



City of Harrisonburg, Virginia

Planning Commission Meeting

October 14, 2015

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 9, 2015 regular meeting.

2) New Business

Private School Off-Street Parking Approval Request – Minnick School (1661 Virginia Avenue)

Consider a request from Lutheran Family Services of Virginia with representative Harman Construction, Inc. for approval of the school's proposed off-street parking arrangement. Per Section 10-3-25 (12), Planning Commission must review and approve the school's proposed off-street parking plan to be considered in conformance with the Zoning Ordinance's minimum off-street parking requirements. The 1.16 +/- acre parcel is zoned B-2, General Business District and is addressed at 1661 Virginia Avenue. The property is identified as tax map parcels 52-K-1 & 2.

Special Use Permit – 1214 Windsor Road (MFDH 2015 Amendment)

Public hearing to consider a request from Erica and Brock Dorsey to amend an existing special use permit allowing a Major Family Day Home in the R-1, Single Family Residential District per Section 10-3-34 (6) of the Zoning Ordinance. The existing special use permit was approved in July 2014 with the condition that the day home be limited to 10 children. The proposed amendment is to allow the maximum 12 children. Major family day homes can have from five to 12 children under the age of 13, exclusive of any children who reside in the home. The 21,444 +/- sq. ft. property is located at 1214 Windsor Road and is identified as tax map parcel 84-E-4.

Zoning Ordinance Amendment – Section 10-3-26 (To Allow Required Parking for Business and Professional Office Uses to be Off-Site within Specified Downtown Locations)

Public hearing to consider a request to amend the Zoning Ordinance's Article G Off-Street Parking regulations Section 10-3-26 Location in Relation to Building or Use Served. The amendment would modify subsection (a) (1) by adding the ability for business and professional office uses to meet minimum off-street parking requirements by locating such spaces on parcels that are not on the same or adjoining parcels from the use served. Such permission will only be allowed within specified downtown locations.

3) Unfinished Business

None.

4) Public Input

5) Report of secretary and committees

6) Other Matters

Discussion to Consider Revising Section 15-2-24 Fowl, Chicken and other Domestic Birds (commonly referred to as the Chicken Ordinance)

7) Adjournment

Staff will be available Tuesday November 10, 2015 at 4:30 p.m. for those interested in going on a field trip to view the sites for the November 11, 2015 agenda.

MINUTES OF HARRISONBURG PLANNING COMMISSION
September 9, 2015

The Harrisonburg Planning Commission held its regular meeting on Wednesday, September 9, 2015 at 7:00 p.m. in the City Council Chambers, 409 South Main Street.

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

Members absent: None

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

Chair Fitzgerald called the meeting to order and determined there was a quorum with all members in attendance. She then asked if there were any corrections, comments or a motion regarding the minutes from the August 12, 2015 Planning Commission meeting.

Dr. Dilts moved to approve the minutes as presented.

Mr. Heatwole seconded the motion.

All members voted in favor of approving the August 2015 minutes as presented (7-0).

New Business

Alley Closing – Between 33-C-4 & 5 (1,610 sq. ft. Perpendicular to & off of East Johnson Street)

Chair Fitzgerald read the request and asked staff to review.

Mrs. Banks said the following land uses are located on and adjacent to the property:

- Site:** A 1,610 square foot portion of undeveloped public alley right-of-way adjacent to 33-C-4 and 5, both zoned R-2
- North:** Across East Johnson Street, a single family dwelling and a non-conforming apartment building, zoned R-2
- East:** Single family dwellings, zoned R-2
- South:** Single family dwelling and a duplex, zoned R-2
- West:** Single Family dwellings, zoned R-2

The applicants are requesting to close a portion of an undeveloped public alley right-of-way approximately 10-feet in width and 161-feet in length, totaling 1,610 square feet running perpendicular to East Johnson Street. The alley is centered between the middle of two driveway entrances off East Johnson Street; the entrances serve the properties at 135 and 147 East Johnson Street respectively. In order to maneuver through the alley one must drive onto one of the two properties. The applicants residing at 135 East Johnson Street desire to close the alley in order to prevent cut-through traffic on and along their property.

As noted, the alley is undeveloped and therefore not maintained by the City. The area is not used for trash pick-up, there are no public or private utilities within the right-of-way, nor is the alley marked for any potential future trails. However, the alley is located in an area that has some drainage issues and there may be potential to use this alley in the future for stormwater drainage improvements. If the alley is closed, staff recommends an easement be placed across the entire portion for future drainage or stormwater management projects.

The applicant should be aware that if City Council elects to close the alley, they must have a survey prepared in order for the City Attorney to draft the ordinance for closure. The survey should show if the alley will become part of the applicant's existing parcel, or if the alley will be divided among the adjoining parcels.

Staff recommends closing the alley as long as an easement is reserved giving the City permission to utilize this area for drainage or stormwater management.

Mr. Da'Mes asked if the applicants were to place a storage building or a fence within the easement, and then later the City said we need to put a drainage pipe through the easement, how would that work.

Mrs. Banks said the City has easement language which discusses situations such as you described. For the most part, fences are permitted within an easement; but the owner must understand that the fence may be removed by City forces at some point for access into the easement. An accessory building would not get a building permit approved through the zoning division if it were to be placed within an easement. An accessory building could be placed right up to the easement line, but not within the easement.

Mr. Colman said the easement would probably take the entire ten feet.

Mrs. Banks said yes, the easement would cover the entire alley.

Mr. Fletcher added that the accessory structure may not even be an issue, because if the alley is split right down the middle with the adjoining neighbor, then the setback would be the same as the easement on each parcel – five feet.

Chair Fitzgerald said we are not required to have a public hearing on this matter; but, if the applicant or a representative would like to speak they may do so at this time. Hearing no one, she asked Planning Commission if they had further discussion or a motion.

Dr. Dilts moved to recommend approval of the alley closing as presented.

Mr. Way said I am happy to second the motion; however, I would like for us to keep an eye on the alley closings that are occurring. I think that this particular closing is fine, and it makes sense for the applicant. We are looking at bicycle and pedestrian access tonight as well. One of the principles of a good walking environment is to have some permeable street networks and the idea that people will have multiple routes to get through areas. I am not saying this is a problematic alley closing; but I believe we should keep our eye on some of the ones we have or will be seeing. I do offer a second on the motion to approve.

Chair Fitzgerald said we did talk about that somewhat on the site visit yesterday as well.

Mrs. Banks said we did discuss it. Also, on the "official/unofficial" bicycle and pedestrian alley closing map this alley is noted as okay to close. The alley directly to the east is marked for a future trail.

Mr. Baugh said I am supporting the motion. Many times we get these requests and historically they are somewhat de facto; the alleys have been taken over by the adjoining property owners and nobody actually uses them as their means of access. However, with this issue there is actually some use of the alley.

Dr. Dilts said at some point it would be interesting to talk about the alleys. I have an alley right next to my house that would be a mud-pit if I did not do anything to it; the care of the adjoining

alley falls on the people that actually care about the alley. It seems somehow unfair that people use the alley over and over again, all day long, and the reason they can use it, is because someone like me is taking care of it.

Chair Fitzgerald asked if there were any further comments or discussion. Hearing none, she called for a voice vote on the motion to recommend approval as presented.

All voted in favor to recommend approval of closing the undeveloped alley as presented (7-0).

Chair Fitzgerald said this will move forward to City Council on October 13th.

Special Use Permit – 206 South Avenue (Business and Professional Office Section 10-3-97(3))

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

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

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

Site: Warehouse and office building, zoned M-1

North: Church, zoned R-1

East: Warehouse and showroom building, zoned M-1

South: Non-conforming apartment buildings, zoned M-1

West: Across South Avenue, single family homes, zoned R-1 and vacant parcel, zoned M-1

The applicant is requesting a special use permit (SUP) per Section 10-3-97(3) of the Zoning Ordinance to allow business and professional offices in the M-1, General Industrial District. The site is along the northern side of South Avenue, about 240 feet west of its intersection with South High Street, in an area with a mix of residential and small scale industrial and business uses. The site is improved with a 5,380 +/- square foot warehouse/office building.

The applicant, who owns and manages multiple properties throughout the local area, desires to relocate his business, Castle Property Management, to the site. The office/administrative component of the business is described as having limited customers, with a majority of the work handled through the mail or by phone; however, there is a large warehousing component for supplies, appliances, building materials, and other equipment for managing property. If approved, the applicant would utilize a portion of the building for the offices of Castle Property Management and a possible future tenant. The remainder would be used as warehousing for Castle Property Management.

Previously, the subject property had been used for industrial warehousing and office space for Southern Refrigeration, a permitted use within the M-1 zoning district. The applicant should be aware that if the SUP is approved, the conversion to a business office use will likely require a change of use permit to ensure the use complies with building code.

Parking for the office use would be calculated at one parking space for every 300 square feet of gross floor area. Warehousing requires one parking space for every two employees working on a

maximum shift and one space for each vehicle associated with the warehouse. If approved, staff would work with the applicant to determine the minimum number of off-street parking needed for all uses. Meeting the minimum parking requirements for the intended uses should not be a problem as there is a large parking area which already exists. The property owner must simply delineate the spaces required.

This block of South Avenue, which is designated in the Comprehensive Plan as Commercial, is a mix of residential uses, a church, and a personal service establishment. Staff believes a business office, and the associated warehousing would be compatible with the existing uses in the area and brings the use of the property closer to compliance with the Comprehensive Plan.

Staff recommends approving the special use permit.

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.

Glen Loucks of Harrisonburg said Mrs. Banks has done an excellent job of explaining the site and my intentions to you. I am here to answer any particular questions you may have. We have had an office on North Main Street for about 18 years. We started managing some properties on South Avenue where we saw this property and thought that managing an office and warehouse from this location would be a much better location for our tenants. We desire to make this location our permanent home.

Chair Fitzgerald asked if there were any questions for Mr. Loucks. Hearing none, she asked if there was any one else desiring to speak with regard to the special use public hearing. Hearing none, she closed the public hearing and asked for a motion on the request.

Mr. Colman made a motion to recommend approval of the special use permit as requested.

Mr. Heatwole seconded the motion.

Chair Fitzgerald called for a voice vote on the motion.

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

Chair Fitzgerald said this will move forward to City Council on October 13th with a favorable recommendation.

Rezoning – 475 Lucy Drive/2065 Reservoir Street (R-3 to B-2)

Chair Fitzgerald read the request and asked staff to review.

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

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

Site: Single family dwelling, zoned R-3

North: Business and professional offices, zoned B-2

East: Undeveloped parcel, zoned B-2

South: Across Lucy Drive, Charleston Townes student housing complex, zoned R-3

West: Mabel Memorial Church, zoned R-3

The applicant is requesting to rezone a 37,643 square feet parcel located primarily along Lucy Drive from R-3, Medium Density Residential District to B-2, General Business District. Given the property's shape and its location near the Lucy Drive/Reservoir Street intersection, the property is identified with two addresses—475 Lucy Drive and 2065 Reservoir Street.

The subject site is a historical piece of real estate as it was home to the Mabel Memorial Schoolhouse, which staff understands was built in the early 1900s and may have been connected to James Madison University's early history. The schoolhouse structure was later used as a residence. Only portions of the building remain as much of it was demolished in 2013 after Lucy Drive was extended to Reservoir Street.

The 2004 Comprehensive Plan Land Use Guide designated the subject site as Medium Density Mixed Residential; at that time, the site did not have Lucy Drive public street frontage as the nearby properties had not yet been developed. During the 2011 Comprehensive Plan update, this site, and the adjacent property to the west fronting along Reservoir Street, were given the Commercial designation with the publicly recognized plan that the parcels would in the future be developed commercially. Currently, all privately owned properties along the northern side of Lucy Drive are designated Commercial, where the subject site remains the only remaining property on the north side of Lucy Drive that is not zoned B-2 and not in compliance with the Plan's Land Use Guide. Rezoning the property as requested would bring the property in line with the City's long term plan for this side of Lucy Drive.

With regard to public water and sewer, sanitary sewer is currently available in the Lucy Drive public street right-of-way (ROW); however, public water is not. Water infrastructure is located nearby in the Reservoir Street ROW and further east within the Lucy Drive ROW. Because of this, the development of the property will likely require a public water main extension. This is a typical engineered Comprehensive Site Plan matter—not one associated with this rezoning. Staff has already made the property owner aware of this issue.

If approved, all land use permissions of the B-2 zoning district would be afforded to this lot, including all allowances of the City's Sign Ordinance. The property owner did not submit a plan of development; however, like all developments, during a project review, the site must be developed in accordance with the City's Design and Construction Standards Manual, where the developer could be required to perform a Traffic Impact Analysis, improve the site's public street frontage, and install any other required public improvements.

Staff has no concerns with rezoning this parcel to the General Business District and recommends approving rezoning the site from R-3 to B-2.

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

Eddie Warner, 514 Powell Drive, Annapolis, MD, said he is the owner of the property. There was a question about some of the trees on the site, and as you saw from the photos of the property, basically the trees are around the perimeter. I had thought about building out the structure and having a small office located there; the property is small, not even an acre. I do not have any developers lined up to purchase the property. If you have any questions for me regarding the request I would be happy to answer them.

Chair Fitzgerald said we were at the site yesterday and the trees are very beautiful; I believe they are some of the oldest in the area.

Mr. Warner said there were tenants living in the house; however, after the extension of Lucy Drive, the place has been unoccupied and is more of a mowing chore and tax burden.

Mr. Colman said I have a question – does the structure have water and sewer at this time.

Mr. Warner said no, it was cut off when the road was built. I really do not know any other options for the site. I want to do something because it is a tax burden and that is why I asked that you favorably consider my application. The rezoning goes with the flow of the area and perhaps could be combined with some of the other properties in the area.

Chair Fitzgerald asked if there were any further questions for the applicant. Hearing none, she asked if there was anyone else desiring to speak regarding the rezoning. Hearing none, she closed the public hearing and asked for comments or a motion on the rezoning request.

Mr. Da'Mes said this is a very busy area at five o'clock in the evening. I know there are improvements planned for the area and it would have been nice to see how those plans would affect this intersection. Will there be a stop light there?

Mr. Fletcher replied yes.

Mr. Colman moved to recommend approval of the rezoning as requested.

Mr. Heatwole seconded the motion.

Chair Fitzgerald called for a voice vote on the motion.

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

Chair Fitzgerald said this will move forward to City Council on October 13th with a favorable recommendation.

Unfinished Business

None.

Public Input

None.

Report of secretary and committees

Mr. Fletcher said proactive zoning is still on hiatus because we are still one person down within our division.

Mr. Baugh said I have two things to report on. At City Council we took up the Monger property requests on Bruce Street and the Charleston Townes preliminary plat request. Both were unanimously approved by Council.

The other thing I was going to mention is that this was my month to cover Rockingham County's Planning Commission. They were reviewing the expansion of their Urban Development Area (UDA) which again is transportation related and they have expanded the existing area to the Southeast of the City.

County staff also presented a residential housing study that I thought was very interesting. I do not know exactly how to summarize it other than ask me about it or contact their staff. One of the more

interesting things about the study, and many people are surprised by this, is that a majority of the County's residential units are actually on property that is zoned for agricultural. If you stop and think about it, the County's residential zoned property tends to be in the towns or Lakeview, Preston Lake, or Belmont.

The other interesting item was a proposed rezoning just outside of the City limits on South Main Street, across from the Heritage Market area. This request was tabled. Staff had recommended against it because it was not consistent with the Comprehensive Plan; however, the Planning Commission Chairman suggested it be tabled so Planning Commission could think about it a bit more. What I thought was interesting, was that it reminded me of discussions heard in the City about ten years ago. It was a very interesting meeting with the County.

Chair Fitzgerald thanked Mr. Baugh and asked if there were any other reports.

Mr. Way said I have a quick update regarding the downtown park planning. We met today to discuss a variety of things and are hoping to kick-off fundraising in November. There was a discussion regarding the staging of development of the park. There were questions about who actually owns and manages the park because it is on City land, but it is being developed privately. We also discussed commissioning an architect/designer for the project, which will probably happen in the next six months or so.

Chair Fitzgerald said the idea is to stage part of it and then use the success of the first stage to help fund the next stage.

Mr. Way said absolutely, it will help to spur the fundraising.

