3452

Description of Request

Location To Purchase 6th Street (NOT IN USE) area that run adjacent to 930 Lee Ave & Alley

Square footage of area to be closed: Approx. 50' wide x 150' long (7,500 sq. ft.) PH

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: land Vacant (For sale and under contract William & Karen Dean, 942 Lee Ave.

South: Shirley Cobb (Peters) - 928 Lee Ave., Harrisonburg, VA 22802

East: Property Vacant John Monger, Trustee, 900 Circle Dr., Harrisonburg, VA

West: Bob Reedy (Recently Passed) - 841 Lee Ave., Harrisonburg, VA 22801

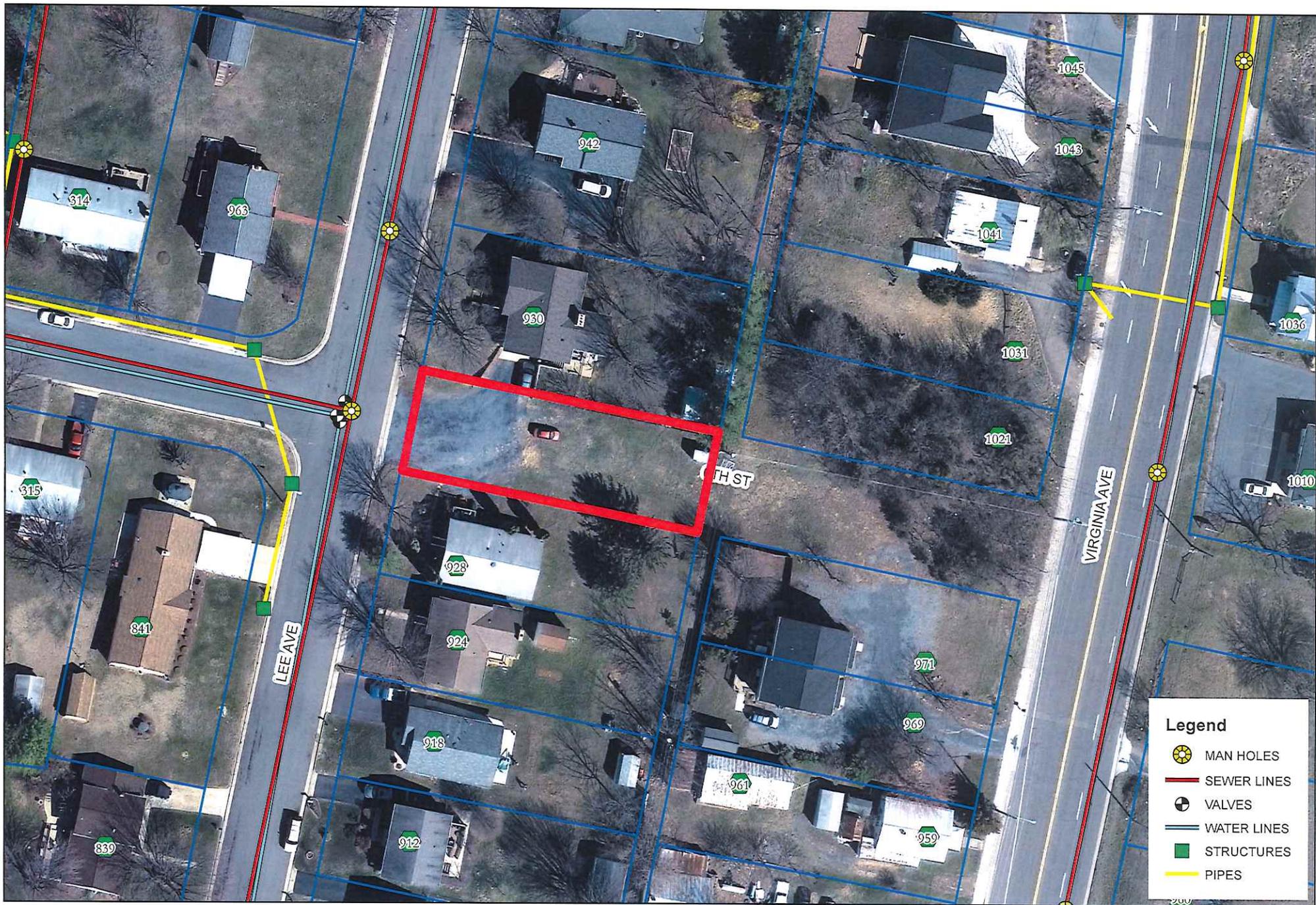
I hereby certify that it is my intention to have the above described Street(s) or Alley(s) closed and that the information contained herein is true and accurate. In addition, I understand that all required advertising and associated costs will be at the expense of the applicant.

