



City of Harrisonburg, Virginia

Planning Commission Meeting

April 13, 2016

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 March 9, 2016 regular meeting.**
- 2) **New Business**

Preliminary Plat – Red Oak Street Cul-De-Sac (Permanent Termination)

Consider a request from Acorn Enterprises, Inc.; Reon Properties, LLC; Mathew S. and Holly C. Einstein; and Quarles Petroleum, Inc. all being represented by Richard Blackwell to preliminarily dedicate portions of 9 parcels as public street right-of-way for Red Oak Street and to create a permanent cul-de-sac. In conjunction with a separate street right-of-way closing application, where Richard Blackwell is representing the owners of 1430 Red Oak Street (Jamison Black Marble Wildlife Preserve LLC) to close and purchase 8,523 +/- square feet of undeveloped Red Oak Street right-of-way, the dedication of property from the 9 parcels for public street right-of-way will permanently terminate the southern section of Red Oak Street. Per Section 10-2-41 (e), cul-de-sacs and other permanent dead-end streets are prohibited except when permitted by the Planning Commission in accord with the Design and Construction Standards Manual (DCSM). Mr. Blackwell is further requesting a variance to Section 10-2-41 (a) of the Subdivision Ordinance, which requires all streets (including private streets) to conform to the DCSM. A private street is requested to be built off of the public cul-de-sac to serve 1430 Red Oak Street. The street would be not less than 16-feet in width, which would not meet private street standards as specified in the DCSM. The properties involved in the platting are zoned M-1, General Industrial District, where in total 4,468 square feet will be dedicated from the 9 parcels involved. The properties have the following addresses: 1555, 1559, 1560, 1563, 1567, 1569, 1570, 1573, 1577, 1581, 1585, and 1589 Red Oak Street. The properties are identified by the following tax map parcel numbers: 56-C-2 & 6, 56-G-1, 2A, 2B, 3, & 4, and 56-E-25B & 26.

Street Closing – Undeveloped Red Oak Street (Adjacent to 46-C-8, 56-G-2A, and 56-E-26)

Consider a request from Jamison Black Marble Wildlife Preserve LLC represented by Richard Blackwell to close an 8,523 +/- square foot undeveloped portion of Red Oak Street. The section to be closed is adjacent to three parcels, which are zoned M-1, General Industrial District. The adjacent parcels are identified as tax map parcel numbers 46-C-8, 56-G-2A, and 56-E-26.

Special Use Permit – 1911 South High Street (10-3-91 (9) Zero Setback)

Public hearing to consider a request from Erickson Road Investments, LLC with representative Edmond Blackwell for a special use permit per section 10-3-91 (9) of the Zoning Ordinance to allow for the reduction in the required side yard setback to zero feet along the lot line of an adjoining lot or parcel zoned B-2 or M-1. The 26,572 +/- square foot parcel is zoned B-2, General Business District, is addressed as 1911 South High Street, and is identified as tax map parcel number 112-A-5.

Staff will be available Tuesday May 10, 2016 at 4:30 p.m. for those interested in going on a field trip to view the sites for the May 11, 2016 agenda.

Rezoning – 245 East Water Street (WAW) B-2 to B-1C

Public hearing to consider a request from Wharton Aldhizer & Weaver, PLC to rezone a 2,316 +/- square foot portion of property comprised of two parcels from B-2, General Business District to B-1C, Central Business District Conditional. The property is addressed as 245 East Water Street and is identified as tax map parcels 26-E-5 & 6.

Chicken Ordinance Revisions

Consider Recommendation Regarding Revisions to Section 15-2-24 Fowl, Chickens and other Domestic Birds

3) Unfinished Business

None.

4) Public Input

5) Report of secretary and committees

Proactive Enforcement Report

6) Other Matters

None.

7) Adjournment

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

MINUTES OF HARRISONBURG PLANNING COMMISSION

March 9, 2016

The Harrisonburg Planning Commission held its regular meeting on Wednesday, March 9, 2016 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; Jefferson Heatwole; and Henry Way, Vice Chair.

Members absent: Deb Fitzgerald, Chair.

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

Vice Chair Way called the meeting to order and said there was a quorum with six of seven members in attendance. He then asked if there were any corrections, comments, or a motion regarding the lengthy February 2016 Planning Commission minutes.

Mr. Da'Mes moved to approve the minutes as presented.

Mr. Heatwole seconded the motion.

All members voted in favor of approving the February 2016 minutes as presented (6-0).

Capital Improvement Program

Vice Chair Way read the request and asked staff for comments.

Mr. Fletcher said I would like to thank each of the Department Directors and the Capital Improvement Program (CIP) representatives for being here this evening to answer any questions that the Planning Commission might have regarding the CIP. This is not a presentation from staff. We do have the experts here from each department so feel free to ask any questions you might have. Lastly, I want to make certain that everyone received the amended projects that were part of the School Fund, if not, before you are hard copies that you can replace for existing sheets – pages 89 through 92.

Vice Chair Way said before we begin with discussion and questions regarding the CIP, Dr. Kizner with Harrisonburg City Schools would like to address the Commission.

Dr. Kizner said thank you for the opportunity to speak this evening. As you know, two years ago the Harrisonburg School Board and City Council made a very wise decision to have the School Board follow the same CIP process as other departments for the City. It is an ongoing learning experience for us all. What I would like to share with you tonight is that the Capital Improvement Plan in which the School Board approved is not the CIP that was submitted to you.

The School Board feels that if you are here tonight to make an advisory recommendation to the City Council, you should at least have a copy of what the School Board approved. We also recognize that there are things within our plan that were done in October of last year. In October the information seemed to be accurate; however, in March the information is not accurate. A specific example would be that in October 2015 the School Board was considering three different options to address the high school enrollment issues, of which you are familiar with. Since that time, it has been decided to go with a separate building to be built on the High School

property; an annex that would serve about 800 students. We also had a joint meeting with the City Council and the consensus at that meeting was to move forward with a request for proposals for architectural services to see if a building could be designed on the property and would other facilities need to be relocated to the other side of Garbers Church Road. We actually did that last week. What I am trying to show you is that the CIP you have received for the HCPSs is not aligned with decisions already made by the School Board.

Our greatest concerns with this are for the purchasing of the land, the year the purchase will take place, and when the building would be built. I know this is a planning document; we do not know what the cost would be at this point, we gave a number of what we thought it may cost. What I have learned from this experience is there needs to be greater communication between myself, the City Manager, the School Board, and the City Council, so that we can align a process that works for everyone.

Mr. Da'Mes asked whether in October 2015 the School Board approved a recommendation for the high school.

Dr. Kizner said no, that was done in December. In October we had to get our CIP to the City. Therefore, the two items were not aligned.

Mr. Da'Mes asked when the joint meeting between the School Board and City Council was held.

Dr. Kizner replied January.

Mr. Da'Mes said as you mentioned earlier, you were before Planning Commission a couple of months ago to discuss where HCPS's system was today and what the projected enrollment for the future looked like based on Weldon Cooper projections. I am assuming all decisions to this point have been made based on the same information. Now we have a planning tool, the CIP, that says we are going to push this out to 2021 for the annex building. If that were to be the case, what would the School Board be looking at doing to compensate for that length of time?

Dr. Kizner said in the operating budget for next year we are at 1,630 [students], next year we know we are going to be over 1,700. We are projecting that in 2017 there is a very good chance that we will be at 1,800. We put two trailers in this year and for the budget next year we have four trailers to go in. In reality, that is our alternative – just add trailers. Of course that does absolutely nothing for the core spaces, such as the cafeteria or gymnasium. I do not want to press the alarm button on the annex building; but I can tell you that it is an issue. When you are 300+ students over capacity and you have all these trailers outside you have security issues. There are a lot of reasons why we believe this building needs to happen before the date that the School Board did not approve.

We were hoping that when the RFP's for the building come back, the School Board would make a decision, if an architect met our standards, and a comprehensive analysis could be done on the property. We would then have actual cost figures to begin negotiations with City Council and come to some consensus as to when this annex could really occur. However, when I read the CIP document, it really pushes this date out to a time that we find unacceptable. The thing that needs to be remembered is this is not a modernization of a building; this is because of constant growth within our system. Our growth is not slowing down; in the month of February we gained another 22 students.

I just wanted you to know that the School Board felt that if you are making an advisory opinion to City Council, you should at least have what they actually voted on.

Mr. Colman said I believe this is something that needs to get cleaned up before it moves through us, rather than as it moves through the process.

Mr. Fletcher said Planning Commission needs to understand the sequence of events. The School Board sent the projects to the CIP committee in October, prior to the decision being made about how they were going to be moving forward; they were projecting a completely new high school. Once the decision was made about the \$50 million dollar annex, the committee was just using the logic that the \$160 million was not needed and put the \$50 million in instead, at a time frame that we believe the City would reasonably be able to afford those costs.

Mr. Colman said I find that to be true; however, that is something that needs to be worked out between the School Board and the City Manager before coming to us. I think that Dr. Kizner's argument is valid; but it is not up to us to make the decision.

Mr. Da'Mes said in regard to that I do not think that we should be talking about numbers ourselves, but we have a Comprehensive Plan that we want to make certain our numbers correlate with. Obviously the school system is a big consideration in that plan. What Planning Commission has done in the past is to look at the priority of the CIP item and said that perhaps something should be given a higher priority. We could advise City Council if we feel this HCPCS item needs a higher priority.