Other Matters

Thanh Dang, Transportation & Environmental Planning Manager with the Department of Public Works, said she is here tonight to present a status update and other updates of the Bicycle and Pedestrian Plan. The City's Bicycle & Pedestrian Plan was adopted in 2010 (amended 2011) and is part of the City's Master Transportation Plan as referenced in the Comprehensive Plan. The Master Transportation Plan establishes the City's long-range transportation policies and projects. To stay relevant, it is the City's goal to update the Bicycle & Pedestrian Plan once every 5 years. Like the previous update, the Bicycle & Pedestrian Plan is being updated 1 year in advance of the Comprehensive Plan update, and will inform the next update of the Comprehensive Plan.

The Bicycle & Pedestrian Plan update is being led by the Department of Public Works and the Transportation Safety & Advisory Commission's Bicycle & Pedestrian Subcommittee. However, this is the City's Plan and the Department of Planning & Community Development, Parks & Recreation, Public Transportation, Police, and Economic Development are involved. Before the Plan is submitted to City Council to consider for adoption in summer 2016, the Plan will be reviewed by the Transportation Safety & Advisory Commission and the Planning Commission.

City staff and the Bicycle & Pedestrian Subcommittee initiated an information gathering period starting with a public workshop on May 19, 2015, followed by a public comment period. There were over 30 attendees at the workshop and 59 written comments received, not including comments collected during the workshop.

City staff presented an update to City Council on July 28, 2015. Summaries of the workshop, comments received, and information presented to City Council made available here, <http://www.harrisonburgva.gov/bicycle-pedestrian-plan>.

Moving forward, city staff and the Bicycle & Pedestrian Subcommittee will host meetings with Stakeholder Focus Groups, and will develop methodology to prioritize projects. Below is a summary of next steps.

Proposed Stakeholder Focus Groups

The purpose of Stakeholder Focus Group meetings is to gather practical feedback and guidance from various perspectives, and to foster buy-in and consensus among partners and organizations that play an active role in implementing plan policies and recommendations.

City staff and the Bicycle & Pedestrian Subcommittee will host Stakeholder Focus Group meetings surrounding:

- Business and Economic Vitality
- Safety, Enforcement, Safe Routes to School, Youth & Families
- Institutions: Higher Ed and Retirement Communities
- Housing Providers: Apt Complexes, Property Managers
- Disadvantaged Populations

There will be one meeting per focus group. These meetings will take place in September 2015. Focus groups will also be guided through a series of lead questions.

Proposed Factors for Prioritization of Infrastructure Projects

Transportation needs will almost always be greater than the funds available to address them. Prioritizing infrastructure projects as part of the Bicycle & Pedestrian Plan helps guide the City to the best use of limited funds, and provides support for grant applications and allocation requests from state, federal, and private sources (e.g. Revenue Sharing, Transportation Alternatives Program, Highway Safety Improvement Program, and funds available through the House Bill's (HB2) prioritization process).

The Commonwealth Transportation Board (CTB) will use the HB2 prioritization process, which evaluates projects based on "weights" (key factors) of economic development, congestion mitigation, accessibility, safety, and environmental quality. Similarly, the City will use a prioritization process for the City's Bicycle & Pedestrian Plan. Active Trans Priority Tool (APT), developed by the Transportation Research Board, is a methodology for evaluating and prioritizing pedestrian and bicycle improvements along existing roads. The methodology is flexible, allowing communities to assign factors and weights reflective of their own goals and values. APT has been used by many communities including the City of Charlottesville in development of its 2014 Bicycle & Pedestrian Plan.

Following the identification of the projects within the Bicycle & Pedestrian Plan, city staff will prioritize the projects. Staff will use the factors and weights developed by using the APT system, and will include the results in the final plan.

It is important to note that the Bicycle & Pedestrian Plan is a planning document. As such, after the Plan is adopted, City Council is not required to pursue or fund the highest scoring projects. This is especially helpful if there is a constraint or opportunity that makes a lower ranking project a better option to pursue before a higher ranking project.

City staff and the Bicycle & Pedestrian Subcommittee have completed Step I as laid out in the APT guide, which is to define the purpose of the prioritization effort by determining the following:

- APT will be used to prioritize both bicycle and pedestrian improvements and will evaluate each of these modes of transportation separately.
- Based on the input received at the May 19 public workshop visioning exercise, improvements in the Plan should promote safety, enable connectivity, be accessible to all users, be orientated to kids being able to bike and walk to school safely, and be implemented in a timely manner.
- Prioritization will be used to rank all of the location-based projects recommended by the Plan.

Projects considered will include spot improvements, roadway segments, and entire neighborhoods.

Step 2 of the APT process involves the selection of factors. City staff is reviewing definitions and availability of data for the following factors:

- Connectivity - Higher scores may be considered for projects along routes with higher demand and projects with more connections to existing and/or proposed infrastructure.
- Equity - Higher scores may be considered for projects in areas with higher population density and projects in areas with higher levels of poverty.
- Existing Roadway Conditions - Higher scores may be considered for projects along routes with higher volumes of traffic, and higher posted speeds.
- Implementation Effort - Higher scores may be considered for projects that are less expensive (scaled by quartile to reduce impact of outliers), are eligible for grant funding, and can be incorporated into a scheduled roadway reconstruction or resurfacing project.
- Public Support - Higher scores may be considered for projects that receive greatest public supplement represented by a recommendation by a committee, or via quantitative documents of requests/comments from the public.
- Safety - Higher scores may be considered for projects that address an area with a history of bicycle or pedestrian crashes. For bike facility projects, higher scores may be considered for projects along routes with higher levels of traffic stress as identified on the City's Bike Map (<http://www.han-isonbmgva.gov/bike-map>).

Ms. Dang said Planning Commissioners are invited to provide suggestions on these factors. Are these factors appropriate? Should these factors be defined differently? Should other factors be considered? What order should factors be ranked from highest weight to lowest weight? Weights are numbers used to indicate the relative importance of different factors.

Ms. Dang said if you would like more information or a guidebook on the Active Trans Priority Tool regarding tonight's update you may visit www.pedbikeinfo.org/planning/tools_apt.cfm. She then asked if there were any questions for her.

Mr. Colman asked where would need fall into play with this update. I am saying that from a standpoint that we want connectivity and it seems to be related to need. My big focus is on the schools, many children bike to schools. It seems to me this is an immediate situation that we need to look at – connectivity and safety.

Ms. Dang said that need could play into public support as well; there is always a needed demand for something not existing currently. There are so many variables that we can plug into this for data.

Mr. Heatwole spoke of a concern regarding bicyclist safety and offered to help in any way he could with the Bike & Pedestrian Committee and the focus groups.

Ms. Dang said Adam and I had discussed that perhaps Planning Commission would like to appoint someone to be a liaison with the sub-committee.

There was a consensus among Planning Commission that Jefferson Heatwole would be the person for the position and Mr. Heatwole accepted.

Ms. Dang finished by sharing the proposed timeline for the update:

- September - Host Stakeholder Focus Group meetings
- September 28 - Subcommittee meeting- discuss and recommend to City Council factors, weights, and variables for prioritization
- November 16 - Subcommittee meeting- discuss compiled comments, maps, and prioritization
- January 25 - Subcommittee meeting - review draft Plan
- January 25 - March 1 - Public Comment Period Open
- Mid-February - Host Public Open House
- March 28 - At subcommittee meeting, review changes and discussions, and make recommendation
- Spring 2016 - Submit and present draft Plan to Planning Commission and Transportation Safety & Advisory Commission
- Summer 2016 - Present to City Council and Public Hearing.

Mr. Way said thank you for your work on this and are you looking for any substantial input right now, or do you want us to get in touch with you via email.

Ms. Dang replied you can talk with me this evening or send an email at your convenience.

Mr. Colman said it is good to see we are going in this direction and we appreciate what you are doing.

Chair Fitzgerald thanked Ms. Dang and asked what was October Planning Commission looking like.

Mr. Fletcher said we have a repeat special use permit request for Windsor Road, which you all may remember from last June. It is a Major Family Day Home and they desire to increase to 12 children – City Council had placed a condition of only 10. There is also an ordinance amendment that we are working on to create flexibility for business and professional offices to meet minimum off-street parking required in the downtown area. The third item is a request to ensure that a school is providing enough off-street parking for the use. This is for the Minnick School – they are moving their school to a new site.

Adjournment

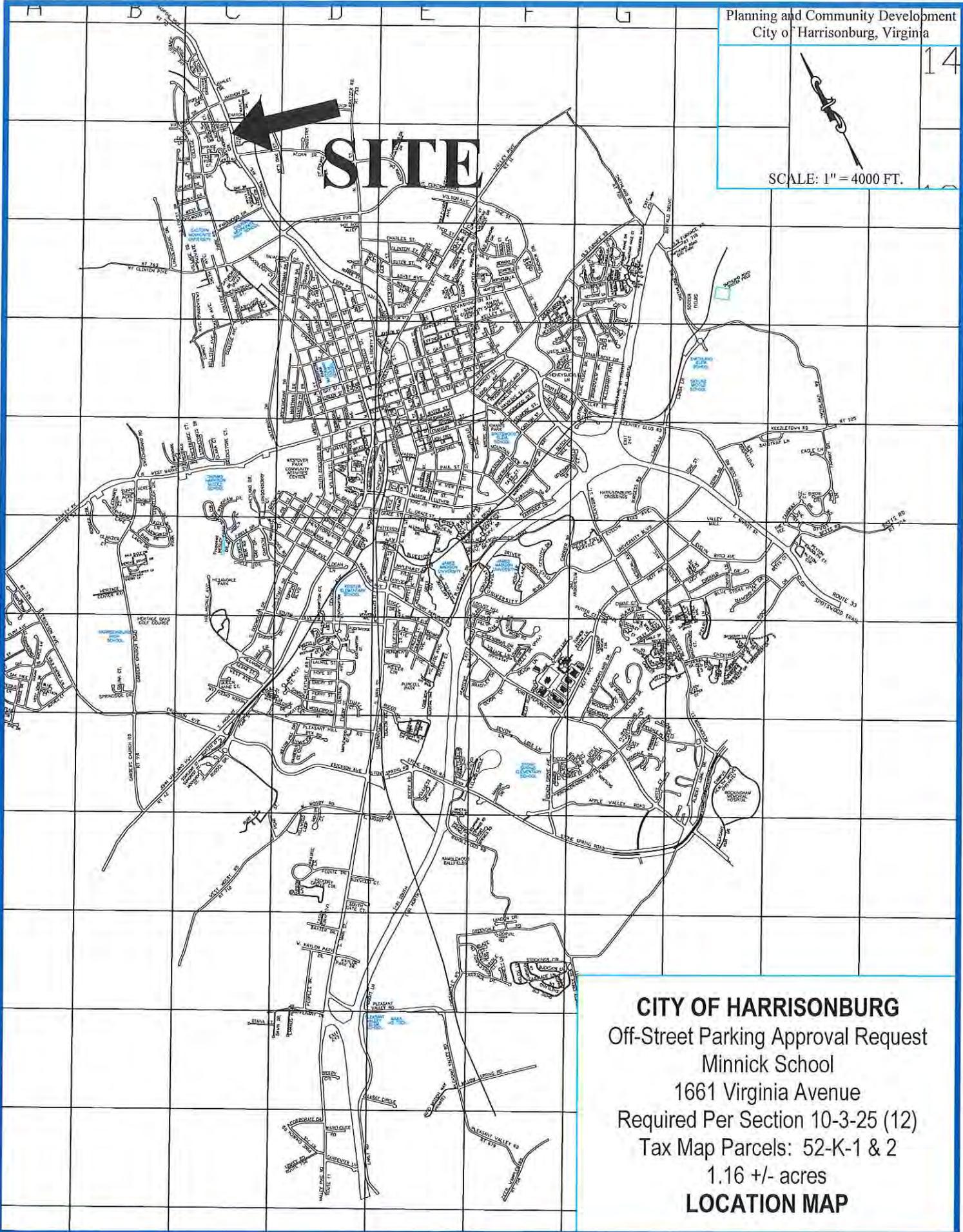
Planning Commission adjourned at 8:05 p.m.

DRAFT

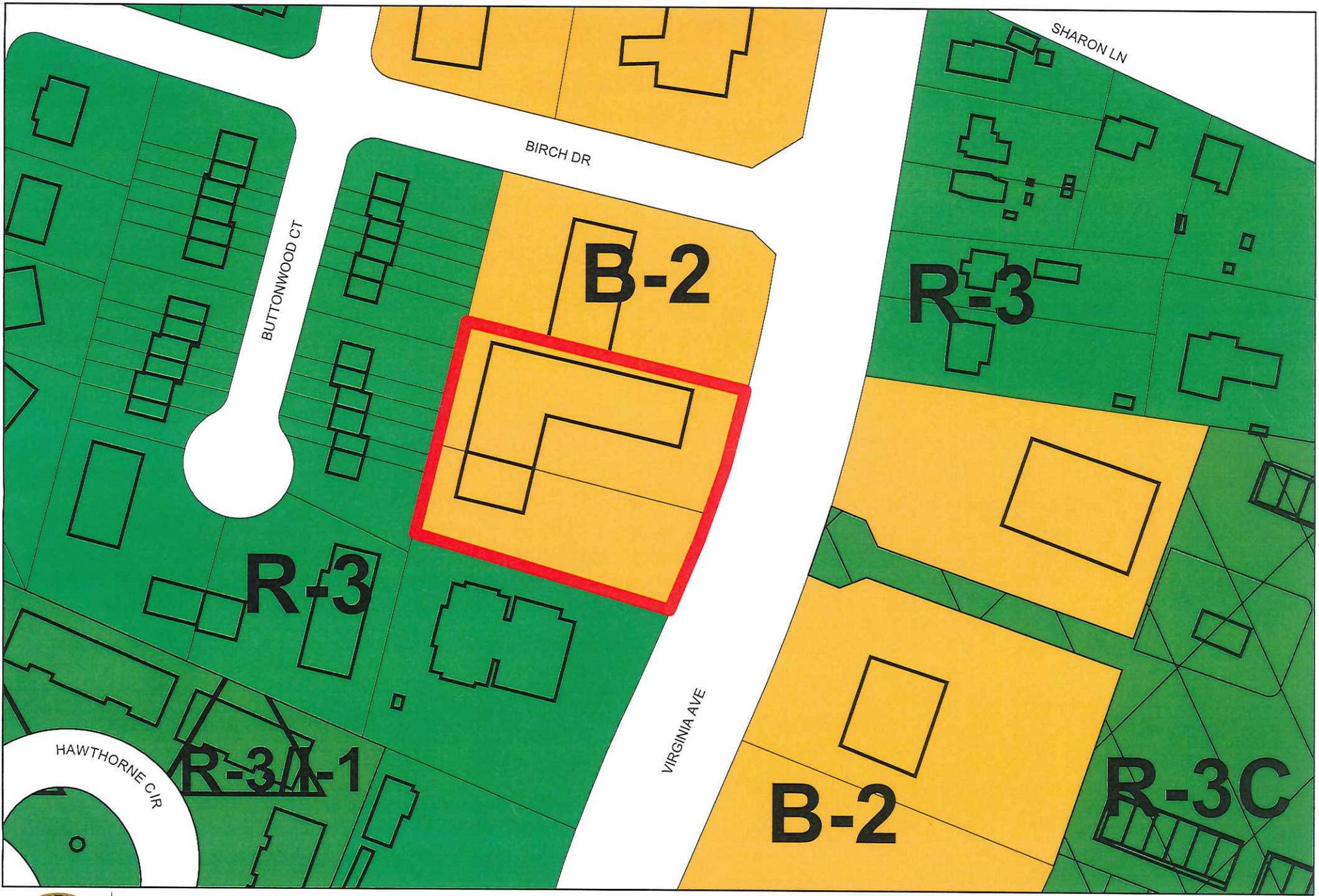


SCALE: 1" = 4000 FT.