Signature: Dean Hayward Applicant Brannon Hottinger Date: 8/27/14
Monika S. Geier-Hayward Angie Hottinger

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.



**Undeveloped 6th Street Closing (Adjacent to 928 and 930 Lee Avenue)
2011 Aerial Photograph**

 = Area Requested for Closure





**Undeveloped 6th Street Closing (Adjacent to 928 and 930 Lee Avenue)
2007 Aerial Photograph**

 = Area Requested for Closure



**Undeveloped 6th Street Closing (Adjacent to 928 and 930 Lee Avenue)
2002 Aerial Photograph**

 = Area Requested for Closure

TITLE SURVEY

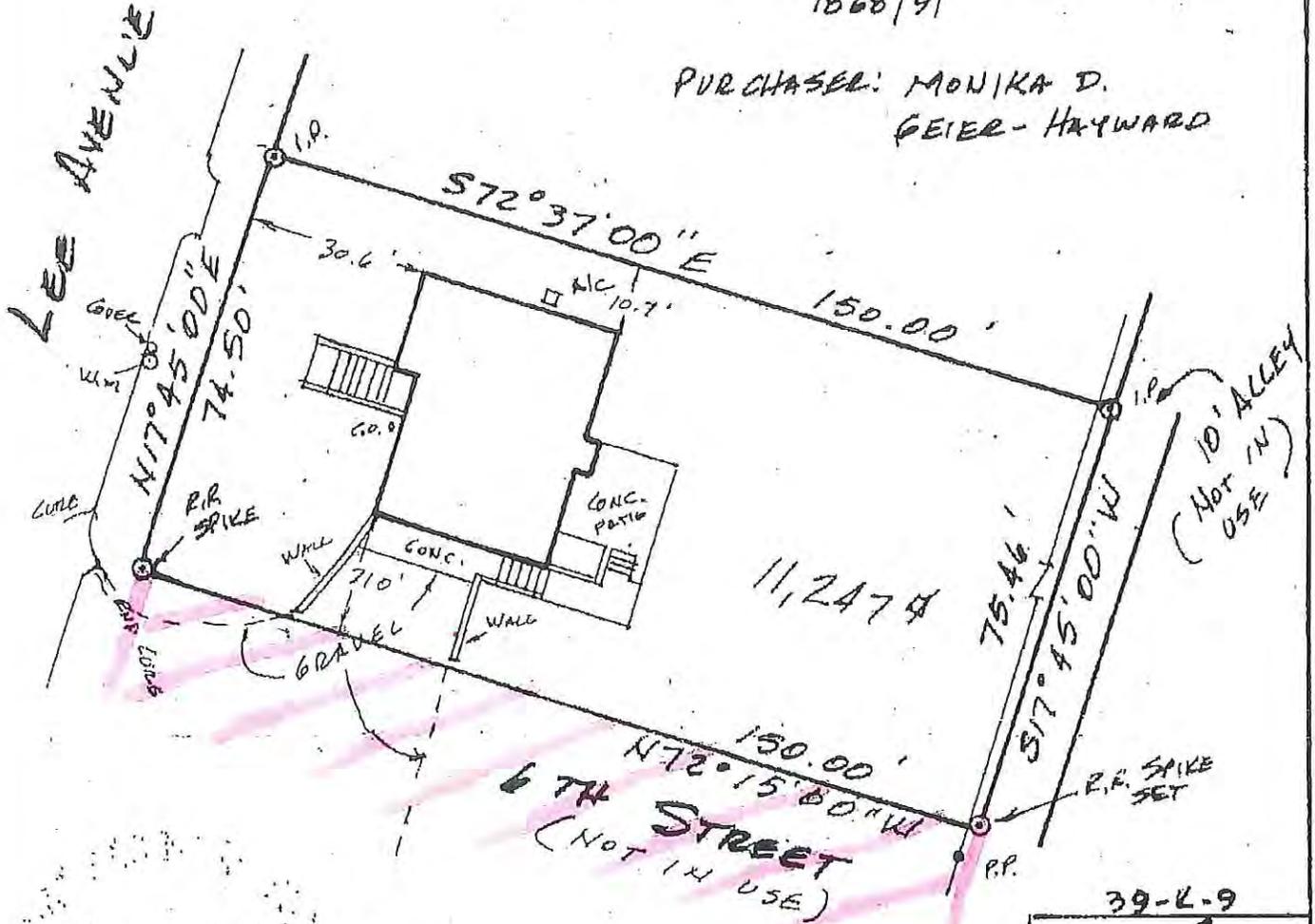
930 LEE AVENUE
HARRISONBURG, VIRGINIA

SURVEYED LOT IS
SHOWN ON PLAT OF
RESUBDIVISION OF THE
GEORGE L. MARTZ
PROPERTY ON LEE AVENUE,
B30/748

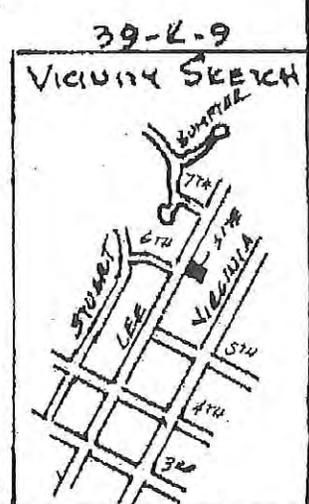
SCALE: 1" = 30'
DATE: 1 DEC 05

SURVEYED LOT STANDING IN NAMES
OF DANIEL A. & DEBBIE S. ASQUINO
1868/91

PURCHASER: MONIKA D.
GEIER-HAYWARD



[Handwritten signature]
12/1/05



THE SURVEYED LOT IS IN
ZONE X ACCORDING TO
F.E.M.A. MAP DATED 3 NOV 89.

OVERHEAD
UTILITY LINES

0690-9



Image Provided by Columbia Gas
Approximate Location of 8-Inch Pipeline
▣ = Area Requested for Closure

Adam Fletcher

From: Adam Fletcher
Sent: Wednesday, August 20, 2014 12:03 PM
To: 'Lisa N. Ha'
Cc: 'alison.banks@harrisonburgva.gov'; 'Stacy Turner'; Dan Rublee; Jim Baker; Tom Hartman; Brad Reed
Subject: Driveway Through Undeveloped 6th Street

Lisa,
City staff is open to allowing you to construct a driveway from Lee Avenue through the undeveloped 6th Street right-of-way (ROW) and through the adjacent alley public ROW. However, before we can make a final determination, we need additional information from you.

First, although there are no plans to develop this section of 6th Street, if this street were constructed in the future, it must meet City Design and Construction Standards Manual (DCSM) requirements. Due to the topography of this section of the undeveloped 6th Street, where from the highest point of 6th Street there is approximately a 14-foot drop to Virginia Avenue and about a 20-foot drop to Lee Avenue, to build a City street, significant cutting would have to occur and retaining walls along private property lines would likely be needed. Driveways from adjacent properties to a future 6th Street would have significant slopes.