Mr. Fletcher said the priorities are somewhat pre-defined, based upon what the definition of the priority is. A priority one is absolutely required, the law requires it to be done. A priority two is highly desirable, increases efficiency, and effectiveness. A priority three is desirable. Thus a priority one can only be granted to a project that is required by law.

Dr. Kizner said I have been in front of Planning Commission three times in the past year; I have been in the position for six years and had never been in front of you until last year. I believe the process is at least being recognized and priorities on the capital side are getting attention. I see all of this as really good. I just think that as something new for us, there are still some kinks that need to be worked out.

Vice Chair Way asked whether the dollar amount for the school annex is correct at \$50 million. The \$160 million was for an entirely new high school, correct? It is more of the 2021 start date that is of concern.

Dr. Kizner replied yes.

Mr. Baugh said that is going to be a substantive issue. We must realize the City Manager recommends putting this into 2021, because from a fiscal standpoint, it looks like we could afford to take on that debt without more tax increases than we may have to do anyway at that time frame. That is what drives this; it does not mean it is carved in stone. If we have real issues on the ground, it may mean moving that date up. City Council will certainly be working with the School Board to do what we need to, even if it means moving that date up.

Mr. Da'Mes said the City Council approves a budget on an annual basis.

Mr. Baugh said yes, but I think you are really looking at debt service. That is thinking about what is the debt service on a \$50 million bond issue and where does it fit with projected income and revenue expenses.

Dr. Kizner said to me it is a lot about a communication breakdown somewhere in the line. Also, a better understanding of the authority of the School Board versus the City Manager when it

comes to the CIP for the HCPS system. My understanding and my experience is that the responsibility lies with the School Board; they are the only ones that can change the plan they adopted. So again, it is a process. These numbers have been in the plan since October and if there was a concern back in January or February there should have been conversations then. This could have been taken back to the School Board.

Mr. Da'Mes said the School Board could have a great "wish list," it would be very idealistic, but it does not mean it is necessarily feasible in terms of budget concerns. At the same time it is a planning tool and we have considerations with debt services and we may even move the item up one or two years. What I am thinking is if we all have the foresight to say "it is going to be moved up in a few years," why would we accept a plan that is pushing it out so far? I do not feel comfortable with what is in the CIP currently. My thoughts are to let the conversation continue between the School Board and City Council; is it essential that we push this document forward to City Council today?

Vice Chair Way asked about the implications if we hold this document off for a month to give some time for discussions to take place.

Mr. Fletcher said before we go there, I have my own question for better understanding of this. Is the HCPS Board still doing their own, separate CIP document?

Dr. Kizner replied yes. Two years ago during a joint meeting it was decided that we should follow the timeline that gets us to where we are today.

Mr. Baugh said there has been a whole lot more good about this, but there have been transition issues. With everything else you are actually working with departments that report directly to the City Manager, there is a long standing process and now we are trying to incorporate the School Board into this. It is understandable that there is a communication issue; there are things that need to be worked out.

Mr. Fletcher said if you are thinking you would like a different date for the \$50 million it can be suggested as it moves forward. You can recommend the CIP with suggested revisions.

Dr. Kizner said I would like you to take into consideration the date of 2018, because there could be a new body here and a new City Council in two years and someone says well the approved plan says 2021, so that must be what was meant. HCPS does not get the funding until 2021 and the school is not built until 2023.

Mr. Baugh said that is not how that actually works. 2021 is when we are paying off that debt, so the funding is more to the front side of that rather than the end.

Mr. Da'Mes said that is a good point. I do not think we are in the position to arbitrarily pick dates for these. But I think one thing we can say is we would like to see the School Board's recommendations be more aligned with what is approved.

Vice Chair Way said are you saying that we defer our recommendation?

Dr. Dilts said I believe he is saying that will be our recommendation; that there be some kind of communication between the School Board and City Council on aligning the two CIPs.

Mr. Da'Mes said I believe we have two options; the first is to tell them to come back to us in a month with this resolved. The second option would be to recommend approving the CIP with the recommendation to see more consideration by City Council with regard to the date of 2021.

Dr. Kizner said the School Board feels strongly that they are the only body that has the ability to change their plan, knowing that the City Council has the ability to reject what is within the plan. Secondly, the date, the reason we have it early is because we have an issue today.

Vice Chair Way then asked if there were questions for other department representatives before making any recommendations regarding the CIP.

Mr. Da'Mes said on page 18 under General Fund Projects, it says this will provide for renovations to the Municipal Building for code compliance, energy efficiency, and additional work space for future administration and community use. The cost is \$2.5 million in the year 2018. I have always wondered and never really felt comfortable with the transition from the Municipal Building to the new City Hall in understanding what the future plan was for the older building. I do not think anyone was able to answer the question previously, and since then I have heard numerous other options that may happen; but, my question is should we be investing in a \$2.5 million dollar renovation on a space that we do not have a plan for.

Mr. Fletcher said the explanation on this is as simple as it can be; it is telling you that it will cost \$2.5 million to bring the building into compliance. No one at this time knows exactly how it will be used, but there is a general understanding about how much it is going to cost to renovate the building. We have known for quite some time that the Municipal Building needs some attention as to code compliance.

Mr. Da'Mes said I just have a concern that we are renovating it for a particular purpose and then later we may decide instead to use it for something else.

Mr. Baugh said what you have here is a general place holder in satisfying whatever that use may be. I think what the \$2.5 million figure does is replace and bring into compliance your mechanical systems – wiring, heating/air, and so forth. This is just the projection as to what that may be; it may not even get done on the City's dime. This is not a place marker that is laying out what the particular use will be of the building in the future.

Dr. Dilts said if something is a priority one it is something that absolutely has to happen. On page 12, the Cardiac Monitor replacement is shown as a priority one, but it is not mandated.

Chief Larry Shifflett, Harrisonburg Fire Department, said Cardiac Monitors have a useful service life and these are getting close to their service life. This has to do with technology and the monitor's ability to perform certain functions on the scene. I am not aware of any legislation that says we have to replace at that time, but in comparison to today's technology, what we have is becoming antiquated.

Mr. Fletcher said is there also a component with the manufacturer regarding the useful life.

Chief Shifflett said at the end of the useful service life you lose the support from the manufacturer for repair and maintenance.

Mr. Da'Mes said the Park View Fire Station we have been waiting for a long time now, there is some equipment allocation to the new station; however, under operating costs or impacts, it is a very small number.

Chief Shifflett said the City will have to hire 12 new fire fighters in order to operate that station. We do not have enough people to just move folks there, they must be hired; additionally we will have to buy a new fire engine. We will not need the new engine the same year we occupy the

station, it generally takes a year to order and get a new engine; we will just use one of the reserve units as we wait for the new engine.

Mr. Da'Mes said equipment has a certain useful life, and then questioned what happens to the equipment when the useful life is over and whether there is a value brought back to the City?

Chief Shifflett said we have two types of equipment engines and the aerial ladder or tower trucks. We try to replace the engines at a 15 year level and we try to do the aerial ladders at a 20 year level. It is not automatic at that age, we replace in conjunction with the City Shop Foreman as it approaches its useful life; sometimes they get more life, others not so much.

Mr. Colman asked what is the current response time for the Park View area and is it within an acceptable range.

Chief said obviously that depends on which area of Park View you go to; our average time in most areas of the City is four and one half to five minutes. Some of the outer edges of Park View can be seven to seven and one half minutes.

Mr. Colman said in your view is there an immediate need; should this new station be a priority two instead of a three?

Chief Shifflett said the population of the Park View area is growing, there are a lot of retirement facilities in the area and we get a lot of medical services calls that we run.

Mr. Da'Mes asked if the station had been a "moving target" of sorts that continues to get pushed back.

Chief Shifflett said this has been in the budget for quite some time, more than ten years. At some point and time it will be the justified time; but for now it is our place holder.

Mr. Colman said the alternative is to relocate Station 4; has that been considered?

Chief Shifflett said that is a viable alternative; but when you move Station 4 from Rock Street you are increasing response times for the northeast area as well. There is still the same infrastructure cost associated with moving Station 4.

Vice Chair Way asked if there were any further questions regarding the CIP.

Dr. Dilts said I have a question regarding the Police Department regarding the record management and crime analysis system request. I am struck by the language used in the request, "HPD is in urgent need of a comprehensive and efficient records management." Yet the money you are requesting for is not slated until 2018. As I read this the company that is taking care of your current software is already out of business. Why wait until 2018, why not now?

Captain Tom Hoover, Harrisonburg Police Department, said we are trying to partner this request with Captain Junkins of the Harrisonburg Rockingham Emergency Communications Center and the Rockingham County Sherriff's Department – the whole records management system that is serviced by the particular company. We have been in need of a new records management system for probably ten years. Our current system is outdated and does not have any capabilities along the lines of what we need. Now that this company will no longer be servicing after 2017 we really need something. I believe there has been some funding from City Council to have consultants look at an overall package for the needs of the City and the County.

Dr. Dilts asked if it will take until 2018 to put together what is needed.

Captain Hoover replied there has been a study group organized to review that; I agree with you and hope that it would be before 2018.

Mr. Baugh said I can confirm there is a working group on this and it is multi-jurisdictional. That is the tough thing about this – something is needed now; but, it is not something you can just go purchase and install. Trying to coordinate all the agencies is a task, but it is absolutely something we are working towards.