SITE



CITY OF HARRISONBURG
Off-Street Parking Approval Request
Minnick School
1661 Virginia Avenue
Required Per Section 10-3-25 (12)
Tax Map Parcels: 52-K-1 & 2
1.16 +/- acres
LOCATION MAP



Off-Street Parking Approval Request Minnick School 1661 Virginia Avenue



City of Harrisonburg, Virginia

DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

STAFF REPORT October 14, 2015

MINNICK SCHOOL PARKING PLAN – 1661 VIRGINIA AVENUE

GENERAL INFORMATION

- Applicant:** Lutheran Family Services of Virginia
- Tax Map:** 52-K-1 and 2
- Acreage:** 1.16 +/- acres
- Location:** 1661 Virginia Avenue
- Request:** Consider a request to approve an off-street parking plan per requirements of Section 10-3-25(12)

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:** Vacant building, zoned B-2
- North:** Professional Offices, zoned B-2
- East:** Across Virginia Avenue, retail and commercial businesses, zoned B-2 and entrance to Park Rose Village, zoned R-3C
- South:** Independent/Assisted Living facility, zoned R-3
- West:** Townhouses, zoned R-3

EVAULATION

Minnick School is seeking to relocate from their current location at 775 Massanutten Street to a 14,750 square foot facility at 1661 Virginia Avenue. In doing so, they must receive approval of their parking plan as required by Section 10-3-25(12) of the Zoning Ordinance (ZO) for the new facility. This section specifies that off-street parking for schools is programmed by the applicable school authorities as necessary to meet state standards for the proposed use and then shall be reviewed and approved by Planning Commission. Essentially, each school determines the amount of parking they feel is adequate for their site and their uses; for the parking to be in compliance with the ZO, Planning Commission must approve the off-street parking plan.

In May 2007, Minnick School requested a special use permit (SUP) per Section 10-3-97(9) of the ZO to operate their facility within the M-1, General Industrial District at 775 Massanutten Street. Along with the SUP request the school provided an off-street parking plan for Planning

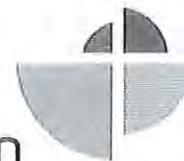
Commission approval. The 2007 parking layout projected 60 students and 40 employees within the 10,824 square foot facility, and provided 57 off-street parking spaces; staff had no concerns with their parking plan and recommended in favor of the request. In the end, the Department of Education (DOE) licensed the school for 50 students and 28 employees. Since opening at the current location the school has routinely had up to 20 available parking spaces during the school day, which has complicated the management of the school at this location due to the fact individuals from the surrounding businesses have consistently used the available spaces for their parking. Ultimately, the location along Massanutten Street has not worked out for Minnick School and they are hoping to relocate to the new site at 1661 Virginia Avenue.

Minnick School is intending to ask the DOE to license the new facility for up to nine classrooms with a projected 72 students and 32 staff (27 teachers/assistants and five administrative support staff). The applicants believe that 57 parking spaces are sufficient for parking and have provided a site plan showing the proposed parking layout. Students would arrive to and be picked up from the school either by regular or small buses, vans, or cars; only staff vehicles would be parked throughout the day. At the new location, with the estimated 72 students, the mix and number of vehicles would be projected at three regular buses, two small buses, and ten vans/cars.

Staff has discussed with the applicants that all queuing of vehicles from the parking lot must not extend in to the public right-of-way including the sidewalk. As well, vehicles turning into the site from Virginia Avenue need to be able to enter without stopping and waiting on vehicles already positioned on-site.

The applicants state that with 57 parking spaces, the vans and cars could park in spaces to load and unload students, while the buses would wait in line for pick-up. This scenario would not block traffic on Virginia Avenue, restrict right-of-way, or have vehicles waiting in the street. Lastly, the applicants plan to widen the entrance on the site to allow adequate space for vehicles to enter and exit at the same time.

Staff believes the requested 57 parking spaces are sufficient for the needs of the school. The provided parking layout, along with the proposed widening of the entrance, meets the requirements of the Design and Construction Standards for parking lots. Staff recommends approval of the parking plan.



Lutheran Family Services of Virginia

October 1, 2015

Mr. Adam Fletcher
Acting Director of Planning and Community Development
Department of Planning and Community Development
409 South Main Street
Harrisonburg, VA 22801

Dear Mr. Fletcher:

I would like to provide the following information in response to your questions about our proposed school at 1661 Virginia Avenue in Harrisonburg. We are extremely excited about the possibility of relocating to this location which has square footage of 14,750.

In 2007 when our agency applied for the special use permit and parking approval at 775 Massanutten Street, the application projected 60 students and 40 employees as the maximum census. The special use application was filed before the program went through the Department of Education (DOE) licensing process. In actuality the maximum number licensed by DOE is 50 students and 28 employees. Since 2007 we have reached the maximum of 50 students only once for a 3 month period in 2014. At that time we had 21 staff members. Furthermore since opening the current school we routinely have had up to 20 available parking spaces during the school day. The excess parking has complicated the management of the school as individuals from surrounding businesses have routinely tried to use available spaces. The extensive work we did in 2014 was in response to the need to create defined parking areas which had to be posted with "no parking" signage.

For the current school year we started with 36 students and 26 employees. The staff ratio is high at the start of the school year based on the need to staff sufficient numbers of teachers/assistant teachers to cover six classrooms. Each classroom is designed for a max of either 8 or 10 students.

At the new school location at 1661 Virginia Avenue we anticipate the maximum number of students at 72. There will be up to nine classrooms and we are projecting the maximum staff at 32. These are the numbers for which we plan to ask DOE to license the new location. Staffing would consist of 27 teachers/assistant teachers and 5 admin support employees. We believe that 57 parking spaces is sufficient for staff parking and the limited number of visitors that come on a daily basis and will allow for safe parking of small school vehicles during the limited time frame when students are picked up at the end of the school day.

In reference to the parking plan and the flow of vehicle in and out of the proposed new site, we would offer the following as explanation for how we successfully manage safety and access concerns. All staff participate in getting students from and into their "means of transportation" safely. Each student is walked by a staff member to the vehicle in which they are departing. In the morning students are also greeted by staff outside the building when they arrive.

Students are delivered and picked up from our Minnick School in one of the following vehicle types: regular buses, small buses, vans and cars with the majority of vehicles being vans or cars. At the new location if the maximum of 72 students were served the mix and number of vehicles would be projected at: 3 regular buses, 2 small buses, and 10 vans or cars. With 57 spaces we will be able to have the vans and/or cars park to load students therefore only the buses will be waiting in a line to pick up students. We will not block traffic on Virginia Avenue, restrict right of ways or have vehicles wait in the street.

Lastly in conversation with Harman Construction and Coleman Engineering we will be presenting a site plan which includes widening the entrance to an adequate space for vehicles to enter and exit at the same time.

David Pruett, our Chief Financial Officer, Lisa Milliken, Assist Director of Minnick Schools and Brenda Showalter, principle, Minnick-Harrisonburg will be attending the October 14th meeting. I have a scheduled trip out of state that prevents me from being in attendance that evening.

If you have further questions please do not hesitate to contact me.

Sincerely,



Julie E. Swanson
President/CEO

XC: Harman Construction
Coleman Engineering, PLC



1024 Pleasant Valley Road
Harrisonburg, VA 22801
Phone: 540-434-4459
Fax: 540-434-4209
www.harmanconstruction.com

September 9th, 2015

Mr. Adam Fletcher
Harrisonburg Planning Commission
409 S. Main St
Harrisonburg, VA 22801

RE: Minnick School Relocating

Dear Mr. Fletcher,

Harman Construction, Inc. is acting on behalf of the Minnick School located at 779 Massanutten St. The Minnick School is planning to relocate to 1661 Virginia Ave. and continue to offer the same educational services they currently are providing.

There are presently (57) parking spaces provided at the 779 Massanutten St. location. The Minnick School plans to provide the same number of parking spots at the new 1661 Virginia Ave. location, since this amount will continue to meet the needs of the school.

Thus, the Minnick School is asking the Planning Commission for approval of the (57) parking spaces to be provided at the new 1661 Virginia Ave. location. Per Harrisonburg's Code of Ordinances Section 10-3-25 #12, "Proposed off-street parking spaces shall be programmed by the applicable school authorities as necessary to meet state standards for use and consideration of site locations". Since these (57) parking spaces have met the state standard at the 779 Massanutten St. location, we believe the same requirements will be applicable to the new 1661 Virginia Ave location.

Thank you for your consideration.

Respectfully,

A handwritten signature in black ink, appearing to read 'R Strite', is written over a light blue horizontal line.

Ryan Strite
Business Development Manager
Harman Construction, Inc.

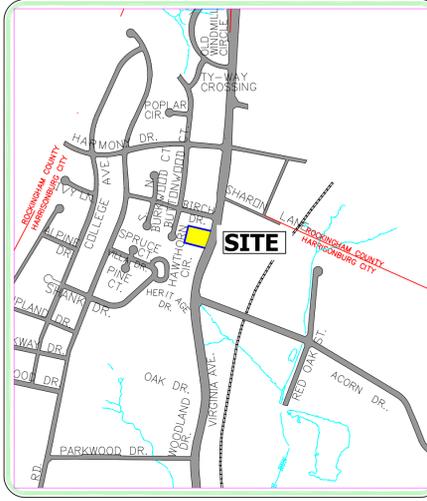
CITY GENERAL NOTES

- Work in this project shall conform to the latest editions of the Virginia Department of Transportation (VDOT) Road and Bridge Specifications, the VDOT Road and Bridge Standards, the Virginia Erosion and Sediment Control Handbook, the Virginia Erosion and Sediment Control Regulations, the Virginia Stormwater Management Handbook, the Virginia Stormwater Management Regulations and the City of Harrisonburg Design and Construction Standards Manual. In the event of conflict between any of these standards, specifications or plans, the most stringent shall govern. All utilities to be dedicated to the City of Harrisonburg Municipal Water and/or Sanitary Sewer System shall be constructed and tested to conform to Commonwealth of Virginia/State Board of Health Waterworks and/or Sewerage Regulations and the City of Harrisonburg Design and Construction Standards Manual.
- Erosion and Sediment Control measures shall be maintained continuously relocated when and as necessary and shall be checked after every rainfall. Seeded areas shall be checked regularly and shall be watered, fertilized, reseeded and mulched as necessary to obtain a dense stand of grass.
- All drain inlets shall be protected from siltation. Ineffective protection devices shall be immediately replaced and the inlet cleaned. Flushing is not an acceptable method of cleaning.
- When the crushed stone construction entrance has been covered with soil or has been pushed into the soil by construction traffic, it shall be replaced with a depth of stone equal to that of original application.
- The location of existing utilities as shown is approximate only. The contractor is responsible for locating all public or private utilities that lie in or adjacent to the construction site. The contractor shall be responsible for repairing, at his expense, all existing utilities damaged during construction. Forty-eight (48) hours prior to any excavation call Miss Utility 1 (800) 552-7001.
- All underground facilities located within the City's rights-of-way shall be installed prior to the placement of any part of the pavement structure.
- Installation of concrete storm pipe shall comply with VDOT Standard Drawing PB-1.
- All materials used for fill or back-fill shall be free of wood, roots, rocks, boulders or any other non-compactable soil type material. Unsatisfactory materials also include man-made fills and refuse debris derived from any source.
- Satisfactory material for use as fill for public streets include material classified in ASTM D-2487 as GW, GP, GM, GC, SW, SP, SM, SC, 2-25 M₁, and CL groups. The moisture content shall be controlled within plus or minus 2 percentage points of optimum to facilitate compaction. Generally, unsatisfactory materials include materials classified in ASTM D-2487 as FT, CH, MH, OL, OH, and any soil too wet to facilitate compaction. CH and MH soils may be used subject to approval of the City Engineer. Soils shall have a minimum dry density of 92lb/cubic foot per ASTM D-698 and shall have a plasticity index less than 12.
- Compaction of fill material under building slabs shall be based upon recommendations of soils engineer after completion of standard Proctor test and shall meet bearing requirements of architect for buildings. The contractor shall be responsible for testing.
- Materials used to construct embankments for any purpose, back-fill around drainage structures or in utility trenches or any other depression requiring fill or back-fill shall be compacted to 95% of maximum density as determined by the standard Proctor test as set out in ASTM standard D-698. The contractor shall, prior to any operations involving filling or backfilling, submit the result of the Proctor test to the city's on-site inspector together with a certification that the soil tested is representative of the materials to be used on the project. Tests shall be conducted by a certified materials testing laboratory and the certifications made by a licensed professional engineer representing the laboratory.

- Certifications for materials including, but not limited to stone, concrete, pipes, precast units, handrails, stabilization mats, traffic signal items, must be provided to the city's on-site inspector and approved by the inspector prior to installation. See inspector for Materials Certification Checklist.
- Embankment fill and trench back-fill shall be placed in lifts at a maximum uncompacted depth of 8-inches and 6-inches, respectively. Density tests shall be conducted at the following minimum frequencies:
 - Embankment for roads, streets, dams, etc.: One test per lift per 10,000 square feet of lift.
 - Back-fill around structures and in trenches: One test per lift per 500 lineal feet of trench.
- Compaction tests for street pavement structure shall be made in cut and fill areas at the following minimum frequencies:
 - Sub-Grade: One test per lane per 500 lineal feet.
 - Stone Base: One test per lane per 6" compacted lift per 500 lineal feet.
 - Hot Asphaltic Concrete: One test per lane per lift per 500 lineal feet.
- All excavations, including trenches, shall be kept dry to protect their integrity.
- Test results shall be submitted to the City Engineer. Failure to conduct density tests and submit test results shall be cause for nonacceptance of the facility. Tests shall be conducted at the sole cost of the developer or his agent.
- Combination under-drains type CD-1 shall be installed at the lower end of the cut sections. Under-drains type CD-2 shall be installed at the low point of all vertical curves.
- Standard UD-1 and UD-3 under-drains shall be installed where indicated on plans on further where determined necessary in the field by the City Inspectors.
- City Inspectors have full authority to reject fill or backfill materials, require undercutting or sub grade stabilization, require provisions for sub drainage, or require other measures which affect the integrity of road and utility construction. Failure to comply with Inspectors' directives shall be cause for non-acceptance of the facility.
- Traffic control on public streets shall be in conformance with the Manual of Uniform Traffic Control Devices and as further directed by City Inspectors. City Inspectors must be notified 24-hours in advance of any planned work or activity in city right-of-way that requires flagging, lane closure or street closure. All signage and other control devices shall be in place before such activities can commence.
- Any discrepancies found between the drawings and specifications and site conditions or any inconsistencies or ambiguities in drawings or specifications shall be immediately reported to the engineer, in writing, who shall promptly address such inconsistencies or ambiguities. Work done by the contractor after his discovery of such discrepancies, inconsistencies or ambiguities shall be done at the contractor's risk.
- A preconstruction conference shall be held prior to the start of construction. The contractor shall arrange the meeting with the City Engineer. At this time, the contractor shall provide a schedule and traffic control plan for work within the city right-of-way.
- Install City standard street centerline monuments where required for new streets.
- If Traffic Signal plans have been revised or changed since approval, the developer must provide to the Director of Public Works as-built drawings reflecting changes. Provision of as-built drawings is a condition of bond release.