For your particular situation, we would like to have confirmation that a future driveway from your property/house to a future 6th Street could be reconstructed at a usable and realistic grade. Doing this will ensure to the City that it is physically possible for you to connect to a future 6th Street but it also is important for you to understand what that grade could be and to plan the design and construction of your home accordingly for this potential driveway connection. Redesigning this driveway could require much more than simply cutting in a curb cut to the street and having the driveway sloped back up toward your house. Also understand this reconstruction would likely be your financial responsibility. **Therefore, you need to have your architect/engineer/contractor provide to us some level of design for 6th Street to confirm future compatibility with your property's entrance.**

It appears the property owners at 928 and 930 Lee Avenue already utilize a small portion of undeveloped 6th Street as a driveway/parking area. These property owners need to understand that your potential use of this undeveloped ROW will change the way they currently utilize this space. **Please confirm with us that you have talked to these property owners and explained how you plan to grade and gravel/pave through this area and up to and on to your property.**

If the City is accepting of you utilizing the ROW, you will ultimately have to apply for a Public Access Permit. The permit application can be found at the bottom of the page at the following link: <http://www.harrisonburgva.gov/site-development>. This is a free application. Before you can cut into the public street and/or disturb the undeveloped ROW, this permit must be approved. When you are ready to fill out this application, you will want to coordinate with the Department of Public Works as this application is submitted to them. The Department of Public Works may want to enter into an agreement with you and/or place specific conditions on the permit that you must adhere to; they can make those determinations at a later date.

Understand that any work that you do in the ROW would be your financial risk and your responsibility for maintenance. Furthermore, since it is public ROW, anyone could use your driveway that is located within the bounds of the street and alley.

I have CC'd several staff members in this email to keep them up-to-date on this issue. At this point, you should coordinate directly with the Department of Public Works, specifically with Jim Baker, Tom Hartman, and/or Brad Reed. As this progresses, there may be other information they need from you that is not discussed herein.

If there is any further assistance that I can offer, please let me know.

Thanks,
Adam

Adam Fletcher
City Planner

City of Harrisonburg
409 South Main Street
Harrisonburg, Virginia 22801
540-432-7700
<http://www.harrisonburgva.gov>