Dr. Dilts said I was concerned because it says “urgent,” but gives a date of 2018.

Mr. Baugh said one of the issues that come up is when we are asked for statistical information and we have no way of putting this information together. That is part of the goal we are working for.

Mr. Heatwole said are we anticipating that the RMS needs would be okay until 2018?

Mr. Baugh said I believe Joe Paxton, Rockingham County Administrator, is really the person heading all this up and can give you the most current status report.

Captain Hoover said if our system were to go down tomorrow it would be a lot of work on us, however, I would hate to see us spend unnecessary funds towards a standalone system.

Vice Chair Way asked if there were further questions.

Mr. Da’Mes said I have more of a citizen informational question. On page 48 it talks about the street improvements for exit 247. How is the City funding this project; is it grant funding? It actually seems more like a VDOT expenditure.

James Baker, Director of Public Works, said that is a great question. It is a VDOT project; however, in the current legislation, what they call House Bill 2 Revenues, states that the locality must apply for the funding. We have applied for the funding for that and that is why it is marked as other revenue. We will be intimately involved with the project in helping to raise the project along and helping VDOT with the design because it affects our City so much. But we must apply for these State funds. There are actually three projects in the CIP that are through the House Bill 2 Program – this particular one, exit 245 for the Port Republic Road interchange, and Martin Luther King (MLK) Way/South Main Street.

Mr. Da’Mes said there is a new development planned along East Market Street at the Country Club Property. One concern that was raised was the utilization of Country Club Road and the limitations because of the I-81 bridge overpass near the railroad tracks. Where are we with widening that? Is there any light at the end of the tunnel so to speak?

Mr. Baker said those overpass bridges are not part of the exit 247 project. There are four bridges at the interchange that are in for replacement as part of this project – the two over the railroad and the two bridges that cross I-81 at the interchange. I do not see anything in the near future for improvements on those bridges you are referring to. When those bridges are improved, is when changes to the pier footers, stream bed, and railroad can all be made to improve the movement of traffic.

Mr. Da’Mes said why did the other four bridges get priority over these two bridges?

Mr. Baker said because the Federal Bridge Safety Program identified those as the most critical during safety inspections.

Vice Chair Way said with the MLK Way and South Main Street improvements is there a JMU contribution to that as well?

Mr. Baker replied that the House Bill 2 funding would be State funding, which would be the best for the City and for JMU. If the house funding is not approved, then we are looking at a revenue sharing with the State that would be 50% local funding and 50% VDOT revenue sharing; within that local match we are anticipating a local share with JMU.

Vice Chair Way asked if there were any further questions regarding the CIP.

Dr. Dilts said on page 100 regarding water and sewer funds, there is a mention of the “rural water system;” where is that system?

David Gray, Public Utilities Division Superintendent, said let me start by saying the title that identifies this as “western,” the vast majority of our water system that is outside of our City limits is to the west. This includes Belmont, Monte Vista, and finished water lines that extend all the way to Riven Rock Park. There are some other small areas to the west – Lincolnshire Drive being one, and we treat them differently than the lines in the City because it is a County customer versus a City customer. We make certain the rates applied in the County cover the expenses for the utilities in the County; that is why it is pulled out separately.

Dr. Dilts said so we supply water to the City and some areas in the County and the County citizens pay us money to maintain that infrastructure and for the water itself.

Mr. Gray replied yes. The rates charged to the County customers are intended to cover the cost of those utilities.

Vice Chair Way asked if there were any further questions regarding the CIP. Hearing none, he asked if there was any discussion on the CIP or perhaps a recommendation.

Mr. Colman said I have looked through this document, I do not think I have had enough time to really look at it in depth. We received it on Friday and so it has only been a couple of days. Everything I saw was fine, but ideally I would like a bit more time than just two days. I am supporting the option of delaying this for another month.

Dr. Dilts asked what the consequence of delay for a month would be.

Mr. Fletcher replied that is a difficult question to answer. It would be good if this was moved forward to City Council the first part of April because of the timing sequence of having the CIP approved prior to budget time periods. If I can speak to one of the thoughts that has come up about additional communication with the School Board and City Council – I would like to question what you mean by that. A lot of communication has occurred over the past several days and I do not know if additional communication is needed; maybe it should be that they come to some sort of understanding about how this is presented. As staff, we have to put together this package for you, this is our recommendation to you. Is it something you like or are there changes you would like to see? You can suggest those changes and move the document forward.

Mr. Colman said historically the CIP would come to Planning Commission sometime in December.

Mr. Fletcher said historically we have done this as early as November; this year is just as it was last year, in March. The CIP process from a staff perspective starts in July; most people do not realize how long it actually takes. Projects have to be submitted to myself and the CIP

committee by September and then we start putting things together, evaluating, scheduling meetings, and so forth. The school projects came in just a little bit later, but that was okay, we have had some staffing issues ourselves as you know. March is probably the latest extent that you want to go with the CIP.

Mr. Colman said I feel that we need to do something; but yet only having a few days to look it through. It begs the question of how much attention are we really paying to it.

Mr. Da'Mes said I can tell you from past years experience that sometimes it has been a simple okay thank you and we pass it on to Council. Our deliberations tonight have shown that it is important to us and we are addressing concerns as it should be. In terms of a planning tool from the staff recommendation, how do we incorporate the School Board's concern into our recommendation?

Mr. Baugh said that City Council already knows all of this information that you are hearing tonight. This issue is at the forefront and it is one of the reasons why so much discussion has been focused on this one piece.

Mr. Fletcher said the replacement sheets that are in front of each of you may be what you are looking for. It captures exactly what the School Board requested. On page 92 regarding the high school annex, you can read the explanation, the note that was written explaining that City Management revised the timing cost of the project to reflect the projected timing of the City's capability to pay for the identified project. It originally came in as \$160 million in the 2017 fiscal year and then the end result was the recommendation put forth by staff.

Mr. Baugh said basically the City Manager is saying it is going to be a whole lot easier to deal with it fiscally if you put it in 2018. I understand School Board's position of "we are not certain that anyone gets to change what we put in the CIP" and the City Manager's position which is School Board cannot adopt a CIP that tells the City when it has to fund items, or even give that appearance.

Dr. Dilts said the issue with the high school annex, I thought, was the timing and not the issue of the money.

Mr. Baugh said yes, I feel the issue right now is over the timing.

Mr. Fletcher said I do not want to put words in the Commission's mouth, but if you are interested in a consideration of recommendation for this time period to be moved up, you can always offer it as a recommendation.

Mr. Da'Mes said I feel that is in line with what our Comprehensive Plan states. It would be a priority over some other important things.

Vice Chair Way asked if there was a motion.

Dr. Dilts moved to recommend moving the CIP forward to City Council, with the suggestion that the date for the high school annex project be moved forward. I also want to say as part of that recommendation, we owe a debt to each department for the fine work that they have done on putting this together and for the work in general that you do. Thank you.

Mr. Da'Mes seconded the motion and noted that the Superintendant did have two points of concern, the second being the appropriation of the property. We are only addressing the one point regarding the high school annex time line.

Mr. Baugh said that is in progress and is being looked into. It is unknown if property is going to have to be purchased or what the factors for purchasing property would be. All of these issues are being discussed as we try to move in that direction. We know we will be working on this sooner rather than later.

Mr. Colman said I do not know if we need to include this because it sounds like it may be worked out before it gets to City Council; but, the suggestion that the School Board work it out with the City Manager before it gets to Council. That is my recommendation.

Vice Chair Way said the motion before you is to recommend the 2016/17 through 2020/21 CIP to City Council with the emphasis on and language that we have spoken of here. He then called for a voice vote on the motion.

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

Vice Chair Way thanked all the City Department Heads and CIP representative for attending tonight.

Zoning Ordinance Amendment – Sections 10-3-24, 90, and 96 related to Plant Nurseries and Greenhouses

Vice Chair Way read the request and asked staff to review.

Mr. Fletcher said staff is proposing to amend Section 10-3-24 by modifying the definition of “Plant nurseries and greenhouses” by adding “landscaping businesses and similar operations” to the titled definition. Section 10-3-90, which is the Uses Permitted By Right section of the B-2 General Business District, would be modified within subsection (17) by aligning the existing specified uses (plant nurseries and greenhouses) with the modified definition noted above by adding “landscaping businesses and similar operations” to the list of permissible uses. Similarly, Section 10-3-96, which is the Uses Permitted By Right section of the M-1 General Industrial District, would be amended within (16) also by aligning the existing specified uses (plant nurseries and greenhouses) with the modified definition noted above by adding “landscaping businesses and similar operations” to the list of permissible uses. Staff is further proposing for the identified uses within the M-1 district the ability to have small-scale, outdoor manufacturing, processing, storage, and treatment of products as part of a plant nursery, greenhouse, landscaping business, or similar operation, when such uses are compatible with surrounding uses.

The proposed amendments originated after a citizen proposed a landscaping-like business within the M-1 district that would have included outdoor processing and manufacturing—in this particular case, the individual was interested in processing and manufacturing mulch. Although the landscaping-type business was permitted by right, staff knew the M-1 zoning district under the current Zoning Ordinance would not permit outdoor processing and manufacturing because Section 10-3-99 (c), among other things, states that “unless otherwise permitted, all accessory storage or products to be processed or being processed, and supplies and waste materials resulting from such work, shall be completely enclosed within the structures of permanent and durable construction” (emphasis added). Given the desired location of the operation and the exact type of outdoor manufacturing that was desired, staff believed the ordinance was overly burdensome.