ADDITIONAL NOTES

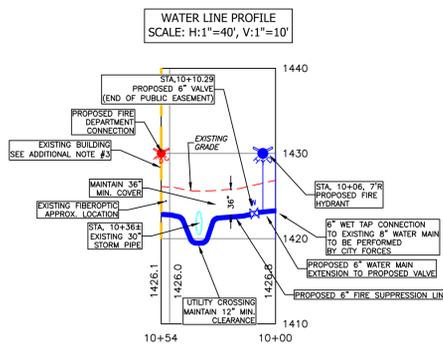
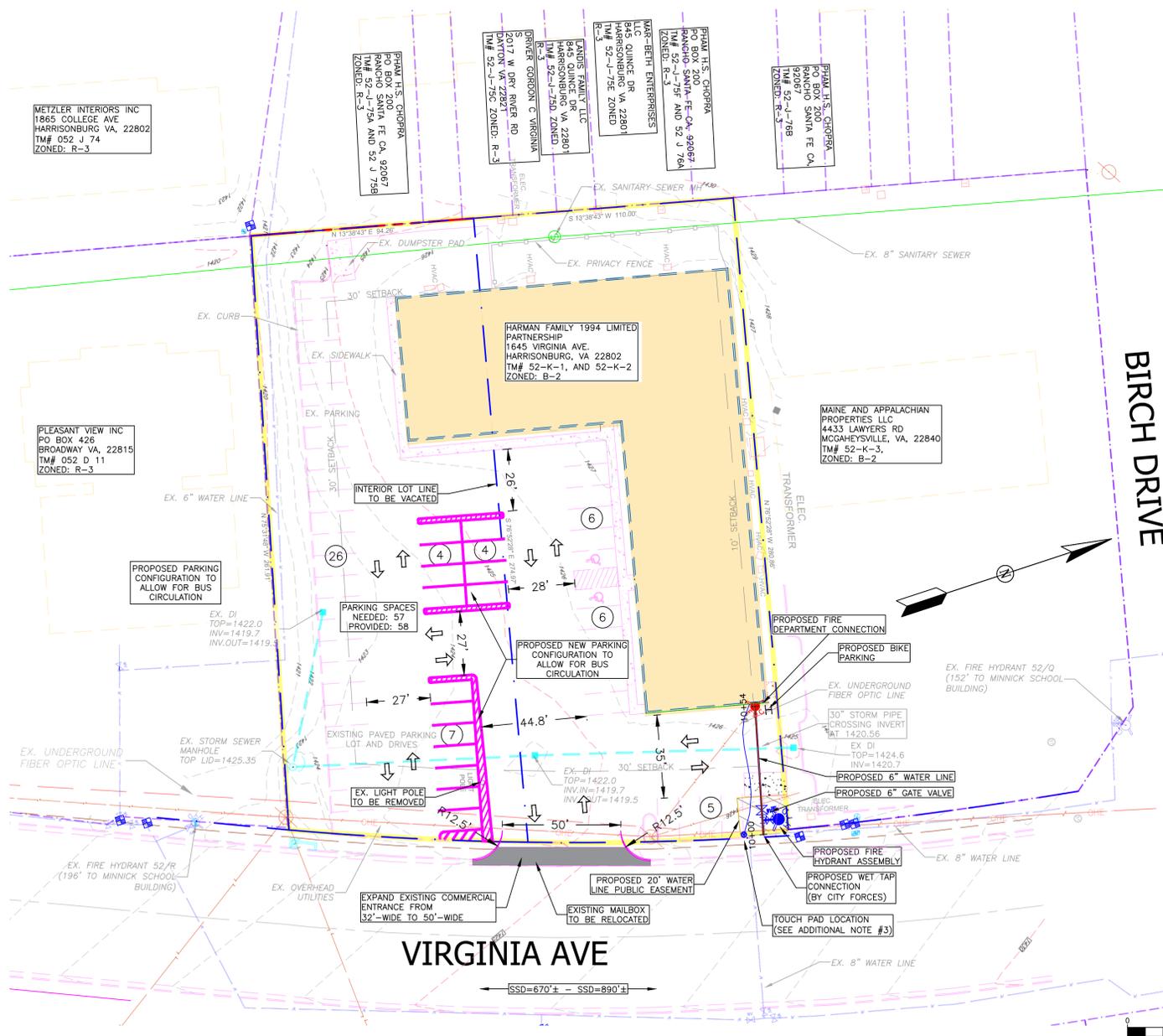
- Site statistics: Zoned B2, Total Area = 50,677 SF. The site is currently fully paved and will remain the same. Parking lot configuration will be adjusted to accommodate new traffic patterns within the site.
- Water Main: All water lines shall be 6" ductile iron slip joint class 52, unless otherwise stated on the plans. The minimum depth to the top of the pipe shall be 36" and a 10' minimum separation between sewer lines.
- Fire Suppression System: The 6" DI fire line with detector check valve and backflow prevention to be built in accordance with City DCSM specifications. Place the detector check/backflow preventer inside proposed building mechanical room. Run a 3/4" conduit from the bypass meter inside the building outside to a meter box to accommodate pit lid touch read pad.
- The City of Harrisonburg has an established protocol for testing and disinfection of mains which shall be the responsibility of the Contractor to ascertain "on-site" approval by the Office of Community Development Inspection personnel. The protocol includes: a.) Hydrostatic testing of all water mains; b.) Disinfection and Bacteriological sampling of all water mains; c.) Final Inspections Operations test for all water main valves and hydrants; d.) Low Pressure Air Test of sanitary sewer pipe; e.) PVC sewer requires pulling of a 5% mandrel; f.) Exfiltration or Air Vacuum testing of manholes. The Contractor is responsible for coordinating a testing schedule with the City Inspectors.
- Sign: Sign location and size are not yet determined. Sign contractor and/or owner to coordinate with the City Zoning Administrator for sign size, type, location, permits, and fees. Sign will be built per City Sign Ordinance. All signs will require a separate permit.
- Handicap spaces to have vertical signs with the international handicap symbol. At least one space must be van accessible with "Van Accessible" sign below the international sign. Minimum height to sign bottom is 4' - 0", maximum is 7' - 0".
- Contractor shall provide 6"x6" tapping sleeve and 6" tapping valve in an OSHA safe trench. City forces will pressure test sleeve in place and tap the existing water main upon payment of City Code applicable fees.
- Soils testing and any issues relating to soils is the responsibility of the general contractor. This includes payment for all soils consultant / independent engineering costs and fees, as well as other site related testing fees or costs.
- Traffic Control: traffic control in public streets will be performed in accordance with the MUTCD and as further directed by City public works inspector.



VICINITY MAP
1" = 1000'

LEGEND

- OVERHEAD UTILITIES
- UTILITY POLE
- WATER LINES
- EXISTING WATER LINES
- STORM SYSTEM
- SANITARY SEWER CLEANOUT
- EXISTING SANITARY SEWER
- GAS LINES
- EXISTING PROPERTY LINE
- EASEMENT LINE
- PROPOSED ROAD/EOP
- EXISTING ROAD
- CURBING: CG-2 OR CG-6
- FIRE HYDRANT
- WATER METER
- WATER VALVE
- EXISTING CONTOURS
- EXISTING EDGE OF GRAVEL
- EXISTING EDGE OF PAVEMENT
- LANDSCAPING AREAS ALONG RIGHT-OF-WAY
- LANDSCAPING AREAS AROUND PARKING AREA
- PROPOSED GRASS STRIP
- PROPOSED GRAVEL AREAS
- PROPOSED PAVEMENT AREAS
- PROPOSED HEAVY PAVEMENT AREAS
- PROPOSED CONCRETE AREAS
- PROPOSED SIDEWALK
- HANDICAP ACCESSIBLE PARKING SPACE
- COMPACT PARKING SPACE
- NUMBER OF PARKING SPACES
- EXISTING TREE
- PROPOSED LARGE DECIDUOUS TREE
- PROPOSED SMALL DECIDUOUS TREE
- PROPOSED DECIDUOUS OR EVERGREEN SHRUB
- PROPOSED EVERGREEN TREE



PARKING TABLE						
USE	ZONE	RATE	SPACES REQUIRED	SPACES PROVIDED	HANDICAP PROVIDED	BIKE PARKING PROVIDED
SCHOOL	B-2	*	57	58	2	4

SITE DESIGN:
COLMAN ENGINEERING
ATTN: GIL COLMAN, PE
P.O. Box 1764
Harrisonburg, VA 22801
540-818-5265

OWNER/DEVELOPER:
MINNICK SCHOOL
LUTHERAN FAMILY SERVICES
2609 McMITTY RD.
ROANOKE, VA 24018

SURVEYOR:
SITE PLANNING & DESIGN
3170 ARROWHEAD ROAD
HARRISONBURG, VA 22801
540-282-8072

TOPOGRAPHY:
FIELD SURVEY
PROVIDED BY SURVEYOR

PROPERTY INFO:
TM# 52-K-1 & 52-K-2
ZONE: B2
LOT SIZE: 21,556sf
FEMA FLOOD ZONE X
TM# 52-K-2
ZONE: B2
LOT SIZE: 29,121sf
FEMA FLOOD ZONE X
TOTAL SITE AREA: 50,677sf

BUILDING INFO:
AREA: 14,750 SF
EXISTING ONE STORY
USE: SCHOOL
BUSINESS USE B
ISO CLASS 4
IBC TYPE IIA
NEEDED FIRE FLOW:
875 GPM

**BEFORE YOU DIG CALL
MISS UTILITY
1-800-552-7001**

Date: 10/9/15
Scale: AS NOTED
Designed by: GLC
Drawn by: GLC

COLMAN ENGINEERING, PLLC
P.O. BOX 1764 | Harrisonburg, VA 22801 | Ph: (540) 246 3712
E-mail: contact@colmaneng.com | www.colmaneng.com



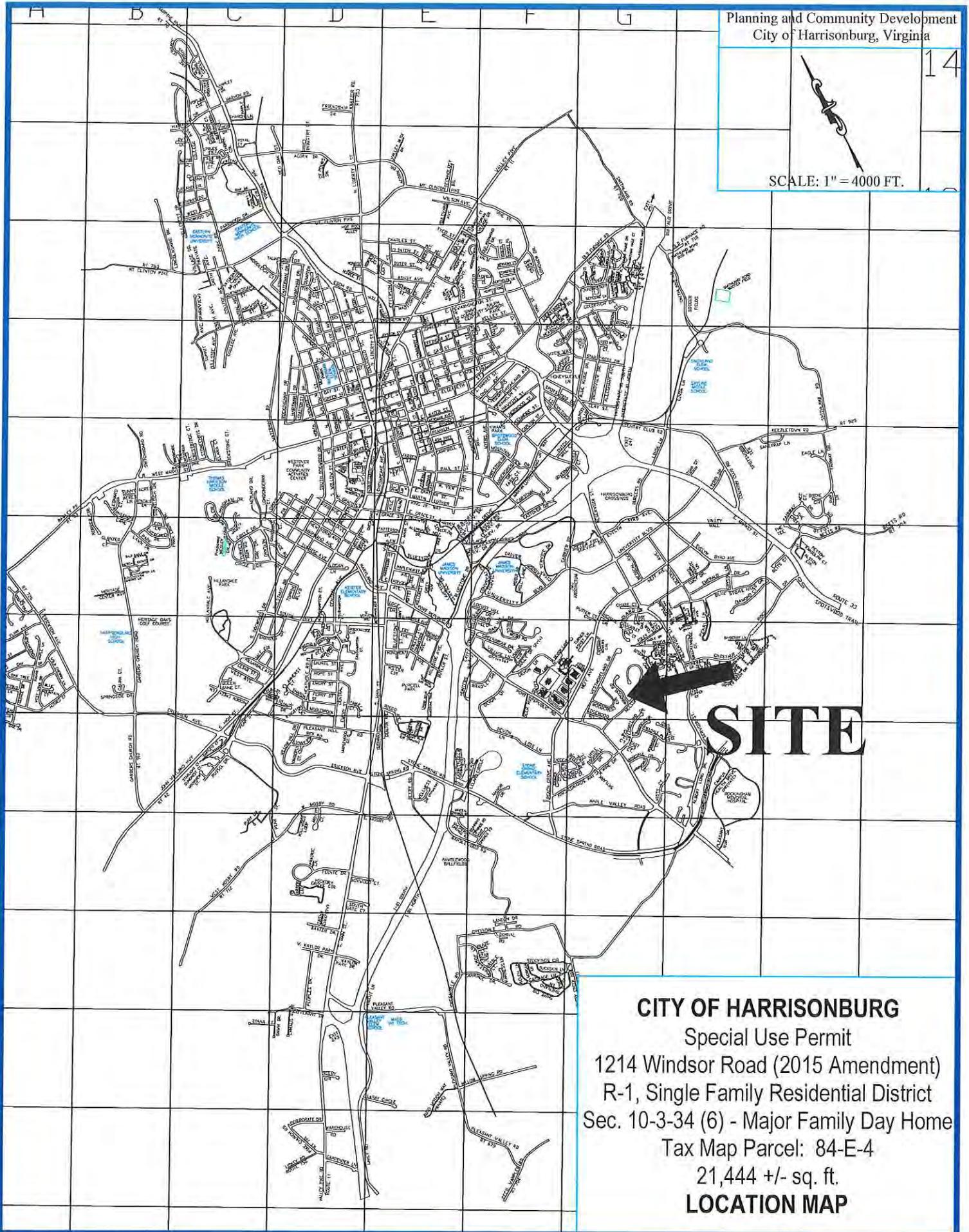
MINNICK SCHOOL WATER MAIN EXTENSION
MINNICK SCHOOL
LUTHERAN FAMILY SERVICES
2609 McMITTY RD
ROANOKE, VA 24018

Project No.
CE201533
Drawing No.
1
of 1 Sheets

CE201533.DWG



SCALE: 1" = 4000 FT.



CITY OF HARRISONBURG

Special Use Permit

1214 Windsor Road (2015 Amendment)

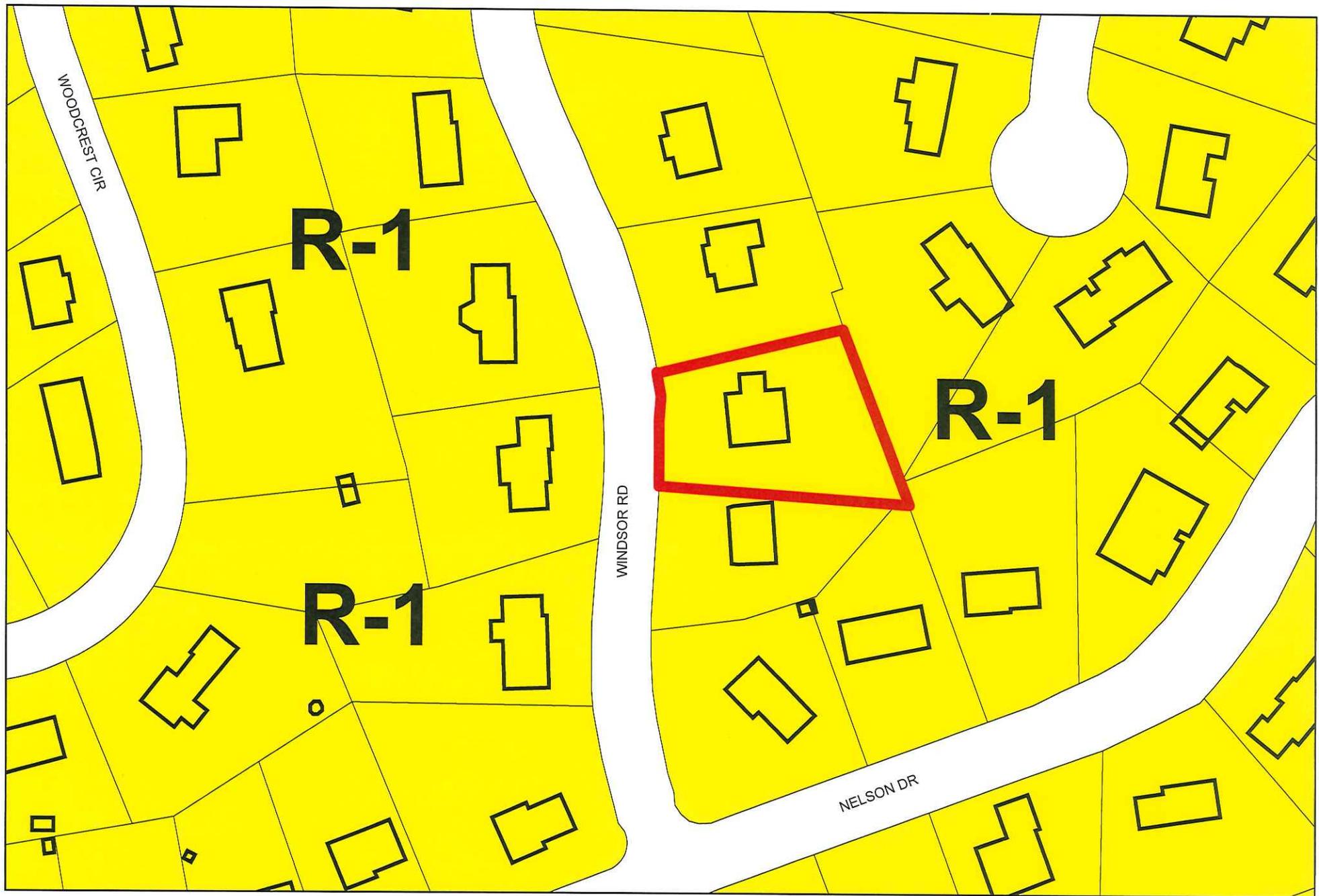
R-1, Single Family Residential District

Sec. 10-3-34 (6) - Major Family Day Home

Tax Map Parcel: 84-E-4

21,444 +/- sq. ft.