Overall, staff believes the proposed amendments are good planning and zoning practices. Specifically, the language within Section 10-3-96 (16), which states that the uses must be “compatible with surrounding uses” is important to understand because this will provide a level

of scrutiny for the Zoning Administrator to ensure that such uses do not cause undesirable dust and debris, noise, lighting, or other issues for adjacent properties. For example, at this time staff does not believe it would be appropriate to have a landscaping operation that includes outdoor processing and manufacturing adjacent to a residential zoning classification or on M-1 properties that are located within or adjacent to the City's downtown area. If the Zoning Administrator interprets a particular small scale, outdoor manufacturing, processing, storage, or treatment of products operation that is associated with a landscaping-like business as not being compatible with surrounding uses and the property owner believes the interpretation is wrong, they may appeal the decision to the Board of Zoning Appeals.

Staff recommends approving the proposed Zoning Ordinance amendments as described and shown herein.

Vice Chair Way asked if there were any questions for staff.

Mr. Colman said when talking about the storage of materials other than plants needs to be screened, are we giving any consideration to the processing activities that we are opening up?

Mr. Fletcher said we did not give any consideration to that; but you must pay particular attention to the language in the B-2 district, which states "all outside storage must be screened other than plants." The same language is not carried over to the M-1, and that district is where the operations would be occurring.

Vice Chair Way asked if there were further questions. Hearing none, he opened the public hearing and asked if there was anyone present who would like to speak regarding the ordinance amendments.

Mr. James Flynn, 699 John Tyler Circle, said he is the citizen who brought this forward to staff. I am looking to start a small mulching operation and thanks to Mr. Fletcher and Mrs. Banks for helping me to get this through. The main point being it is essential to be outdoors with this type of operation; you need moisture from rain and the different climates and temperatures. There is also the concern of carbon monoxide when operating the mulching equipment indoors. Thank you for hearing this request.

Vice Chair Way asked if there was anyone else wishing to speak regarding this request. Hearing none, he closed the public hearing and asked for discussion.

Mr. Colman said is this the first time this has come up, in terms of small manufacturing in M-1.

Mr. Fletcher replied yes.

Mrs. Banks said the larger manufacturing processing businesses currently comply with the requirement of being completely enclosed.

Mr. Fletcher said yes there are many larger manufacturing operations; but of course their operations are internal. They have large ventilation systems, mechanical systems, and meet all the requirements. Remember we are an urban environment, so we do want the noise and view to be controlled.

Mr. Colman said I believe this is a great way to do this for smaller businesses. I move that we recommend approval of the Zoning Ordinance amendments to Sections 10-3-24, 90, and 96 related to Plant Nurseries and Greenhouses as presented by staff.

Dr. Dilts seconded the motion.

Vice Chair Way asked if there was any further discussion. Hearing none, he called for a voice vote on the motion.

All voted in favor (6-0).

Vice Chair Way said this will move forward to City Council on April 12th with a favorable recommendation.

Zoning Ordinance Amendment – Section 10-3-24 Definitions, and Multiple Sections within Article W Board of Zoning Appeals (To Align the Zoning Ordinance with recent changes to the Code of Virginia regulating BZAs)

Vice Chair Way read the request and asked staff to review.

Mrs. Banks said this is a public hearing to consider a request to amend the Zoning Ordinance Section 10-3-24 Definitions and several sections within Article W Board of Zoning Appeals (BZA) to align the City Code with approved changes to the Code of Virginia that occurred during the 2015 Virginia Acts of Assembly and in general to perform a few housekeeping revisions to line up our Code better with the State Code.

Overall, the changes herein described pertain to the procedures and criteria under which the board grants variances and decides appeals. The amendments would occur within Section 10-3-24 Definitions and the following code sections within Article W Board of Zoning Appeals: 10-3-132 and 10-3-135 through 10-3-140.

In general, the BZA is charged with: hearing and deciding appeals to decisions of the Zoning Administrator, authorizing variances that allow deviations from particular zoning regulations, hearing and deciding applications for interpretations of the zoning map, and to determine (in cases of uncertainty) the district classification of any use not specifically named in the Zoning Ordinance.

The existing definition of “variance” within Section 10-3-24 is proposed to be updated by removing the requirement of a property owner proving that strict application of the ordinance results in “unnecessary or unreasonable hardship” and replacing it with the requirement that an applicant demonstrate that strict application of an ordinance would “unreasonably restrict the utilization of the property.” Changes made to Section 10-3-132 titled Composition, would be amended to better define the duties of the secretary of the BZA and the BZA members. New criteria to decide appeals would be added to Section 10-3-135 titled Powers, while Section 10-3-136 titled Variances would be updated to reflect the new definition of a “variance” and outline the criteria under which one can be granted. Section 10-3-137 titled Conditions Attached to Approvals, has been removed altogether since the power to impose conditions is given at the end of Section 10-3-136. Section 10-3-138 titled Amendment of Variance, would be changed to require applicants to follow the same process as individuals applying for a variance. Three new subsections have been added to Section 10-3-139 titled Procedures on Applications and Appeals, to include the requirements of equal say during a public hearing, availability of materials to the applicants and the public, and for issues associated with open communication among all parties involved while a case is open.

The purpose of most of these changes is to clarify the criteria under which the board can grant a variance. In the past, deciding whether or not an applicant met the requirement of a “hardship” has been difficult. With this amendment, the hope is that the BZA will find it easier to determine if a property’s utilization is being unreasonably restricted by regulations within the Zoning

Ordinance. Other important changes that are proposed within Article W are to further ensure that applicants are being treated fairly and have equal access to all of the materials and conversations surrounding their case. As noted in the Summary section above, several of the proposed amendments are not associated with recent changes to the Code of Virginia, but rather are put forth to better align the overall regulations of the BZA with the Code of Virginia.

Staff recommends approving the proposed Zoning Ordinance amendments as described and shown herein.

Vice Chair Way asked if there were any questions for staff.

Mr. Heatwole said within the section that discusses adjoining property owner notification and states “such notice shall be given by first class mail rather than by registered mail,” was there a previous requirement that it must be sent by registered mail?

Mrs. Banks replied no, this has always been allowed and is not a change initiated by State Code changes, but rather a housekeeping change.

Mr. Fletcher said just to clarify one thing regarding these changes. We are not that far behind with changes to the State Code, as a matter of fact we had these changes prepared and on the Planning Commission agenda for July 2015, right after it was adopted. Staff did not like the way we were moving forward with the changes and we actually pulled the item from the agenda in order to make more changes.

Vice Chair Way asked if the Board of Zoning Appeals had an opportunity to review this.

Mr. Da'Mes said yes and they have no issues. Actually they feel this will help when deciding on requests because previously it has been hard to meet the hardship requirement as spelled out.

Vice Chair Way asked if there were any further questions. Hearing none, he opened the public hearing and asked if there was anyone wishing to speak regarding the ordinance amendments. Hearing none, he closed the public hearing and asked if there was discussion or a motion.

Dr. Dilts moved to recommend approval of the Zoning Ordinance Amendment – Section 10-3-24 Definitions, and Multiple Sections within Article W.

Mr. Colman seconded the motion.

Vice Chair Way called for a voice vote on the motion.

All voted in favor (6-0).

Mr. Da'Mes said I would like to mention that in December 2016 my tenure on Planning Commission comes to an end and therefore it will be my end of term on BZA. I would like for my fellow Commissioners to consider this role and not just necessarily hand it over to my Planning Commission replacement. It is not a frequent or monthly commitment, but it does come up a couple of times yearly. What I think are some useful attributes to have would be someone with an understanding of architectural design because sometimes it comes in handy. So please, consider the role.

Unfinished Business

None.

Public Input

None.

Report of Secretary and Committees

Mrs. Banks said proactive zoning visited two sectors again this month in an effort to catch-up. They were in Spotswood Acres and the Jefferson Street Area. In the Jefferson Street Area inspectors found 36 violations and in Spotswood Acres there were five violations. They will again pick-up two sectors this month.

Other Matters

Vice Chair Way said under “Other Matters” we are going to discuss revisions to Section 15-2-24.

Mrs. Banks said I have several slides for review tonight that capture several of the issues discussed at last month’s meeting. There is a draft copy of Section 15-2-24 with some of the changes that Planning Commission (PC) agreed upon last month; for example, removing the two acre requirement and the reduction of the 25-foot setback. There was a desire to better define chicken coops or pens; and proposed language is added within Section 15-2-24 (c) 4. PC was interested in providing some type of educational component to those desiring to keep chickens and we have acquired brochures and literature from the Department of Agriculture, as well as a website we can refer to.

During last month’s conversation PC talked about a reduction in the required setback for chicken coops/pens. I have provided several maps showing a reduction to 10 and five feet for the setbacks; five feet is the current setback for accessory buildings within residential areas. As well, Section 15-2-24 was modified to specify that coops/pens must be within the rear yard.

The Virginia Poultry Federation proposed a 1,000-foot buffer from all poultry facilities at the February meeting and, after review, PC asked to see a map showing just adjacent property setback from the specified facilities. I realize it is difficult to see the smaller version of the map and there are larger versions laying on the table if you would like to look at them.