LOCATION MAP



**SUP - 1214 Windsor Road (2015 Amendment)
Major Family Day Home 10-3-34 (6)**



City of Harrisonburg, Virginia

DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

STAFF REPORT

October 14, 2015

SPECIAL USE PERMIT-1214 WINDSOR ROAD (MFDH 10-3-34(6)) 2015 AMENDMENT

GENERAL INFORMATION

Applicant: Erica and Brock Dorsey

Tax Map: 84-E-4

Acreage: 21,444 square feet

Location: 1214 Windsor Road

Request: Public hearing to consider a request for a special use permit per Section 10-3-34 (6) of the Zoning Ordinance to allow a major family day home within the R-1, Single Family Residential District.

LAND USE, ZONING, AND SITE CHARACTERISTICS

The Comprehensive Plan designates this area as Low Density Residential. This designation states that these areas consist of single-family detached dwellings with a maximum density of 1 to 4 units per acre. Low-density sections are found mainly in well-established neighborhoods and are designed to maintain the existing character of neighborhoods and to provide traditional areas for home ownership.

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

Site: Single-family dwelling and major family day home operation, zoned R-1

North: Single-family dwelling, zoned R-1

East: Single-family dwellings fronting along Nelson Drive, zoned R-1

South: Single-family dwelling, zoned R-1

West: Across Windsor Road, Single-family dwellings, zoned R-1

EVAULATION

The applicant is requesting to amend an existing special use permit (SUP) allowing a Major Family Day Home (MFDH) in the R-1, Single Family Residential District per Section 10-3-34 (6) of the Zoning Ordinance (ZO). A major family day home is described as providing care for five to 12 children under the age of 13, exclusive of any children who reside in the home. Major family day homes are limited as to the number children that receive care in the residence at any one time; however, they are not limited to the number of children they may have enrolled.

Tots 'N Toyland, a MFDH, received approval of a SUP in July 2014 to operate from the 21,444 +/- square foot parcel located at 1214 Windsor Road. The property is located on a narrow cul-de-sac road, which allows parking along the street right-of-way; however, the street is not improved with curb, gutter, or sidewalk. During the 2014 SUP process, staff expressed concerns regarding parking along the shoulder of the road, possibly impeding traffic; but ultimately recommended in favor of the SUP

with a suggested condition that if parking became a nuisance, the SUP could be recalled for further review, which could lead to the need for additional conditions, restrictions, or the revocation of the permit. Planning Commission recommended approval (7-0) of the request with the suggested condition. At the City Council public hearing, there were neighborhood concerns regarding traffic increases and safety with the proposed MFDH use. The request was tabled awaiting further information from the Harrisonburg Fire Department and Rescue Squad, before eventually being approved (3-2) with an additional condition that the number of children served is limited to ten.

The applicant currently has a total of eleven children enrolled, either full-time or part-time and one employee who has been with Tots 'N Toyland since opening. The facility encompasses approximately 714 square feet within the home and has a large fenced, outdoor play area that is located about 150-feet from the roadway. Since being licensed by the Department of Social Services (DSS) last year there have been a total of three unannounced inspections by DSS with no violations.

The hours of operation for the MFDH are 7:30 a.m. until 5:30 p.m., Monday through Friday. Parents are instructed to park at the top of the driveway when dropping off or picking up children throughout the day. There is ample room for three vehicles to maneuver on site without blocking vehicles in. The employee parking is also at the top of the driveway beside the house or in the garage.

The applicant is requesting to increase the number of children from ten to the maximum 12. This increase is to accommodate the forthcoming birth of the sole employee's child and the forthcoming birth of a child, who will be the sibling of a currently enrolled child.

Staff has received no concerns regarding the use, parking, or traffic since the 2014 SUP approval. Staff recommends in favor of the request to amend the SUP with the following condition:

1. If in the opinion of Planning Commission or City Council, parking becomes a nuisance, the special use permit can be recalled for further review, which could lead to the need for additional conditions, restrictions, or the revocation of the permit.

Date Application Received: 08-27-15

Total Paid: \$405.00 AF

Application for Special Use Permit City of Harrisonburg, Virginia

Fee: \$375.00 plus \$30.00 per acre NOTE: If applying for a Wireless Telecommunications Facility allowed only by SUP, then also submit a wireless telecommunications facility application.

Property Owner's Name: Erica & Brock Dorsey
Street Address: 1214 Windsor Road Email: ericadorsey46@yahoo.com
City: Harrisonburg State: Virginia Zip: 22801
Telephone: Work 540 421 4754 Fax - Mobile 540 282 7453

Owner's Representative: N/A
Street Address: _____ Email: _____
City: _____ State: _____ Zip: _____
Telephone: Work _____ Fax _____ Mobile _____

Description of Property and Request

Location (Street Address): 1214 Windsor Road
Tax Map Number Sheet: 84 Block: E Lot: 4 Lot Area: 105 x 170
Existing Zoning Classification: R1
Special Use being requested: SUP allowing a Licensed Major Family Day Home for 12 children

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

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

North: James + Constance Dorsey 1212 Windsor Road Harrisonburg, VA
South: Roger Jones 1216 Windsor Road Harrisonburg, VA
East: Gerald + Linda Hopkins 1142 Nelson Drive, Harrisonburg, VA
West: Daniel + Rebecca Fulcher - 1215 Windsor Road Harrisonburg, VA
west: Barbara + Ed McKee - 1213 Windsor Road Harrisonburg, VA 22801

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

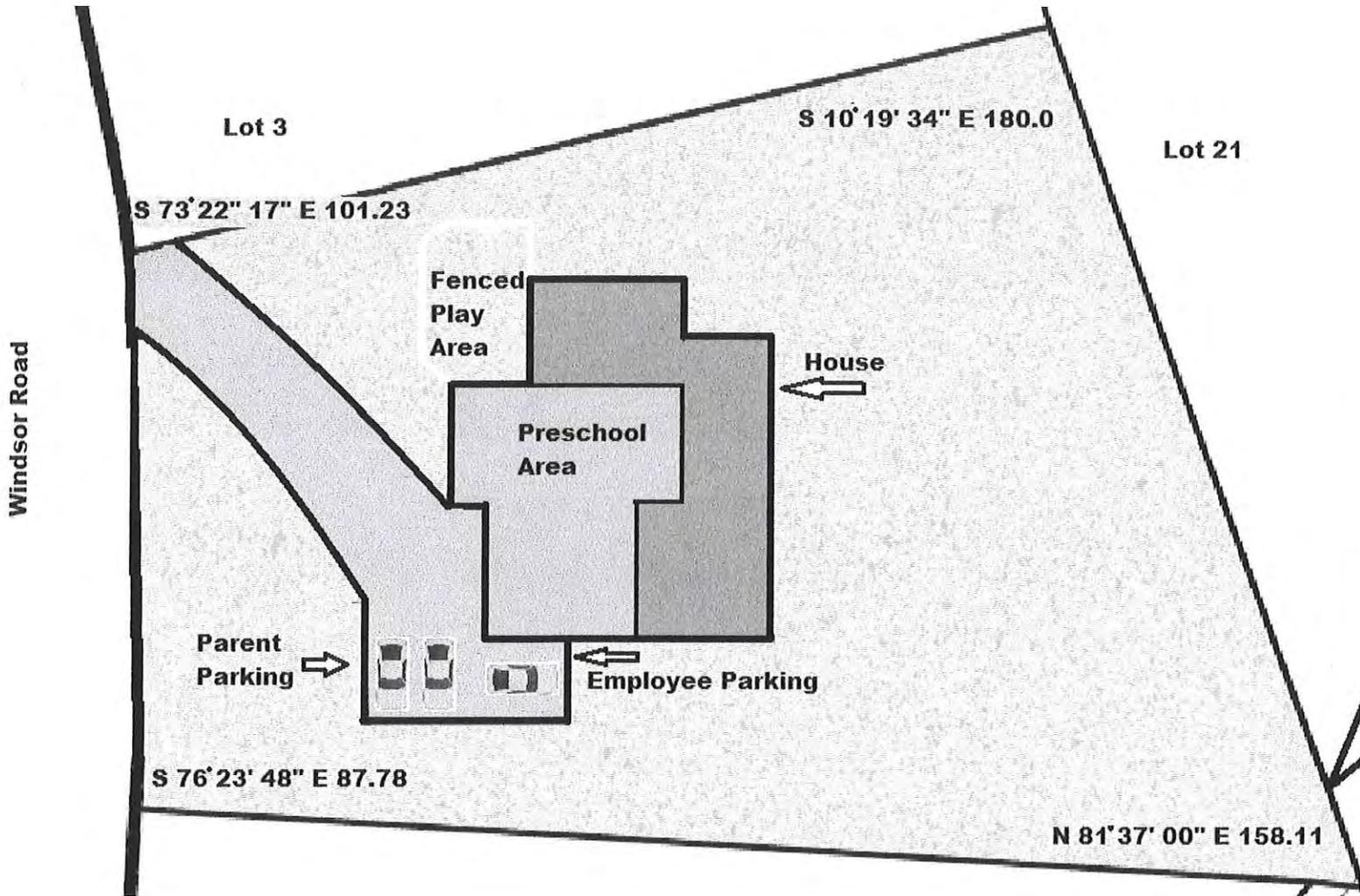
Signature: [Signature]
Property Owner

ITEMS REQUIRED FOR SUBMISSION

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

Erica Dorsey - 1214 Windsor Rd. Harrisonburg, VA 22801

084 E 4



This application for a special use permit is requested to replace a current special use permit that was obtained in the summer of 2014. The current permit allows a total of ten children to be present at any one time to attend a DSS licensed Family Day Home. We are seeking an increase to twelve children which is the maximum allowable number of children permitted for this type of license.

The family day home is operating as Tots 'N Toyland and has been in business for one year and three months. There is a large classroom on the main floor of the home (19x24'9), an adjoining full bath (7x7'6") and adjoined bedroom (12'6x13'6) that make up seven-hundred-fourteen square feet. That space is used for the preschool and is filled with educational toys, books and equipment to teach and care for children ages birth to five. There is an additional twelve-hundred square feet of newly remodeled outdoor play space.

There are two caregivers of which one is the homeowner Erica Dorsey. Erica is a nationally registered EMT and has over three-thousand hours of direct clinical experience involving early childhood development and delays, behavioral analysis, ABA therapy, speech therapy, occupational therapy, and appropriate methods training and implementation for intervention for special needs children. Erica has five years experience working with Autism Spectrum Disorder, three years experience working with Epilepsy and sixteen years of experience caring for children in general.

The family day home currently has eleven children enrolled and has one employee who has been with the business since the opening and initial licensure. It is decorated in vibrant colors and soft diffused lighting. There are colorful paintings of trees, birds, and clouds across the walls of the classroom and nap room. There is a large 3D kite positioned high in sky with flying butterflies. There are alphabet letters and numbers filling the walls and shapes and color charts too. There is a large oval table that seats twelve children, an indoor slide, a train table, a ball-a-palooza, a soft-climb cushion block and a small tots area with a tool table, tunnel, activity desk and an accessible bin wall with age appropriate toys. There is a large book center and reading space as well.

The sleeping room is equipped with six full size toddler mattresses, four sleep mats and two cribs. The room is designed to allow for sleep including room darkening curtains and calming colors and decor. Additionally the changing tables and children's cubbies are located in this room and can accommodate twelve cubbies. The bathroom has a potty seat for older children and an independent children's potty for beginners, a full shower, and single sink.

The outdoor play area has five swings, a sand table, a water table, a bicycle riding path and many bikes, trucks and assorted toys. It is shaded from the sun and fully fenced in with a four foot wooden picket fence and is located about one hundred-fifty feet from the quiet residential roadway. It has been recently expanded and leveled and is covered in commercial grade artificial grass.

The daily curriculum consists of activities that focus on gross motor skills, fine motor

skills, socialization, expressive language, pragmatic language, participation, transitioning, tolerance, sharing, memorization, preparation for kindergarten, exploration, creativity and following the directives of the caregivers. There is outdoor time and rest time and a USDA approved nutritional meal plan. The meals served are developed to include strictly organic or all natural food that is without harmful artificial properties, chemicals, additives, preservatives, or modified ingredients. Three meals a day are served including breakfast, lunch and afternoon snack.

Safety is paramount and no detail has been left unattended. There have been a total of three unannounced inspections by the Department of Social Services since the initial licensing visit and four unannounced inspections by the USDA. There have been no violations, no injuries and no complaints since opening. An evacuation plan is posted, fire extinguisher is present, smoke alarms are in working order and a first aid kit is fully stocked. Hand washing is regularly scheduled, food is properly handled and routinely inspected by the USDA, immunization records are required, daily sanitization takes place with non-toxic environmentally friendly products and all one-hundred and twenty pages of required standards are met every day without exception.

Tots 'N Toyland has a rate policy as follows:

Full time (4-5 days per week) \$140 weekly which includes three meals per day

Part time is \$28 daily which includes three meals per day

The hours of operation are 7:30am until 5:30pm, Monday through Friday. The preschool recognizes the following holidays: New years day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Day After Thanksgiving, Christmas Eve, Christmas Day, and Day After Christmas.

Employee parking is at the top of the driveway beside the house and in the garage. Parent parking is also at the top of the driveway where there is room for three cars at a time without blocking one another in.

We are requesting the increase from ten children to twelve children to accommodate the upcoming birth of the sole employee's child and the upcoming birth of a currently enrolled child's sibling. Please visit our website at www.tots-n-toyland.com to view a more detailed description of our family day home. Thank you.

ORDINANCE AMENDMENT

**To Amend Section 10-3-26 to allow
Business and Professional Offices to
Locate Required Parking “Off-site” from
the Use Served in Specified Downtown
Locations**



City of Harrisonburg, Virginia

DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

STAFF REPORT

October 14, 2015

ZONING ORDINANCE AMENDMENT

Section 10-3-26

Staff is proposing to amend the Zoning Ordinance's Article G Off-Street Parking regulations Section 10-3-26 titled Location in Relation to Building or Use Served. The proposed amendment would modify subsection (a) (1) by adding the ability for business and professional office uses located within a specified downtown boundary to meet minimum off-street parking requirements by locating parking spaces on properties that are not on the same or adjoining parcels from the use served.

Currently, Section 10-3-26 has two subsections: (a) and (b). Subsection (a) regulates where minimum parking spaces shall be located and requires them on the same lot with the building or use served or on adjoining lots, where the use of parking must be allowed by the adjoining property's zoning district. When parking is located on an adjacent property, a shared parking agreement must be established among all of the participating property owners, where the agreement must be effective for at least 10 years following the date of City approval. Subsection (a) further grants Planning Commission the ability to allow, by request, assembly uses (i.e. religious places of worship, theaters, etc.) to borrow parking from other public or private parking facilities, which are properly zoned and in reasonable proximity to the assembly use. Subsection (b) was added to the Zoning Ordinance in March 2012 creating flexibility in allowing uses located on contiguous but separate lots to reduce the number of required parking spaces based upon the ordinance's shared parking calculations table for particular uses. Unless a reduction in required parking is approved by the Zoning Administrator as allowed by subsection (b), the minimum sum of required parking spaces for all uses must be provided on the parking lot (or lots) used.

Before getting into the details of the proposed amendment, it should be understood that this is not the first instance of allowing particular uses to locate required parking spaces as otherwise regulated by Section 10-3-26 (a).

In April 2012, staff proposed an amendment to afford industrial operations for the manufacturing, processing, storage, or treatment of products—allowed in the M-1 district—to locate required parking on M-1 or B-2 properties within “reasonable proximity” of the use served. Staff had recognized that such uses often operated in a “campus-like” setting, where it created opportunities for industrial operations to create more jobs without the concern of needing additional space on-site for required parking. That amendment also opened the door for smaller, industrially zoned properties that may have been overlooked for such uses the opportunity to be utilized for these types of industries. The amendment was recommended for approval unanimously by Planning Commission (7-0) and approved by City Council (4-0).

Then in December 2012, along with requesting to rezone 305 North High Street from R-2 to R-3C to allow that property to be used as a charitable and benevolent institutional use, Mercy House, Inc. proposed an amendment to Section 10-3-26 (a) to allow charitable and benevolent institutional uses the ability to locate parking on parcels that are not on the same or adjoining parcel as the organization served. Unlike the industrial parking off-site accommodation as described in the previous paragraph, this amendment was very narrowly tailored to their exact situation, where along with ensuring the parcel used for parking was permitted by zoning, the parking lot had to be “located directly across local public and private streets and/or alleys (as depicted on the Comprehensive Plan’s Street Network Map) from one another.” Staff recommended denial of this amendment believing it was too narrowly tailored to their exact situation. Planning Commission recommended approval of the request (5-1) and City Council approved the amendment unanimously (5-0).

With regard to the currently proposed amendment, staff is recommending allowing business and professional office uses flexibility to meet off-street parking requirements, similar to the previous two amendments, but only when the specified uses are located within the described downtown boundary. The proposed modification includes adding an additional subsection to Section 10-3-26 (a) (1) as follows:

- c. Business and professional office uses located on any parcel within the area bounded by Gay Street to the north, Mason Street to the east, Martin Luther King Jr. Way to the south, and High Street to the west may also locate required parking on parcels that are not on the same or adjoining parcels from the uses served. Such parcels shall be zoned where such parking is permitted, may be located across public or private streets and/or alleys, and shall be no more than one quarter (¼) mile from the use served. A common or cooperative location shall be in the ownership of all of the participating property owners or shall have easement and maintenance agreements between the participating property owners for a period of at least ten (10) years following the date of city approval.

(A map illustrating the proposed boundary is included within the packet.)

Note that the building or professional office use must be located within the boundary to take advantage of this accommodation, but that the off-site parking may be located within or outside of the boundary so long as the parcel’s zoning permits parking and the site is no more than one quarter mile from the use served. Like the previous two off-site parking allowances, operators of the noted uses would be required to secure a shared parking agreement with property owners of parking lots, where the agreement must last for at least 10 years.

The prompting of staff’s evaluation and decision to prepare the proposed amendment on our own initiative originally came from a citizen’s desire to convert the residential property at 37 Paul Street to a professional office. At first glance, the Paul Street property appeared to fit the bill for a residential use to professional office conversion. The property is zoned R-3, Medium Density Residential District, which allows professional offices by right; it has more than the minimum 6,000 square feet of lot area to operate a non-residential use in the R-3 district with approximately 7,200 square feet of lot area (about 60 feet wide by 120 feet in depth). The site is improved with a very well maintained, historical residential structure containing almost 2,600 square feet. The Comprehensive Plan’s Land Use Guide designates the property as Professional, thus the desired use would be conforming to the long term plans for the property; and the

property is within the Plan's illustrated Downtown Revitalization Area, which seeks to continue efforts for the downtown to be "an economic engine."

Although there would be significant and potentially costly issues to address with regard to the Building Code to convert the residential structure to a professional office, once those issues are rectified, the professional office still has to provide nine off-street parking spaces. Unfortunately, the site proved to be too small to accommodate all nine spaces and the citizen desiring to operate the professional office was unsuccessful in utilizing the existing flexibility offered by the Zoning Ordinance by securing a shared parking agreement with either of the two adjacent property owners that have existing parking lots. The citizen is, however, likely able to obtain an agreement with the Elks Lodge, which is located across the street from 37 Paul Street; but, the Zoning Ordinance does not allow counting locations across the street toward meeting minimum parking requirements.

After many conversations were had with the citizen desiring to use the property as a professional office, and in knowing the desired use was in line with the Comprehensive Plan, staff began investigating how an amendment might allow a professional office at this location to meet off-street parking regulations. Staff did not, however, want to create a very narrowly tailored amendment to simply satisfy this particular situation as we recognized this same issue could likely occur within the fringe of the downtown area, where the Comprehensive Plan promoted non-residential uses.

Staff believes the proposed amendment will be successful not only for R-3 or UR/R-P properties that allow professional offices, but also for other small, downtown properties that could be zoned B-2 (where in addition to professional offices, business offices are permitted), but are not likely to be rezoned to B-1, where the City would have to absorb the parking demand. Staff proposed the amendment for professional and business offices because the Zoning Ordinance requires the same off-street parking requirement ratio at 1 space per 300 square feet of gross floor area. The proposed boundary was chosen because of its overlap among much of the area that the Comprehensive Plan designates as Mixed Use Development Areas, the overlap of the Plan's Downtown Revitalization Area, and for areas that are on the "fringe" of downtown, where many parcels are designated for Professional or Planned Business use.

Staff believes the modification is good practice and recommends approving the proposed amendment.

ORDINANCE AMENDING AND RE-ENACTING SECTION

10-3-26

OF THE

CODE OF ORDINANCES

CITY OF HARRISONBURG, VIRGINIA

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

That Section 10-3-26 Location in Relation to Building or Use Served is amended by adding subsection c. as shown:

(a) All parking spaces required herein shall be located on the same lot with the building or use served or on adjoining lots located on property zoned where such parking is permitted. A common or cooperative location shall be in the ownership of all of the participating property owners, or shall have easement and maintenance agreements between the participating property owners for a period of at least ten (10) years following the date of city approval and shall provide the minimum sum of required parking spaces for all uses. When assembly uses propose borrowing parking from other public or private parking facilities which are properly zoned and in reasonable proximity, the planning commission, upon site plan review, may modify the number of on-site parking spaces.

(1) Notwithstanding the requirements set forth above:

- a. Industrial operations for the manufacturing, processing, storage, or treatment of products which are not customarily found in retail centers as permitted by the M-1, General Industrial District may also locate required parking on parcels that are not on the same or adjoining parcels from the uses served. Such parcels shall be zoned B-2, General Business District or M-1, General Industrial District, located in reasonable proximity to the property in which the parking serves, and may be located across public streets and/or alleys. A common or cooperative location shall be in the ownership of all of the participating property owners or shall have easement and maintenance agreements between the participating property owners for a period of at least ten (10) years following the date of city approval.
- b. Charitable or benevolent institutional uses may also locate required parking on parcels that are not on the same or adjoining parcels from the uses served. Such parcels shall be zoned where such parking is permitted and shall be located directly across local public and private streets and/or

alleys (as depicted on the Comprehensive Plan's Street Network Map) from one another. A common or cooperative location shall be in the ownership of all of the participating property owners or shall have easement and maintenance agreements between the participating property owners for a period of at least ten (10) years following the date of city approval.

- c. Business and professional office uses located on any parcel within the area bounded by Gay Street to the north, Mason Street to the east, Martin Luther King Jr. Way to the south, and High Street to the west may also locate required parking on parcels that are not on the same or adjoining parcels from the uses served. Such parcels shall be zoned where such parking is permitted, may be located across public or private streets and/or alleys, and shall be no more than one quarter (1/4) mile from the use served. A common or cooperative location shall be in the ownership of all of the participating property owners or shall have easement and maintenance agreements between the participating property owners for a period of at least ten (10) years following the date of city approval.

The remainder of Section 10-3-26 is reaffirmed and reenacted in its entirety, except as hereby modified.

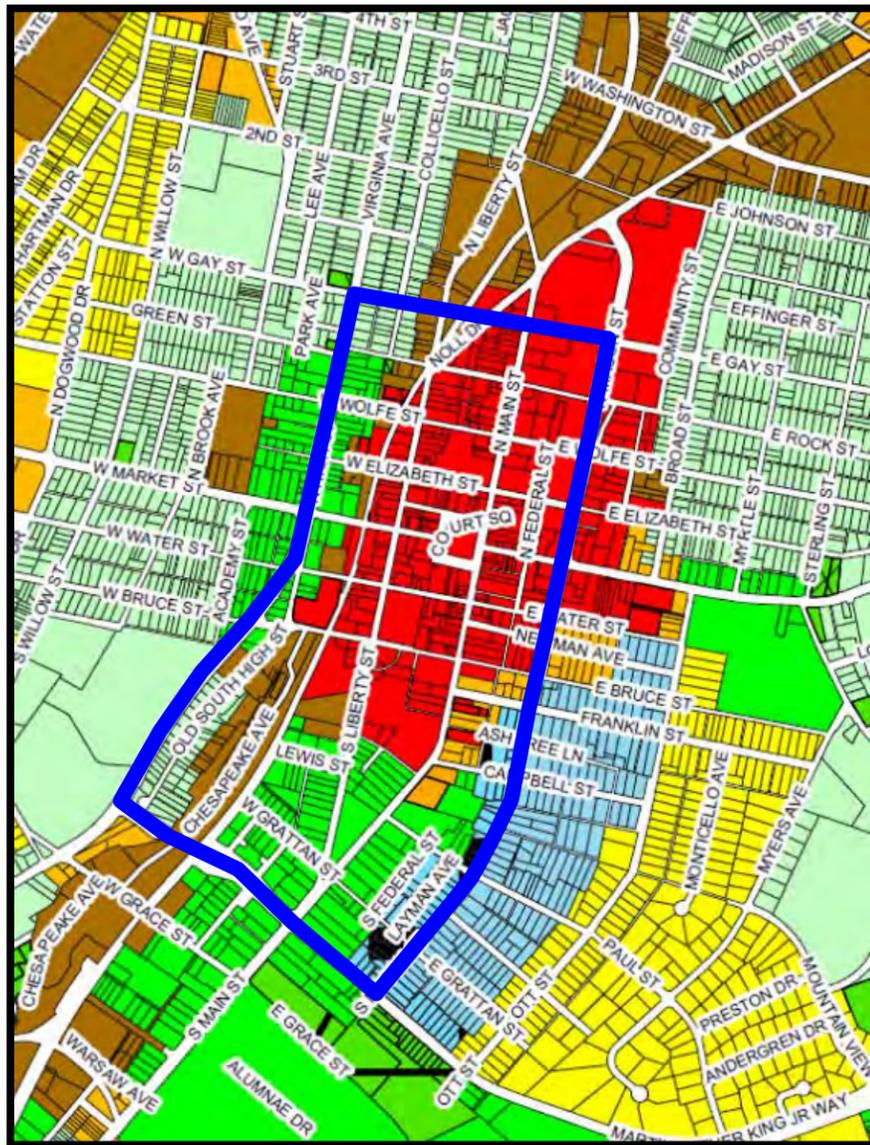
This ordinance shall be effective from the _____ day of _____, 2015.
Adopted and approved this _____ day of _____, 2015.

MAYOR

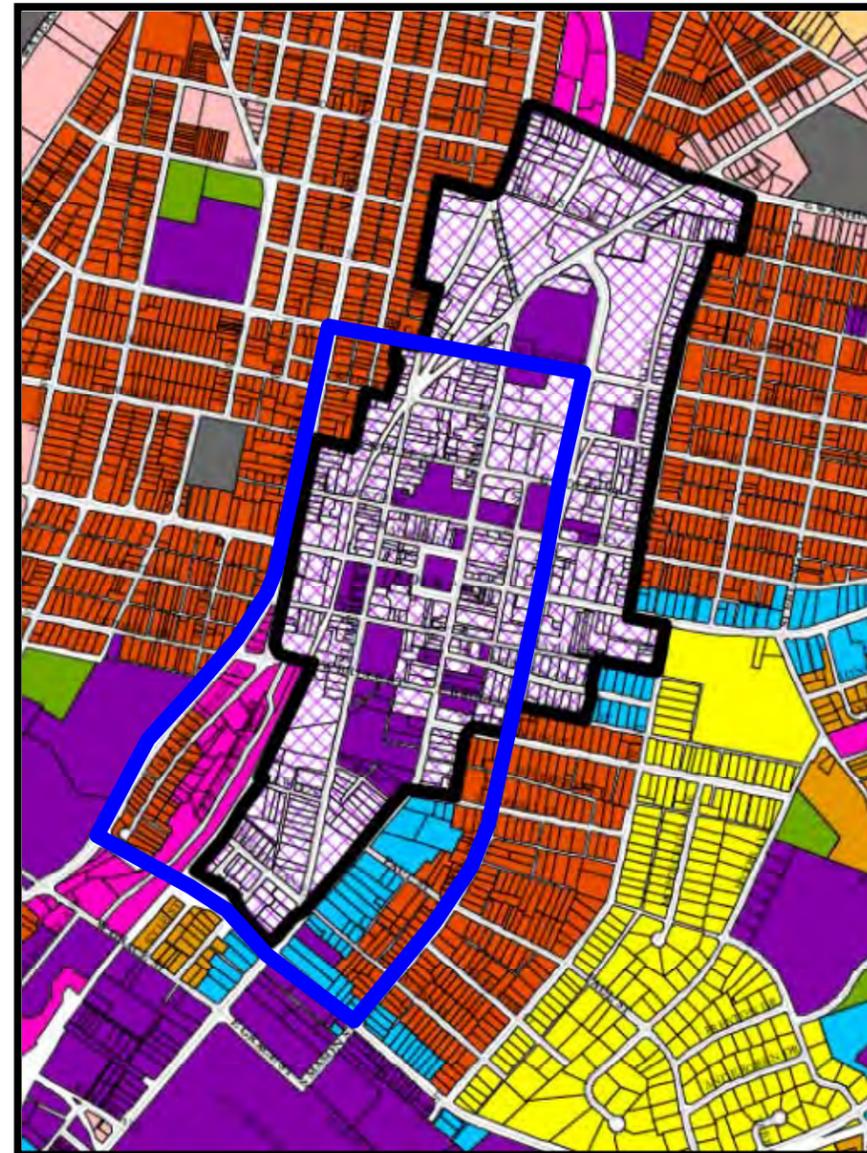
ATTESTE:

CITY CLERK

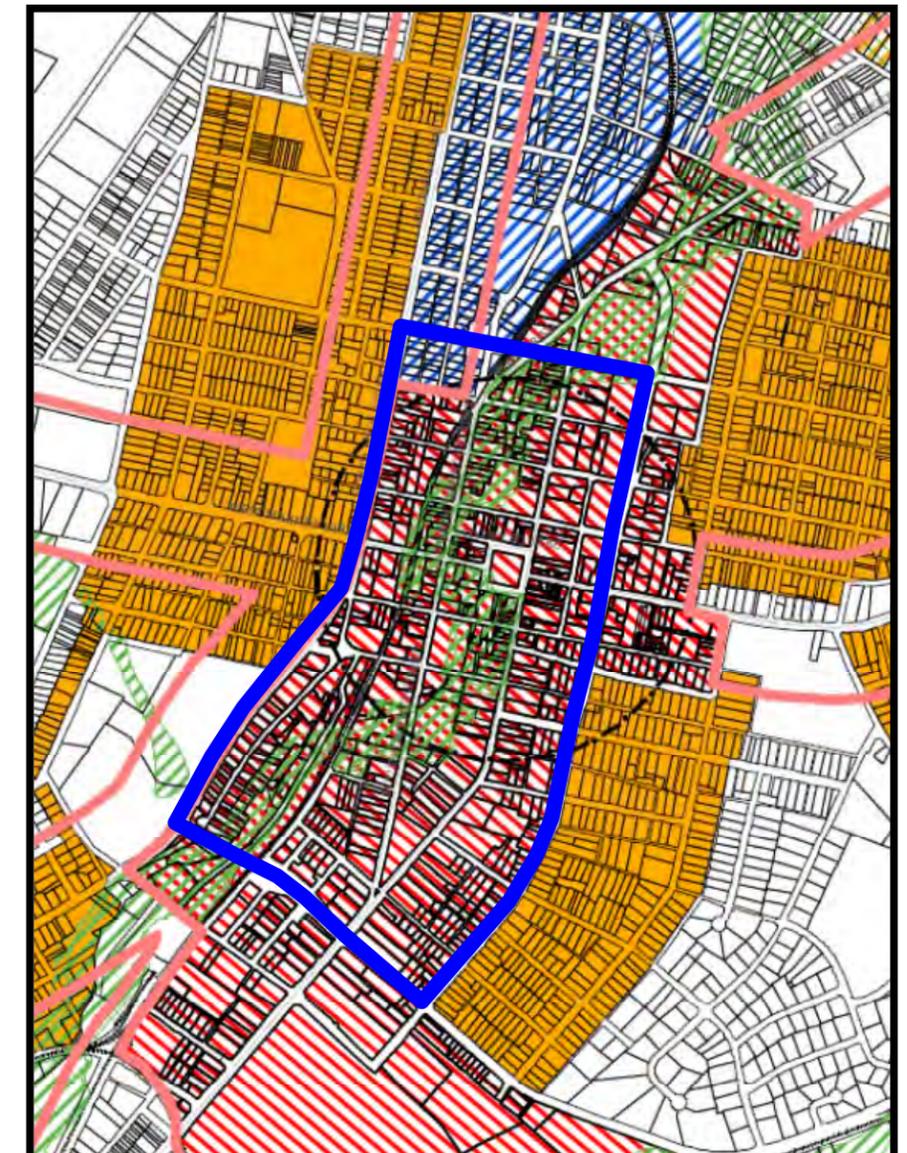
Proposed Boundary within the Ordinance Amendment



Zoning Map



**Land Use Guide
Map**



**Plan Framework
Map**

 = Boundary Limits



City of Harrisonburg

Department of Planning and Community Development

409 South Main Street
Harrisonburg, Virginia 22801
540-432-7700

www.harrisonburgva.gov/community-development

Memorandum

To: Harrisonburg Planning Commission
From: Adam Fletcher, City Planner/Acting Director of Planning and Community Development
RE: **Consider Amending Section 15-2-24 Fowl, Chicken and other Domestic Birds**
Date: Friday, October 9, 2015

At City Council's September 22, 2015 regular meeting, City Council briefly discussed whether the regulations within City Code Section 15-2-24 Fowl, Chicken and other Domestic Birds—commonly referred to as the “chicken ordinance”—should be revisited and potentially amended. At the end of the discussion, City Council decided to refer this matter to Community Development and Planning Commission for review.