Several questions arose after last month’s meeting regarding some of the current language within the chicken ordinance. For example under subsection (7), where it states “all pens must be kept in a neat and sanitary condition at all times and cleaned on a regular basis and once a permit is obtained pursuant to this section, the permittee agrees to a semi-annual inspection by the Virginia Department of Agriculture and Consumer Service Veterinarian,” there was a question as to whether this is correct. I contacted Dr. Hopson and he informed me that no, this type of inspection would not occur. Therefore, we have removed the portion regarding the semi-annual inspection. Remember, the City Animal Control Office will be inspecting site each year you apply for your permit, or on a complaint basis.

Under current subsection (9) which discussed litter, waste and removal of carcasses; the landfill does not accept litter and waste. If you are not composting or using the litter for fertilizer on site, you would need to contact a bona fide litter service. As well, the landfill does accept animal carcasses, by appointment; they should not be put in the trash.

Lastly, we included the language proposed by the Stormwater Advisory Committee regarding a 20-foot setback from specific drainage areas.

I know this is a lot to take in at once, but staff is here to help answer questions should you have anything for us.

Mr. Colman asked if there were any requirements for how deep you needed to bury a dead animal on site.

Mrs. Banks said not that I have found. We have had some conversation with Dr. Hopson regarding some information he provided requiring a 50-foot setback when burying animals on site. However, after research we discovered this does not specifically apply to back yard chickens.

Mr. Fletcher said as I thought about this, I questioned how does one know whether their bird died of natural causes or from the avian flu.

Vice Chair Way said under the draft ordinance language in subsection (9), it suggests the dead animal must be taken to the landfill and cannot be buried on site. Is this correct?

Mr. Fletcher said what we have learned is that yes, you can bury on site. This subsection would need to be amended and updated with the new information we have gathered.

Dr. Dilts said the point of this is that you cannot just put it in a trash container.

Mrs. Banks replied yes, you cannot put it in the trash that is collect at the street. However, if you do not want to bury it on site you may make an appointment with the County landfill to drop it off there. There is a fee associated with taking it to the landfill.

Dr. Dilts asked how would one know if a bird has died of the avian flu and can that bird be buried on site? Do they bury entire infected flocks on site?

Mr. Heatwole replied yes, they bury on site and it is a rather big process. But remember there is a big difference between a backyard chickens and the poultry industry.

Mr. Colman said how do we enforce not burying in the backyard if the bird has avian flu?

Vice Chairman Way said the critical element is that no dead bird shall be deposited within the trash container that is collected by public or private waste collectors. That is the bigger concern of transporting and spreading the disease. The primary option is to bury on site.

Mr. Fletcher said moving forward I promised Mr. Bauhan with the Virginia Poultry Federation that I would provide you with the information from them regarding their position that they would prefer the 10-foot setback over the five-foot setback; that they would also like for the VDACS facility on Mt. Clinton Pike to be included in that list of facilities within the buffer zone; and they felt that the adjacent lot buffer was not secure enough and would like something else considered.

Mrs. Banks said another question brought up last month was regarding Rockingham County's regulations for setbacks for chicken coops/pens and staff did speak with the County about this. For a commercial poultry facility, a very intense use, it requires a large setback. The County does allow backyard chickens in the Agricultural Zoning District – setbacks for structures less than 580 square feet is five-feet on sides and rear; setbacks for structures greater than 580 square feet is 15-feet on sides and 35-feet on the rear. Most residential subdivisions, such as Belmont or Battlefield Estates, have language within their covenants that restricts the keeping of any poultry; as well, the County Ordinance does not permit the keeping of poultry in

residential districts. However, there are some Residential/Recreational (RR) districts that do allow the up to five birds by special use permit.

Mr. Colman said the setback for poultry houses is 300-feet in the County?

Mrs. Banks said yes, that setback is for the large commercial poultry facilities.

Mr. Colman asked if there was any type of buffer zone from the poultry houses, such as the one we are trying to establish.

Mrs. Banks replied no.

Mr. Baugh said it is banned in the residential districts. However, the County just did a study that shows that slightly over half of their residential units are on agriculturally zoned property, not residentially zoned property. So it is banned in the residential zoning; but most of their dwellings are not within a residentially zoned area.

Vice Chair Way asked if there were any further questions for staff. Hearing none, he asked if staff would return to the “bullet point” slide. He then said this is not a public hearing; however, we will open the floor to those who wish to speak.

Mr. Hobey Bauhan with the Virginia Poultry Federation said he appreciates the fact that PC is open to additional input. We do have serious concerns about trying to protect our poultry industry. I suggest that when you do have an unexplained death of a backyard chicken not to remove the bird and instead contact VDACS before burying. They would come out and take a look, probably take samples and test them back at their lab. Basically, you would keep the site on lock down until the test came back. If it was negative, then your proper disposal would go into play; if not, you would have a whole other issue with quarantine and stopping the spread. So I suggest talking to VDACS first when a chicken dies. I am a bit uncertain about the best thing from an environmental standpoint when burying on site; we do not bury on farms for a routine death. I suggest contacting Virginia Department of Environmental Quality (DEQ).

Again, I would appreciate your re-evaluating that adjacent property only buffer zone. Perhaps there is an answer somewhere in the middle.

Mr. Heatwole said I did like the language the Virginia Poultry Federation proposed that said if the parcel, or lot, falls within that specified amount of feet, then that property would not be allowed chickens. I do agree that just the adjacent parcel is not enough of a buffer.

Vice Chair Way asked if there was anyone else desiring to speak.

Quillon Hall, 675 New York Avenue, said again, thank you for bringing this topic up and the time spent on it. As far as the setback is concerned, I think a 10-foot setback for the chicken coop/pen in the backyard leaves a good amount of space for people to move their coops around in their yards. I also think a 500-foot buffer is a good compromise from the 1,000-foot buffer and the adjacent lots. I do realize that will leave some people will be left out, but again it does open it up for a lot more people to do it than before.

I did a quick Google search on the life expectancy of a chicken, and it is 7-8 years. So when you talk about disposal of a carcass because of age of a chicken you are talking about possibly four carcasses in about eight years; which is not an exorbitant amount of chickens to bury in your backyard.

Mr. Heatwole said I think between five and ten feet is adequate for a setback as well.

Mr. Da'Mes said if you have a right to put a rabbit cage right up to the property line, then why does the bird cage have to be set back? I do not understand the preference of ten feet for chickens, when it is five for other pets.

Mr. Fletcher said if someone were to put a dog house on their property it would be considered an accessory building and staff would tell them there is a five foot setback. However, if it is just a fence or opened unenclosed pen, like the ones you can buy, those are sometimes incorporated right into the backyard fence. In other words you could fence in your entire property and that is your pen for your pet. Or you could pen your pet in a corner of your property and the structure is within that penned in area.

Vice Chair Way asked how PC would like to proceed with this. Do we want to make a recommendation to City Council regarding this?

Mr. Fletcher said my suggestion is that you not move forward to City Council until you have a solidified, pre-written ordinance that Council can read through.

Vice Chair Way said would you like for PC to give recommendations to you at this time and then staff would bring something back next month.

Mr. Fletcher said yes, that is what staff would prefer. We would also do new maps based on the buffer that you suggest and the setbacks.

Vice Chair Way said some of the outstanding points that we have are the property line setbacks, the distance of a buffer zone around poultry facilities...

Mr. Heatwole said on that point I would put forward that the buffer be 500-feet and that if any property falls within a portion of the 500-feet it is included within the buffer and thus they are excluded from having chickens.

Mr. Colman said any property that touched the 500-foot buffer?

Mr. Heatwole replied yes.

Mr. Colman said I would like to mention that if DEQ has something, we should include it within this ordinance.

Mr. Fletcher agreed and said he would check with DEQ.

Vice Chair Way said he is strongly supporting the five foot setback for chicken coops/pens rather than the 10-foot.

Dr. Dilts said the reason I am not convinced is that some of these lots are really narrow. How do you respect the integrity of your neighbor's yard or living space and yet also have your dog, cat, or pet out there. That is why I was more for the 10-foot.

Mr. Colman said do we want language that specifies a minimum number of feet from a residence?

Mr. Fletcher said that would be tough to enforce.

Mr. Heatwole said it will be inspected by the Animal Control Officer and she will know the property lines.

Mrs. Banks said no, not necessarily. We will provide her with an estimated idea; however, we do not know the exact property line.

Mr. Fletcher said there was a comment last month about setbacks being a bit easier to regulate and in reality, unless you have a current survey and pins marked, you really do not know.

Mr. Colman said so the distance from a residence could be much easier to enforce than a setback from the property line.

Vice Chair Way said if that is the case, should we not be increasing the distance for dog houses, rabbit cages, and such; if it is good for the chicken, why not for all pets or animals? He continued by asking if there was a consensus regarding the buffer from poultry facilities; is 500-feet the consensus?

Mr. Fletcher said is that including the recommendation that the VDACS facility be added to the list of facilities buffered?

Mr. Da'Mes said I am a bit concerned about putting that on staff to determine 500-feet and which lots does it include.

Mr. Fletcher said it really is not an issue. A 500-foot buffer will be drawn around the parcel using GIS. It will indicate all parcels that are touched by the buffer, and then by clearly stating that if the 500-foot buffer touches your parcel you cannot have chickens; there should be no issues. I am comfortable with that.

There was a consensus among the members to include the VDACS facility and a buffer of 500-feet.

Vice Chair Way said what is our suggestion regarding dead birds. Should it read bury on site, or take to the landfill for disposal; but, do not place in trash for pick-up.

Mr. Fletcher said that is good and I will be contacting the DEQ with questions as well.

Vice Chair Way said the remaining question is five or ten feet; what are we thinking?

There was a consensus to require a setback for chicken coops/pens of five-feet.

Vice Chair Way asked if there were any other outstanding elements of the revised Section 15-2-24 ordinance that staff needs direction on.

Mr. Fletcher said I believe that will cover it. If you all give us the freedom to amend other small things as we see fit, and to come back next month with the changes, I believe we will be fine.

Mr. Colman said I do believe a distance from an adjacent neighbor's residence would be helpful.

Dr. Dilts said these homes on the narrow lots are already within five-feet of the property line.

Mr. Fletcher replied correct, most are within five to zero feet of the property line.

Mr. Colman said are we saying we do not even want to consider a distance from neighboring residences?

Mr. Heatwole said I believe we are okay with just requiring a five-foot setback from property lines. Is everyone okay with that?

There was a consensus to just go with the five-foot setback.

Vice Chair Way thanked everyone for their work on this and asked if there was any “Other Matters” to be discussed.

Mrs. Banks mentioned that folks needed to sign-up for the Rockingham County Planning Commission meetings.

Dr. Dilts apologized about not attending the March County PC meeting and said she would attend in April.

Adjournment

The Planning Commission meeting was adjourned at 9:30 p.m.

DRAFT



City of Harrisonburg, Virginia

Department of Planning & Community Development
409 South Main Street
Harrisonburg, Virginia 22801
www.harrisonburgva.gov/community-development

Building Inspections: (540) 432-7700
Engineering: (540) 432-7700

Planning and Zoning: (540) 432-7700
Department Fax: (540) 432-7777

To: Planning Commission
From: Department of Planning and Community Development
Date: April 13, 2016
Re: Preliminary Plat and Street Closing – Red Oak Street Cul-De-Sac (Permanent Termination) and Right-Of-Way Closing

Summary:

1. Consider a request from Acorn Enterprises, Inc.; Reon Properties, LLC; Mathew S. and Holly C. Einstein; and Quarles Petroleum, Inc. all being represented by Richard Blackwell to preliminarily dedicate portions of 9 parcels as public street right-of-way for the southern end of Red Oak Street and to create a permanent cul-de-sac. In conjunction with a separate street right-of-way (ROW) closing application, where Richard Blackwell is representing the owners of 1430 Red Oak Street (Jamison Black Marble Wildlife Preserve, LLC) to close and purchase 8,523 +/- square feet of undeveloped Red Oak Street right-of-way, the dedication of property from the 9 parcels for public street ROW will permanently terminate the southern section of Red Oak Street. Per Section 10-2-41 (e), cul-de-sacs and other permanent dead-end streets are prohibited except when permitted by the Planning Commission in accord with the Design and Construction Standards Manual (DCSM). Mr. Blackwell is further requesting a variance to Section 10-2-41 (a) of the Subdivision Ordinance, which requires all streets (including private streets) to conform to the DCSM. A private street is requested to be built off of the public cul-de-sac to serve the dwellings for 1430 Red Oak Street. The street would be not less than 16-feet in width, which would not meet private street standards as specified in the DCSM. The properties involved in the platting are zoned M-1, General Industrial District, where in total 4,468 square feet will be dedicated from the 9 parcels involved. The properties have the following addresses: 1555, 1559, 1560, 1563, 1567, 1569, 1570, 1573, 1577, 1581, 1585, and 1589 Red Oak Street. The properties are identified by the following tax map parcel numbers: 56-C-2 & 6, 56-G-1, 2A, 2B, 3, & 4, and 56-E-25B & 26.
2. Consider a request from Jamison Black Marble Wildlife Preserve, LLC represented by Richard Blackwell to close an 8,523 +/- square foot undeveloped portion of Red Oak Street. The section to be closed is adjacent to three parcels, which are zoned M-1, General Industrial District. The adjacent parcels are identified as tax map parcel numbers 46-C-8, 56-G-2A, and 56-E-26.

The specifics of both applications are described within this report.

Background:

The Comprehensive Plan's Land Use Guide designates this area as General Industrial. This designation states that these areas are composed of land and structures used for light and general manufacturing, wholesaling, warehousing, high-technology, research and development and related activities.

The following land uses, as well as the properties' existing zoning, are located on and adjacent to the property:

- Site: Properties involved in the dedication of ROW for the public street include portions of the already constructed cul-de-sac, which are zoned M-1
- The area involved with the Red Oak Street ROW closing is undeveloped, but includes existing gravel driveway to access the property at 1430 Red Oak Street
- North: Existing built and platted Red Oak Street
- East: Undeveloped land, zoned M-1
- South: Recreational and leisure activity use and non-transient single family detached structures under development at 1430 Red Oak Street, zoned M-1
- West: Industrial uses, zoned M-1

The reasoning for both the preliminary plat application and public street ROW closing request stems from conditions placed upon the July 2015 approval of the special use permit (SUP) to allow for recreational and leisure time activities with nontransient dwellings on the M-1 zoned property at 1430 Red Oak Street, which is owned by Jamison Black Marble Wildlife Preserve, LLC. (The Planning Commission minutes associated with the above described SUP, which includes the associated Zoning Ordinance amendment that accompanied that application, are attached with this submission for reference.)

In brief, the approved SUP allowed for Jamison Black Marble Wildlife Preserve, LLC to have up to five single family detached dwellings on the property and to have—as described by the property owners—recreational and leisure time activities that include “...occasional special events for family and friends, (not for charge) and swimming and water activities.”

With conditions, staff supported the SUP, Planning Commission (PC) voted in favor of the request with the conditions suggested by staff, and City Council approved the request as recommended by PC. The conditions of the approved SUP are as follows:

1. The property [1430 Red Oak Street] shall be limited to five single family detached dwellings.
2. Occupancy of each dwelling shall be limited to a family or two persons.
3. Final certificates of occupancy shall be withheld until the following items are completed or an acceptable form of surety is accepted by the City to cover the cost for such work:
 - a. Red Oak Street shall be extended from its existing location to the subject property per public street standards as specified by the DCSM; or, the undeveloped Red Oak Street ROW shall be closed and purchased and the existing cul-de-sac permanently enclosed in public street ROW.
 - b. At minimum, a 16 feet wide all-weather surface road (with shoulder) shall be constructed from the termination of the completed public street on and through the property. The distance/extent that the road must travel shall be determined by the Fire Department, when the final locations of the residential structures are determined.
 - c. A fire hydrant shall be extended onto the property and located at a location determined by the Fire Department.

If the preliminary plat and street ROW closing are approved and completed, then condition “3 a” would be fulfilled.

Key Issues:

The submitted plat demonstrates the details for both the public street dedications and the requested ROW closure. Portions of nine properties (made up of four separate property owners) would be dedicated as public street ROW around the existing, built Red Oak Street cul-de-sac. In conjunction with the public street ROW dedication, the owners of 1430 Red Oak Street are requesting to close and purchase the remaining 8,523 +/- square feet of undeveloped Red Oak Street ROW that extends southward beyond the existing, built cul-de-sac.

Acceptance of both the ROW dedication and vacation of the remaining portion of the undeveloped ROW would permanently end the southern section of Red Oak Street. Per Section 10-2-41 (e) of the Subdivision Ordinance, “[c]ul-de-sacs and other permanent dead-end streets are prohibited except when permitted by the planning commission in accord with the DCSM.” The applicant is aware of this requirement and, as noted in their submitted letter, has requested for PC’s consent.

With regard to the ROW closing, per letters submitted with the application, neither of the two property owners adjacent to the undeveloped ROW (to the east or west) is interested in purchasing any portion of the undeveloped street property. As a result, and if approved for vacation, Jamison Black Marble Wildlife Preserve, LLC, may acquire the entire area requested for closure.

If the City chooses to vacate the ROW, there are a few easements that must be reserved. Regarding public easements, the submitted plat demonstrates where an easement will be reserved for a public waterline. There is also a separate combined easement for both public water and sewer infrastructure. For private easements, there are two easements that need to be retained for the accommodation of the approved industrial development on the adjacent property to the east (tax parcel 56-E-26). In December 2014, the developer of tax parcel 56-E-26 received approval of their engineered comprehensive site plan, which utilized the undeveloped Red Oak Street ROW for two purposes: 1) a private driveway extending from the constructed cul-de-sac curving onto their property, which provided a second means of ingress and egress; and 2) stormwater drainage facilities, which channeled water flowing from their site and other upstream properties across the undeveloped ROW to Blacks Run. Construction for that development has not yet begun as their land disturbance permit cannot be released for several reasons (including but not limited to the receipt of an approved surety for public improvements, submission of their Stormwater Pollution Prevention Plan, and other issues). Regardless, private easements shall be retained for the agreed upon use of the undeveloped ROW. The submitted plat demonstrates where a private access easement would be reserved and where the private drainage easement shall be located for the owner of tax parcel 56-E-26.

If both applications are approved, at the time of final platting and recordation of the ordinance to vacate the ROW, staff will ensure of the exact locations of the described easements above. There also remains a question as to whether an additional public waterline easement is needed for a small portion of the northwest corner of the undeveloped ROW. If an easement is needed, staff will make sure it is drawn accordingly and reserve an easement during the final steps of the process. The applicant must remember that if City Council approves the request to close the ROW, the City Attorney will not begin to prepare the ordinance document nor will the procedural second reading of the request occur until the funds to purchase the ROW are submitted and the applicant has the final plat submitted and in an acceptable form for recordation.