Issues that City Council noted they would like to explore include: whether the lot size threshold should be reduced; if there should be a “neighbor’s approval” added to the permit process; to explore whether a certain number of permits should be allowed within an implemented trial period; and other options that might not have been discussed during the 2009 debate on this matter.

Included within this packet are the minutes from the City Council and Planning Commission meetings in 2009, the existing adopted ordinance (adopted in 2009), and the recent minutes from the September 22, 2015 City Council meeting.

Please read through this information so that we can discuss this issue under Other Matters.

April 28, 2009 City Council Minutes:

The next item of business was a presentation by Harrisonburg Backyard Chicken Project (HBCP). Nicholas Stodder said HBCP is a group of citizens in Harrisonburg who have banded together after receiving information that keeping laying hens violated the zoning codes. Keeping laying hens in the backyard comes from a desire for greater personal environmental health, access to a fresh food source, and a source of enjoyment that chickens offer as pets. The City Code does not have any provisions for allowing chickens on residential lots. Council was asked to consider the request and develop new ordinances.

Lonny Wegner said that the proposal will not allow roosters, only egg-laying hens. The HBCP proposal would require that laying hens be enclosed and not permitted to "run at large" except in ones own yard, if it is fully fenced. It would also require clipping the wings of the chickens to eliminate flying.

Dr. Peggy Duvall, a veterinarian, said she supported the efforts of HBCP. In the previous outbreaks of avian flu, the small flocks that were family owned had a much lower risk of becoming affected. Having backyard chickens in small numbers in the City should not change the biosecurity risk for the large poultry operations.

Following further discussion and comments, Council agreed with a unanimous voice vote to refer this issue regarding keeping laying hens in the backyard to the Planning Commission.

May 13, 2009

Other Matters

Poultry Enforcement Discussion

Chairman Burden said we have a significant matter under the "other matters" portion of our agenda. It concerns the issue of backyard chickens and enforcement; I will ask staff to review.

Mr. Fletcher said on the April 28, 2009 City Council agenda, a group of citizens known as the Harrisonburg Backyard Chicken Project (HBCP) presented information on the issue of raising "laying hens" within residential areas of the city. These citizens are petitioning the City to create an ordinance that would allow this practice. After listening to the presentation and engaging in conversation with HBCP, City Council directed the Harrisonburg Planning Commission to review this issue. A few days after the City Council meeting, Planning staff met with the Animal Control Officer to talk about the different ways to approach this issue, and if necessary, how to enforce it. Staff also researched how other localities regulate backyard chickens. Attached to this memo you will find several documents; a table that outlines how other localities enforce this practice, the document that was presented to City Council by the HBCP, a letter written by a veterinarian from the USDA, the current Animal Control sections of the City Code, and an article that appeared in the winter issue of *Edible Blue Ridge* about a family in Charlottesville that raises chickens. The following paragraphs explain how the City has enforced this issue in the past and how the current subject began.

Regulation of the keeping of poultry and other common agricultural animals is not a new issue for the City. For a number of years the Community Development Planning and Zoning Division has been notifying property owners of this type of violation of the City Code by stating that the Zoning Ordinance does not permit agricultural uses. For the most part, the animals are usually poultry, and it has been handled in this manner because staff has interpreted the keeping of poultry as an agricultural use, which is not permitted in any zoning classification. Typically, violations of this type are brought to our attention by citizen complaints, and also recently through the pro-active zoning inspections process. When a citizen is notified of their violation, they have 30 days from the receipt of the letter to bring the property into compliance. Failure to bring the property into compliance results in the City taking legal action, which could result in a misdemeanor charge and a fine of up to \$1,000.00.

The Community Development Department, however, is not the only city department that deals with this issue. The Police Department's Animal Control Officer has also been actively involved in this enforcement by responding to citizen complaints and informing residents they must discontinue the keeping of their poultry or they will be notified by the Planning and Zoning Division of their violation. The Animal Control Officer physically removes and detains chickens and roosters, when they are running at large, without involving the Planning and Zoning office. The Rockingham-Harrisonburg SPCA accepts the animals that the officer has in her possession; however, the SPCA is required to take only cats and dogs but not chickens. If the SPCA begins to accept more poultry, the cooperation between the City and the SPCA may change, which could result in more costs to the City. Generally, people do not claim their chickens because the daily fee from the SPCA is more costly than the replacement value of their chickens.

It should be known that chickens are not the only birds that people have been told they could not raise; other birds include pheasants, swans, ducks, and pigeons. The Animal Control Officer has also witnessed the keeping of doves, however no one had complained about the birds and they

were confined and seemed to be properly cared for. Although not birds, the Planning and Zoning office has even told people they could not keep bees within the city limits, again because it was interpreted as an agricultural use.

Our current issue regarding the keeping of "laying hens" began near the end of 2008 when a citizen was notified of their violation of raising chickens in their back yard. After rectifying their violation, they began discussions with the City to find out how an amendment could be proposed to allow the keeping of "laying hens" with appropriate regulatory controls. Planning and Zoning staff met with a small group of individuals in February to discuss the process of amending the Zoning Ordinance. During this discussion, staff realized that an amendment to the Zoning Ordinance may not be the most appropriate location of the City Code to enforce this issue. Staff believed a more appropriate location would be the Animal Control section of the City Code because the Animal Control Officer had more enforcement capabilities and hands on practice of detaining the animals. As the meeting came to a close, staff recommended they work with the City Attorney to potentially amend the City Code where appropriate. Eventually, the citizens brought their concerns to City Council, who then referred the issue to Planning Commission to determine whether it should be addressed as a land use issue or an animal control issue.

During a recent meeting between Community Development and the Animal Control Officer, several things were discussed, but the general consensus was that if the City decided to allow "laying hens," the Animal Control Officer had more appropriate resources to manage the subject matter. The following is a short list of the different issues that we discussed:

- If this is regulated through the Zoning Ordinance, the City must decide if it will be a use permitted by-right or by special use permit. If a special use permit is required, individuals who wish to raise chickens will be required to pay \$325.00 and go through a public hearing process at Planning Commission and City Council. One major question to consider would be what the criteria should be for whether someone should receive a special use permit. Perhaps after meeting some basic dimensional regulations, would the decision be based solely on whether or not their neighbors came out to oppose? Would this be equitable?
- If permitted there should be regulatory controls such as:
 - Should it only be permitted within certain zoning classifications and/or on lots of certain minimum sizes?
 - Could homeowner's or property owner's associations or a group of townhouses/apartments collectively be able to raise chickens on common land?
 - Should there be setback regulations, and/or shelter accommodation regulations? (It is important to understand that the Code of Virginia contains specifics on the conditions under which "domestic" or "companion" animals should be kept, which are enforced by the Animal Control Officer, but it does not specify the same for poultry, which is defined in the state code as "agricultural," therefore the City would have to establish guidelines if they are needed.)
- If it is regulated by the Zoning Ordinance, then the Animal Control Officer would still need to be involved because Planning and Zoning staff do not have the equipment or knowledge to capture roaming chickens, or to determine whether they are being kept in humane and sanitary conditions or even if their smell was excessive.

- If it is placed in the Zoning Ordinance, and then it is later decided to be removed, all properties that were raising chickens would be considered non-conforming and would be able to continue as long as the property owner did not discontinue the practice for 24 consecutive months. If enforcement of raising chickens is placed within the Animal Control section of the City Code, there is no state mandated non-conforming use protection clause.
- There are people who keep chickens for eating as opposed to raising chickens for their eggs. Currently, no regulation prohibits the slaughtering of them in the city, and in actuality, there is no regulation on slaughtering any domestic animal apart from the Code of Virginia, which requires it to be done humanely. Staff believes a regulation that attempts to regulate the slaughtering of animals would be unenforceable regardless of what part of the code regulates it. There is no way to tell if hens are being kept for their eggs or to be eaten.

City Council has requested Planning Commission decide whether the regulation of backyard chickens falls within the scope of land use regulations or belongs elsewhere in the City Code, if desired. Regardless of what section of the City Code would regulate this, there can be further conditions set regarding issues mentioned previously. After deciding what section of the City Code should regulate chickens, public hearings would be needed on specific ordinance language to decide if the keeping of chickens is an appropriate practice to allow in the city. If it is ultimately determined to not permit it, then city staff could continue enforcing the City Code as we have been or a different procedure can be put in place.

Mr. Fletcher continued, that is all I have to present, if you have any questions for me, or Jetta Earhart, the Animal Control Officer for the City, is also here to answer any questions.

Mr. Finks said if covenants of a subdivision do not allow chickens, what happens then.

Mr. Baugh replied then it would not be allowed in the subdivision. The covenants trump the ordinance.

Mrs. Turner said the City, however, does not enforce covenants. Regardless of which ordinance it is handled in, there can be a lot of parameters that it operates under; as many or as few. It does not give any more, or any less, control under any one ordinance.

Mr. Fletcher added that if this were to go in the zoning ordinance, we would obviously have to hold a public hearing. If it goes in the animal control regulations, it is not required to have a public hearing, although City Council could hold their own public hearing if they wish.

Mrs. Turner said I believe Council insinuated that they would hold a public hearing on the matter.

Chairman Burden asked for a bit more detail on the Roanoke City regulations.

Mr. Fletcher explained what it says is that chickens are permitted in areas other than just agricultural; you can have up to ten birds, if you have a lot that is less than 20,000 square feet.

Mrs. Turner further explained that the language reads you can only have ten birds on any piece of property which contains less than 20,000 square feet of area. There is an area in this ordinance that is a gap. If you are less than 20,000 square feet you can have ten birds; however, no person shall maintain more than 40 birds on any property in the city except in an area zoned

for agricultural use or a farm of five acres or larger in size. There is a gap as to what happens between 20,000 square feet and five acres; how many birds can you keep.

Chairman Burden asked if there were any further questions for staff at this time. Hearing none, he stated Planning Commission's charge is relatively limited. We have not been asked to consider the merits of keeping backyard chickens versus the reasons to oppose that idea. Our question is that if the keeping of backyard chickens is an issue that is addressed, should it be addressed as a zoning matter or an animal control matter.

Mrs. Turner added that if Planning Commission decides it is a zoning matter, City Council would want you to enter in to further discussion about it; they were giving you the authority to continue on to draft regulations.

Chairman Burden said I do not think we have been asked to conduct this as a public hearing; of course I would take input on that idea from other commission members. That is not to say that we may not eventually go to a public hearing; but my idea is that we should not start out thinking that is what is going to happen tonight. Does anyone on the Planning Commission have a conflicting view with that point?

Mr. Chenault replied I agree with the Chairman, this has not been advertised as a public hearing. My sense is that there are a lot of people in the community that want to be heard on this and we certainly are not prepared to move forward on any substantive issues tonight.

Chairman Burden agreed and asked that commission move forward with the discussion that they have been tasked with.

Mr. Snell said in staff's description of the discussion topic it mentioned that for a number of years zoning has been notifying property owners that they were in violation of City Code by stating that the zoning ordinance does not permit agricultural uses. Where do you derive the authority to say that?

Mr. Fletcher replied that the way our zoning ordinance is written, it specifically states what uses you are permitted to do, not the other way around. If it is not listed, it is not permitted; therefore you are in violation of code.

Mr. Snell said we can establish then, that for years we have considered agricultural uses in the City to be a zoning issue. Does staff think it is an animal control issue or a zoning issue?

Mr. Fletcher said we do not think that it is a zoning issue. We think that it is more of an animal control issue, because they have the equipment, knowledge, and the means necessary to physically do something about it. As I stated in the report, if it is handled by zoning, we have a notification process that we must go through. They get a violation notification, they have thirty days to rectify the violation, or we can go to court. If it is handled in animal control, the animal control officer can go out and verify if there is a violation. If there is, they can remove chickens if necessary, or inform the owner of the proper way to rectify the violation.

Mr. Snell said the point I am getting at is that those are enforcement activities; therefore animal control is a necessity in enforcing the zoning ordinance violation. If we can establish that the reason there is a problem is because our zoning ordinance does not allow agricultural uses, then the issue is both; a zoning issue and animal control issue. City Council has now had a request from a group of citizens to consider the keeping of laying hens as a permitted use in the City.

They have even proposed some of the rules that they think should be attributed to it. I think this is a land use issue.

Mr. Fletcher said there is a fine line. For instance we do not control dogs or cats, that is a land use issue too, is it not? You can keep dogs and cats; but we do not regulate or enforce the land use of keeping them.

Mrs. Turner said although we have said in the past that you cannot keep chickens because we consider them to be an agricultural use and agricultural uses are not permitted by our current zoning ordinance, should it be decided to regulate them through animal control, and we set up some type of parameters such as one per so many square feet of lot area, that does not mean that we would have to do anything corresponding to the zoning ordinance. We would stop interpreting that chickens were an agricultural use. If the animal control ordinance were amended to allow chickens, under whatever conditions were deemed to be appropriate, then, as soon as that was done we would no longer be writing people and telling them they were in violation of the zoning ordinance; because somewhere else in the City Code it now specifically allows people to keep chickens. Just because we have been telling people that they were not allowed because they were an agricultural use does not mean that you have to change it in zoning to now make it effective.

Mr. Chenault asked what about allowing it in the Central Business District; or apartment complexes where there are no yards. Is that not a land use issue; could it be written within the animal control ordinance that laying hens could not be permitted in the Central Business District.

Mrs. Turner replied we would need to ask the City Attorney that question specifically. Right now, there is not an ordinance that you cannot have dogs or cats in those areas; I do not know that this is a whole lot different, but we would need to ask the City Attorney.

Mr. Baugh stated he had spoken with the City Attorney about that. His sense is, if you put this in animal control, you do not really want to specifically refer to zoning classifications. What you could do is put in setback requirements, or limit it to single family dwellings, or specific lot sizes. To me the real problem with considering it a zoning issue gets into that state law of non-conforming uses. If we were to try this (allowing chickens) and six months into it we discover that it was a terrible idea and want to remove it, then if it is clearly crafted as an animal control ordinance, Council can fix the mistake and what people could do today, they cannot do tomorrow. If you put it in the zoning ordinance, people could do tomorrow what they did yesterday, and they could continue doing so. They can keep new people from coming in and doing it, but you will get stuck with that group of non-conforming uses that are allowed to continue.

Mr. Chenault said because of that last statement, I think it is appropriate to treat it as an animal control issue at this point. The selling point of that is the non-conformancy. In animal control you still have the ability to keep it out of apartments or townhouse complexes, or even away from other poultry facilities.

Mr. Snell said I challenge that. We issue special use permits all the time that are completely revocable.

Mr. Chenault replied he was concerned with the special use process for this, just like with the home business.