As was identified in the SUP staff report in 2015, to be able to construct the 16 feet wide private street to serve the dwellings on 1430 Red Oak Street, the applicants must receive approval of a variance from the private street standards as listed in the DCSM Section 2.7. To deviate from this standard they must request a variance to the Subdivision Ordinance Section 10-2-41 (a), which states:

“Proposed streets shall conform to the standards and specifications outlined in the Design and Construction Standards Manual except that variances to the standards for streets, alleys, blocks,

easements, sidewalks, and all such related features may be approved on a case-by-case basis by the city council when:

1. The proposed alternative would better achieve the walkable, pedestrian and bicycle-oriented environment the city desires.
2. The particular conditions of the site and surrounding street network would allow the proposed alternative without causing undue inefficiencies for service vehicles, nor an excessive reduction in pedestrian safety due to pedestrian-vehicle movement conflicts.
3. The proposed alternative would better balance the needs of pedestrians and vehicles, and better achieve the goals of the comprehensive plan.”

As noted in their submitted letter, the applicant has requested to deviate from the private street standards by receiving approval of a variance to Section 10-2-41 (a) of the Subdivision Ordinance.

During the staff review of the two applications, the Department of Public Utilities identified that the existing waterline that crosses the Jamison Black Marble Wildlife Preserve, LLC property in the northwest corner of the parcel is not within a public easement. Staff requested for the property owners to consider dedicating an easement for this infrastructure. Staff is appreciative that as part of this process the plat identifies their intent to dedicate that public easement.

In brief, the requested permissions herein are fulfilling obligations and expectations that staff previously identified would be acceptable. As staff identified in June 2015, there is no current need for Red Oak Street to continue through the Jamison Black Marble Wildlife Preserve, LLC property; thus, staff accepts the permanent termination of Red Oak Street as well as the street ROW closing with the condition that all necessary easements are retained. Furthermore, staff also supports approving the variance to Section 10-2-41 (a) of the Subdivision Ordinance to allow the private street that will be constructed to serve the dwellings on the 1430 Red Oak Street property to deviate from the private street standards within the DCSM Section 2.7.

As a reminder, certificates of occupancy for any of the permitted single family dwellings on the 1430 Red Oak Street property cannot be released until the SUP conditions “3 b” and “3 c” are fulfilled.

Environmental Impact:

N/A

Fiscal Impact:

N/A

Prior Actions:

N/A

Alternatives:

Rather than approving the preliminary plat or public street ROW request as applied for herein, denial of the applications would otherwise require the property owners of 1430 Red Oak Street to fulfill their SUP condition number “3 a” by extending and constructing Red Oak Street from its existing, built location to the northwestern section of the 1430 Red Oak Street property per public street standards as specified by the DCSM.

Community Engagement:

As required by the Subdivision Ordinance, a sign was posted giving public notice to the request for a variance to deviate from the standards of the Subdivision Ordinance. In addition, although not required for the Planning Commission review but a standard practice by Planning staff to assist in the awareness

that a public street ROW closing request was made, a sign was posted giving notice that an application was submitted to close the undeveloped public street ROW. (As a reminder, the public street ROW closure request does not become a public hearing until the case is heard at City Council, at which time other community engagement occurs.)

Recommendation:

Staff recommends approving the preliminary plat and requested public street ROW closing.

Attachments:

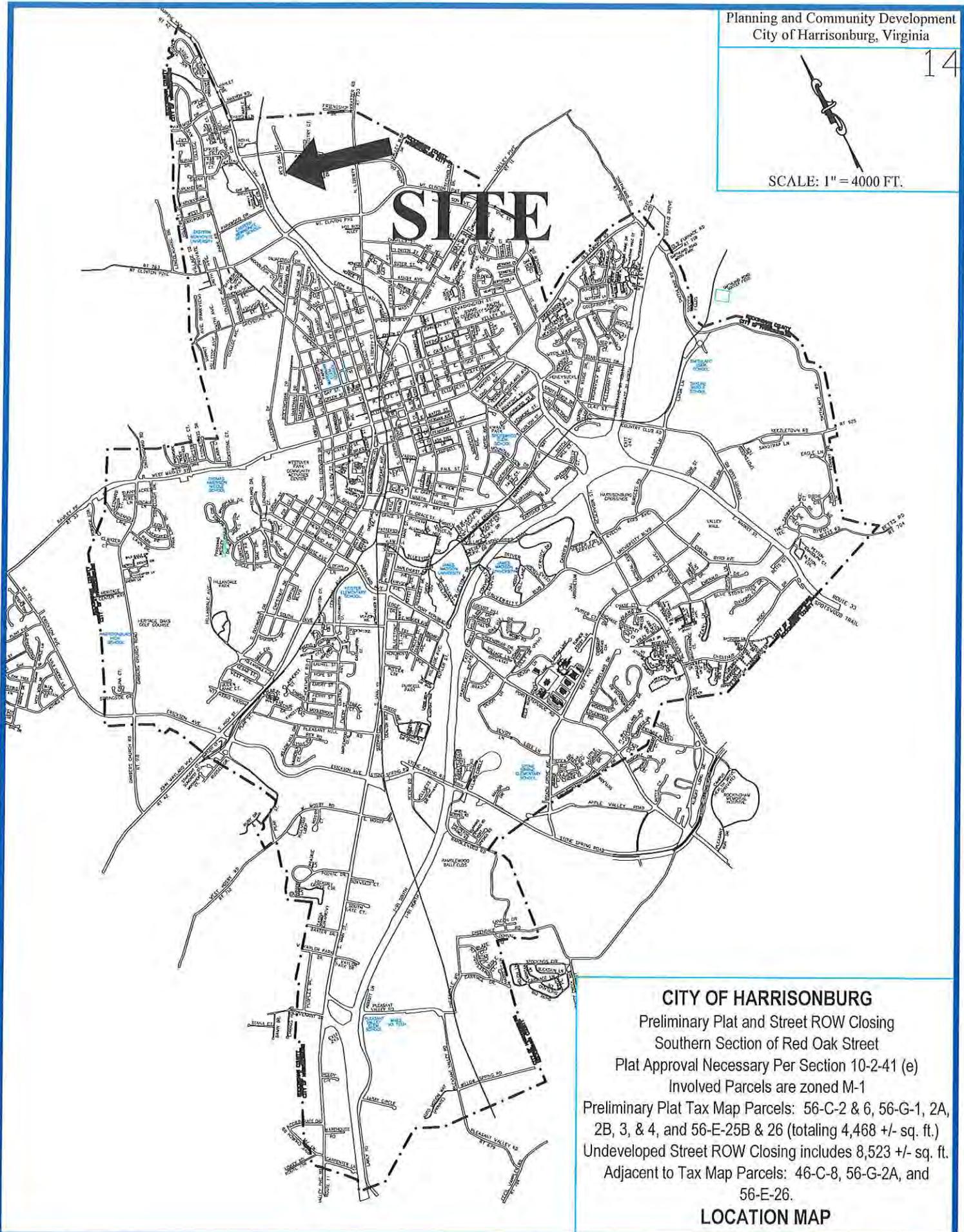
1. Site maps (2 pages).
2. Applications (2 pages).
3. Applicant letters (2 pages).
4. Applicant's supporting materials (4 pages).
5. Planning Commission minutes regarding the June 2015 SUP for 1430 Red Oak Street and associated Zoning Ordinance amendment (4 pages).
6. Preliminary Plat demonstrating property dedications and public street ROW closing request (4 pages).

Review:

N/A



SCALE: 1" = 4000 FT.



CITY OF HARRISONBURG

Preliminary Plat and Street ROW Closing
Southern Section of Red Oak Street

Plat Approval Necessary Per Section 10-2-41 (e)