Mr. Baugh said if we have an authorized special use permit operating right now, we can change the ordinance to remove that particular special use, but anybody who received that special use permit can keep it and continue to operate it.

Mr. Chenault said you might have some disease issues that are no fault of the people raising the chickens, but you are stuck and cannot remove them from the non-conformancy. With an animal control approach to it, I do not feel you would be struck.

Mr. Finks said currently within the animal control regulations you see language that pertains to lot sizes. That would be something we could consider if we did it under animal control.

Mr. Baugh said whoever writes a draft is probably going to look at that.

Mr. Fletcher asked Mr. Snell if what he was referring to, regarding the special use permit was that when someone applies for a special use permit, conditions can be set on the applicant that would say the special use permit is only for this property owner.

Mr. Snell said yes, it is something we do all the time. To me this is a zoning issue; the letters that have been sent out in the past derive their authority from the zoning ordinance and not animal control. That is where it was until this group came forward and said will you consider this as a possibility.

Mr. Chenault said if there is a fear that everybody in Harrisonburg is going to be allowed to have laying hens should you move this forward solely under animal control, that is just not the case. There are numerous options available to make common sense differentiations of what properties would be eligible for hens and what properties would not be. You have the ability to make those dimensional prohibitions within the animal control regulations.

Mrs. Turner said perhaps we could ask the animal control officer if she has anything to add to the discussion at this point.

Jetta Earhart, animal control officer, said she feels as if it is a combination of the two. I feel as if I would need a lot of guidance from zoning in some regards; therefore it would be a combination that takes a good bit of effort between both departments.

Chairman Burden asked if City Council adopted an approach under animal control that said no laying hens on parcels of less than one acre. If there is a violation, how would the zoning office be involved in helping to resolve this.

Ms. Earhart replied I would need to confer with them to determine what the lot size was.

Mrs. Turner said it would probably be more in the permitting end of it, and/or the violation portion. We would need to provide answers regarding lot size; unless, everyone comes in with a current survey of their property to show that they have the required area.

Ms. Earhart said it is a whole new realm for me.

Chairman Burden asked if there were any further questions for Ms. Earhart.

Mr. Snell asked how many chickens are out there in the City right now.

Ms. Earhart replied I have no idea. I have taken as many as 30 from one location; they were all running at large. That task involved multiple people from the police department setting traps for them over a one week time frame. In another area, I have taken out 17 birds. I have had two chicken complaints this week, one person had six, the other had eight, and both of those were not

for laying purposes. Generally, what I see are people who get the hens with the intent of butchering them. I have not dealt with laying hens at all, what I have gone out on are running at large issues or noise issues. Animal code does cover these issues; because it is a noise violation or a running at large violation. Our running at large code covers all animals. Up until 2003, the City had the same code that you see quoted by many of the other localities. When we rewrote the code in 2003, we said this is really covered by zoning, let's change it, clean up the language and say what our goal was; if you own an animal you must keep it contained. Many times when I go out on a complaint, I simply tell the owners that you are in an area that is not zoned for this and they will comply.

Mr. Fletcher said zoning has actually only sent four letters this year regarding chickens. I do not know if they were all for laying hens or what.

Mr. Snell asked how many letters were sent last year, at least one a month.

Mr. Fletcher replied no, the average for the year might be seven or eight, not a lot. Ms. Earhart gets a lot more than we ever hear about.

Mrs. Turner said we work with Jetta now and then on this. If she tells someone to get rid of them and then discovers they did not relocate the birds, she will call and say here is an issue.

Chairman Burden said it sounds like there is a good working relationship currently between the two departments.

Ms. Earhart replied there is a real good working relationship.

Chairman Burden thanked Ms. Earhart and said it sounds like what Planning Commission should be discussing now is towards some consensus of what we would vote on. Do we have a consensus, or do we need to discuss the topic further.

Mr. Baugh said in many ways, the key issue for me, if this does happen, is the idea of having the escape hatch by being part of animal control should we decide it is not in the City's best interest.

Mr. Chenault said there is not a thing we cannot do under the animal control ordinance that we cannot do under land use. We can place dimensional regulations, setbacks, number of chickens, all within the animal control ordinance.

Mr. Baugh said we have a blanket prohibition right now, it is just not allowed anywhere in the City. I feel City Council is looking at it as, if you are going to do this it has got to be something very limited. Within zoning categories is not the way this ordinance needs to be headed.

Mr. Jones said if it is going to be very limited, then it is going to require enforcement. If it is going to require enforcement, then in my opinion, it is an animal control issue in so much as you can have immediate attention when a complaint comes in. As opposed to weekends and holidays when zoning staff is not here working. Also, there is the thirty day time period with zoning; with animal control you can get immediate results. That is my opinion, if you are going to allow this; I do not know that I am in favor of this at all.

Mr. Chenault said he comes down on the side of animal control also.

Chairman Burden asked if there was a motion at this time.

Mr. Jones moved to recommend animal control as the appropriate vehicle in which to address the issue of backyard chickens.

Mr. Chenault seconded the motion.

Mr. Finks asked if this would be subject to a public hearing at some point.

Mr. Baugh replied we are getting ahead of ourselves there. City Council has just asked the question of where it is appropriate. We have answered that question. My educated guess is that Council will decide who is prepared to draft some type ordinance for this; it could come back to this group, it could be done through the City Manager's office, or staff. Assuming some sort of ordinance is drafted, I do not believe that technically, City Council would have to hold a public hearing on it; but I cannot imagine that they would not.

Chairman Burden asked for a roll call vote on the motion.

Commissioner Chenault – yes.

Commissioner Finks – yes.

Vice Mayor Baugh – yes.

Commissioner Da Mes – yes.

Commissioner Snell – no.

Commissioner Jones – yes.

Chairman Burden – yes.

Chairman Burden said the motion passes (6-1) and this will return to City Council with a recommendation that if backyard chickens are permitted they would be enforced under the animal control ordinance.

**NOTICE OF PUBLIC HEARING ON ENACTING
A BACKYARD CHICKEN ORDINANCE
FOR THE CITY OF HARRISONBURG**

The Harrisonburg City Council will hold a public hearing on July 28, 2009 at 7:00 P.M. in the Harrisonburg High School Auditorium located at 1001 Garbers Church Road, Harrisonburg, Virginia, to solicit public comments concerning the possibility of enacting of an ordinance allowing back yard chickens in the City of Harrisonburg. Copies of the proposed ordinances are available on the City's web site and are available in the City Managers Office, 345 South Main Street, Harrisonburg, Virginia, Monday through Friday, 8:00 A.M. to 5:00 P.M.

All persons interested will have an opportunity to express their views at this public hearing. Any person requiring auxiliary aids, including signers, in connection with this public hearing shall notify the City Manager at least five (5) days prior to the time of the hearing.

**CITY OF HARRISONBURG
Kurt D. Hodgen,
City Manager**

Mayor Degner called on anyone desiring to speak for or against the proposed draft ordinances regulating "Fowl, chickens and other domestic birds". A number of people spoke against the draft ordinances to allow chickens in the backyard. Also, a number of people spoke in favor of the draft ordinances to allow chickens in the backyard. A list of the names is available upon request. The public hearing was declared closed at 9:01 p.m., and the regular session reconvened.

Council Member David Wiens said, "It is clear that the chicken group have made some very good points especially reducing the lot size from (12,000) square feet to (7,000) square feet. We need to consider their request and perhaps have a compromise."

Council Member Carolyn Frank said, "Is it correct that all the chickens must be kept in a pen? I support sustainability and have planted a garden, built a water barrel, and bought a composter to use. I am thankful for the food industry, but I want to grow my own food. I like to try something new. If it becomes too much of a burden on the City then we can change the ordinance. But, it is time to move ahead and build relationships."

Vice-Mayor Richard Baugh said, "At this point, I am not prepared to vote for (12,000) square feet or (7,000) square feet of land. If the votes aren't supportive to approve one of the proposed draft ordinances it doesn't make sense to amend it. Some people have asked why Council didn't say no when first approached about the matter. I think Council has done too much of that type of thing in the past. A number of citizens asked for fair consideration on this issue and I think we owe them respect and consideration. Also, I support the right of citizens to have some say in what their neighborhoods are like. Some times what is done in one town is not done in another town. I intend to vote against it. "

Mayor Kai Degner said, "A number of different concerns and issues including

sustainability, property values, noise, enforcement issues, disease, inspection, safety, agricultural production, predators, and keeping chickens as pets have been expressed. Council has many other issues to spend time on other than chickens. How does it impact our neighbors in the county and poultry industry? Other related issues include waste run-off and water quality. Residents of the City and the community have raised funds to support the Farmers Market, which has a good resource of local food. It is not an issue of voting on four chickens in the backyard because it will become hundreds of chickens in the City. How can five people make a decision on something that will go against public opinion and will only benefit a relatively few? If you were against the golf course and are for this issue, I want to say that two rights don't make a wrong. It is time to move forward. Even if you support this issue you are still part of a community that the vast majority of people are against. Therefore, I will be voting against this issue for that reason."

Council Member Ted Byrd said, "I spoke against this issue from the beginning. I am not in support of allowing fowl in a residential area. People purchase homes in the City without the expectation of living beside agriculture animals. A residential zone should not have laying hens."

Council Member Wiens offered a motion to adopt the proposed ordinance except reduce the minimum property size from 12,000 square feet to 7,000 square feet. The motion was seconded by Council Member Frank and denied with a recorded roll call vote taken as follows:

Vote:

Yes - Council Member Wiens
Council Member Frank

No - Council Member Byrd
Vice-Mayor Baugh
Mayor Degner
Absent - None

Vice-Mayor Baugh offered a motion to adopt the ordinance with a minimum of two (2) acres of land for a first reading. Following further discussion and comments, the motion was seconded by Council Member Frank and approved with a recorded roll call vote taken as follows:

Vote:

Yes - Council Member Wiens
Council Member Frank
Vice-Mayor Baugh

No - Council Member Byrd
Mayor Degner
Absent - None

Sec. 15-2-24. - Fowl, chickens and other domestic birds.

- (a) *Definitions. Fowl* is defined as any of various domestic birds by way of example but not limited to: Chickens, roosters, ducks, geese, turkeys, guinea fowl, emus, rheas, ostriches and pigeons.
- (b) It shall be unlawful for any person to keep, permit or allow any domesticated fowl within the corporate limits of the city, or to allow any domesticated fowl to run at large within the corporate limits of the city, except as specifically permitted below.
- (c) It shall only be lawful for a person to keep, permit or allow chickens within the corporate limits of the city on residential property only, under the following terms and conditions:
 - (1) No more than four (4) chicken hens shall be allowed for each single-family dwelling. No chickens shall be allowed on townhouse, duplex, apartment or manufactured housing park properties. Chickens allowed under this section shall only be raised for domestic purposes and no commercial use such as selling eggs or selling chickens for meat shall be allowed.
 - (2) Each single-family dwelling shall contain at a minimum two (2) acres of land.
 - (3) No roosters shall be allowed.
 - (4) There shall be no outside slaughtering of birds.
 - (5) All chicken hens must be kept at all times in an enclosed secure movable or stationary pen that contains at a minimum four (4) square feet per bird.
 - (6) All enclosed pens must be situated at least twenty-five (25) feet from adjoining property lines and shall not be located in storm drainage area that would allow fecal matter to enter any city storm drainage system or stream.
 - (7) All enclosed pens must be kept in a neat and sanitary condition at all times, and must be cleaned on a regular basis so as to prevent offensive odors. Once a permit is obtained pursuant to this section, the permittee agrees to semi-annual inspections by the Virginia Department of Agriculture and Consumer Services veterinarians.
 - (8) All feed for the chickens shall be kept in a secure container or location to prevent the attraction of rodents and other animals.
 - (9) Chicken litter and waste shall not be deposited in any trash container that is collected by any public or private waste collector and shall be disposed of by composting either on site or at the county landfill in accordance with the applicable permit. Also any dead bird shall not be deposited in any trash container that is collected by any public or private waste collector but shall be taken to the county landfill to be composted in accordance with the applicable permit.
 - (10) Persons wishing to keep chicken hens pursuant to this subsection must file an application with the city's department of community development, which application shall include a sketch showing the area where the chickens will be housed and the types and size of enclosures in which the chickens shall be housed along with a twenty-five dollar (\$25.00) fee. The sketch must show all dimensions and setbacks. As part of the application process all persons must complete the Virginia Livestock Premises Registration with the Virginia State Veterinarian's Office prior to the issuance of a permit. Once the site and enclosures have been inspected and approved by the city's animal control officer, the city's animal control officer shall issue a permit, which permit shall be valid for one (1) year. Each existing permit must be

renewed annually by filing a renewal application with the city's department of community development along with the payment of the twenty-five dollar (\$25.00) annual fee and by having the city's animal control officer make another inspection of the site.

- (d) The above subsection (c) shall not apply to indoor birds, such as, but not limited to, parrots or parakeets, or to the lawful transportation of fowl through the corporate limits of the city. Neither shall it apply to fowl kept in areas of the city as a legal nonconforming use.
 - (e) Fowl currently existing in the city shall not be "grandfathered" or permitted to remain after the effective date of this section; however, owners of the fowl will have ninety (90) days from the effective date to come into compliance with this section.
 - (f) Any person found guilty of violating this section shall be guilty of a Class 3 misdemeanor and subsequent violations of this section by the same person shall constitute a Class 2 misdemeanor.
- (Ord. of 8-11-09)

Editor's note— Ord. of 8-11-09, set out provisions intended for use as § 15-2-25. For purposes of classification, and at the editor's discretion, these provisions have been included as § 15-2-24.



City of Harrisonburg

409 S. Main Street
Harrisonburg, VA 22801

Meeting Minutes - Draft

City Council

Mayor Christopher B. Jones
Vice-Mayor Richard Baugh
Council Member Ted Byrd
Council Member Kai Degner
Council Member Abe Shearer

Tuesday, September 22, 2015

7:00 PM

Council Chambers

8. Other Matters

City Manager Hodgen stated a three hour CCJB meeting was held. City Manager Hodgen stated they endorsed the proposal submitted by the Gemeinschaft Home to provide the day reporting services program with an initial contract period beginning January 1, 2016 through June 30, 2017, with two year structured renewal options. It was noted once the program begins, approximately 180 - 200 individuals could be enrolled in the program. City Manager Hodgen stated the next step is for both City Council and the Board of Supervisors to approve the pilot program and more information will be presented prior to that approval.

City Manager Hodgen stated reports were provided by the CCJB regarding the in-jail counseling grant; an update regarding the secure assessment program, with a start-up date currently unknown; and, all programs mentioned were included in the current year's budget.

Council Member Degner stated public comment was held during the CCJB meeting, programs were reviewed and it was helpful for the community to hear what was taking place. Council Member Degner agreed that regular meetings for the CCJB are necessary. Council Member Degner stated he felt the attendees appreciated the efforts that have taken place, but still voicing that other representation needs to be added to the board.

City Manager Hodgen noted the CCJB voted to withdraw the submittal to the Department of Corrections for the satellite jail for Harrisonburg-Rockingham.

Vice-Mayor Baugh asked for an update about the animal shelter. City Manager Hodgen stated no changes have been made since the last update, but he will check again on the status.

Vice-Mayor Baugh stated he along with other council members had been contacted by a citizen to revisit the chicken ordinance. Council Member Byrd asked how many citizens currently had registered chickens. City Manager Hodgen noted that currently the city hasn't received any applications. The following discussion was held: open to have a public hearing; suggested to explore the option of adding neighbors' approval to the process; suggested to explore the

option issuing a certain number of permits with an implemented trial period; other options weren't looked at during the 2009 debate; and, refer this matter to Community Development for review.

Vice-Mayor Baugh reviewed upcoming Planning Commission items.

Mayor Jones noted there will be a joint City Council and School Board meeting on October 15, 2015 in Council Chambers.

Mayor Jones noted he had visited the peewee football games that were provided through Parks and Recreation and it was great to see all involved.

Mayor Jones stated the Tourism Expert and Review Panel will consist of representation from a local young adult; lodging; a local family; JMU; EMU; Children's Museum; Virginia Tourism corporation; the Parks and Recreation Department; the Valley Mall; the uptown area, the northend/northeast area; a restaurant; and, HDR, which the Mayor serves on.