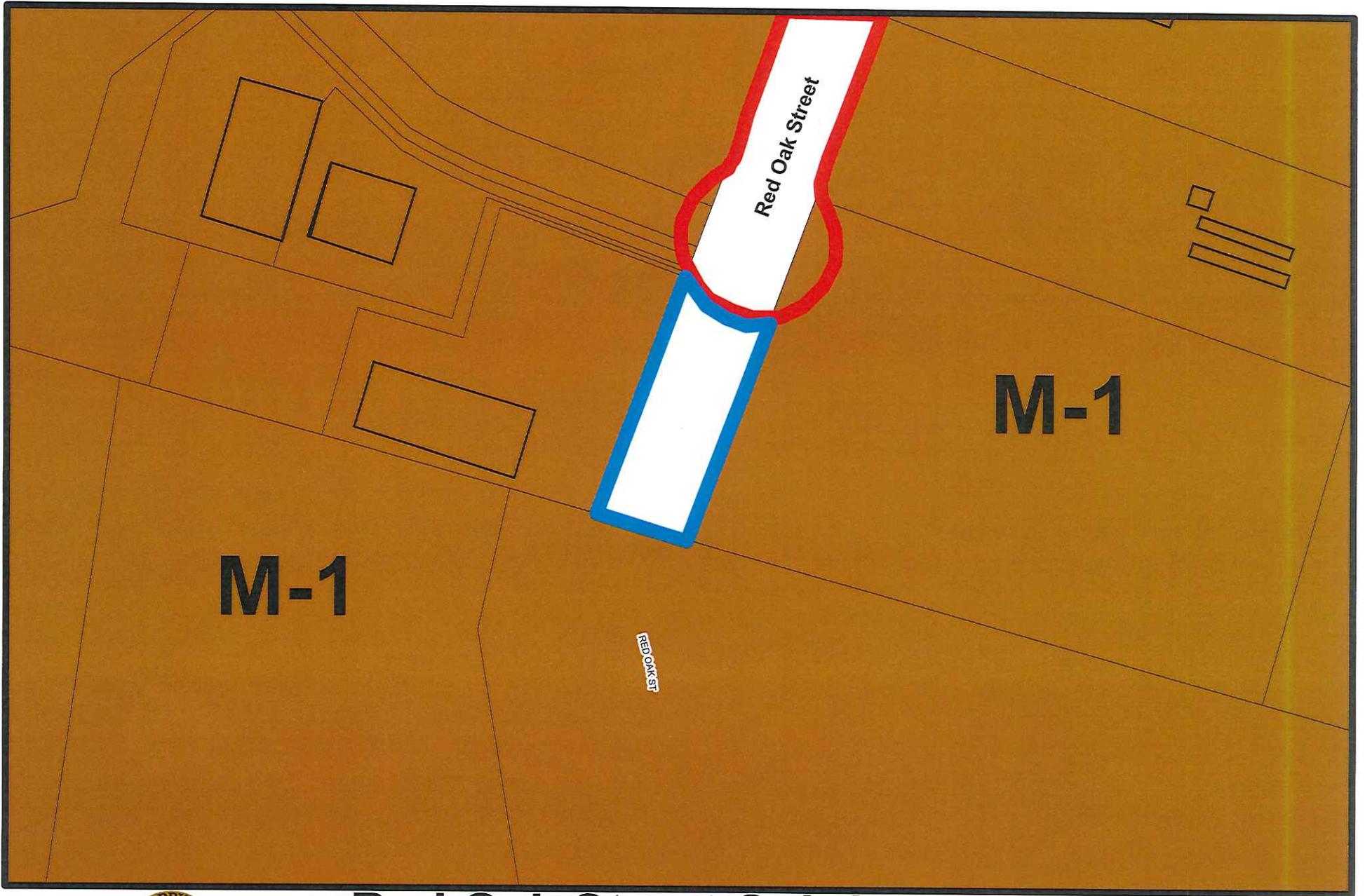
Involved Parcels are zoned M-1

Preliminary Plat Tax Map Parcels: 56-C-2 & 6, 56-G-1, 2A,
2B, 3, & 4, and 56-E-25B & 26 (totaling 4,468 +/- sq. ft.)

Undeveloped Street ROW Closing includes 8,523 +/- sq. ft.

Adjacent to Tax Map Parcels: 46-C-8, 56-G-2A, and
56-E-26.

LOCATION MAP



Red Oak Street Cul-de-sac Preliminary Plat and Street Closure



Date Application Received: 03-01-16

Total Paid: \$175.00 *AR*

Application for Preliminary Subdivision Plat Approval *of 12/15/15*

City of Harrisonburg, Virginia

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

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

Description of Property

Title of Subdivision: Red Oak street Cul-de-sac properties dedication
Location (Street Address): Red Oak St. Sheet: 56 Block: E 66 Lot: see plat
Total Acreage: 0.10257ac Number of Lots Proposed: 8 Zoning Classification: M-1
Involved
Proposed Use of Property: dedication to city

Property Owner's Name: see attached list
Street Address: _____ Email: _____
City: _____ State: _____ Zip: _____
Telephone: Work _____ Fax _____ Mobile _____

Owner's Representative (if applicable): Richard Blackwell
Street Address: 566 E. Market St Email: dick@blackwellengincaring.com
City: Harrisonburg, VA State: VA Zip: 22801
Telephone: Work 432-9555 Fax _____ Mobile _____

Developer: None
Telephone: _____ Email: _____

Surveyor/Engineer: Benner & Associates
Telephone: 434-0267 Email: _____

VARIANCES

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

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

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

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

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

Signature: _____ Signature: Richard Blackwell
Property Owner *Applicant, if different from owner*

See Back for Additional Application Fees Regarding TIA Reviews

Date application received: _____

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

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

Applicant's Name: Jamison Black Marble Wildlife Preserve, LLC

Street Address: 566 E Market St E-mail: dick@blackwellengineering.com

City: Harrisonburg State: VA Zip: 22801

Telephone: Work 432 9555 Fax _____ Mobile 820 2964

Representative (if any): Dick Blackwell

Street Address: same as above E-mail: _____

City: _____ State: _____ Zip: _____

Telephone: Work _____ Fax _____ Mobile _____

Description of Request

Location: the southern end of Red Oak Street

Square footage of area to be closed: 8523 sf

Cost per square foot: \$.02 sq Total cost: \$500 (consider fair)

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

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

North: none

South: Jamison Black Marble Wildlife Preserve

East: Acorn Enterprises, Inc

West: Reon Properties

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

Signature: _____
Applicant

Date: _____

ITEMS REQUIRED FOR SUBMISSION

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

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

February 25, 2016

Mr. Kurt Hodgen
City Manager
City of Harrisonburg
409 South Main St.
Harrisonburg, VA 22801

Dear Mr. Hodgen:

It is hereby requested that an 8,523 sq. ft. end section of south Red Oak St. be closed/vacated and then purchased by Jamison Black Marble Wildlife Preserve, LLC. In conjunction with the vacated street, eight different parcels around the existing cul-de-sac will donate a total of 4468 sq. ft. enabling the City to own the entire cul-de-sac with a 60 ft. radius.

The two other property owners adjacent to the vacated street have declined to purchase the property (see enclosed Letter) leaving only Jamison Black Marble the only interested purchaser.

The proposed section of right-of-way to be vacated is 60 ft. wide, entirely within the flood plain or flood way, and has a water main easement and a sewer main easement within the right-of-way. It is requested that the square footage of the property dedicated be deducted from the property purchased and allowances be given for the easements and the flood plain.

The surrounding properties range from over \$3/sq. ft. to \$0.02/sq. ft. and because of the encumbrances mentioned above, we estimate the property is to be valued at closer to \$.02/sq. ft. due to the flood plain issues. A \$0.02/ sq. ft yields a price of \$1.10 for the 4,055 sq. ft. of un-swamped land. Our recommendation is a purchase price of \$500.00 for this 4,055 sq. ft.

If additional information is necessary to complete this closing and purchase, please let me know.

Sincerely,

A handwritten signature in cursive script that reads "Dick Blackwell".

Dick Blackwell

April 5, 2016

Adam Fletcher
Director
Community Development
City of Harrisonburg
409 S. Main St.
Harrisonburg, VA 22801

Reference: Red Oak Street & Jamison Black Marble Quarry Property

Dear Mr. Fletcher & Planning Commissioners,

It is hereby requested that the City of Harrisonburg's Planning Commission consent to permanently terminate Red Oak Street as is required per Section 10-2-41 (e) of the Subdivision Ordinance. Right of way will be granted by the surrounding property owners to allow a standard industrial street cul-de-sac.

In addition, as was identified by city staff in June 2015 during the special use permit application to allow non-transient dwellings on M-1 zoned property at 1430 Red Oak Street, we must receive approval of a Subdivision Ordinance variance per Section 10-2-41 (a) to be able to deviate from the private street standards as listed in the DCSM Section 2.7. I hereby request approval of the deviation to Section 2.7 of the DCSM, where at a minimum, a sixteen (16) foot wide private street with shoulders would be built to serve the residential units on the 1430 Red Oak Street property.

Thank you for your consideration.

Sincerely,



Dick Blackwell

RED OAK STREET

Property being dedicated to City

<u>TM</u>	<u>SF</u>	<u>Owner</u>
TM 56 (G) 1	56 sf	Acorn Enterprises, Inc
TM 56 (G) 2	1669 sf	Acorn Enterprises, Inc
TM 56 (G) 2A	103 sf	Reon Properties
TM 56 (G) 2B	49 sf	Acorn Enterprises, Inc
TM 56 (G) 3	165 sf	Einstein, Matthew and Holly
TM 56 (G) 4	192 sf	Acorn Enterprises, Inc
TM 56 (E) 258	260 sf	Quarles Petroleum, Inc.
TM 56 (E) 26	<u>1,974</u> sf	Acorn Enterprises, Inc.
	4,468 sf TOTAL	

Portion of Red Oak Street to be vacated = 9523 sf

3462 sf of portion to be vacated include water and sewer easements

in addition all of property in flood plain or fllood way



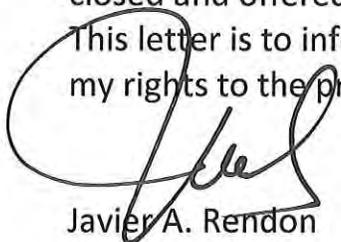
December 7, 2015

Mr. Adam Fletcher, Sr. Planner
Community Development
City of Harrisonburg
409 S Main Street
Harrisonburg VA 22801

Ref: The closing of a portion of Red Oak Street

Dear Mr. Fletcher:

It is my understanding that an 8523 sq. ft. section of Red Oak Street may be closed and offered for sale. My property TM 56(G)2A borders the subject street. This letter is to inform you that I do not wish to buy any portion of it. I relinquish my rights to the property.



Javier A. Rendon
Reon Properties LLC
TM 56 (G) 2A

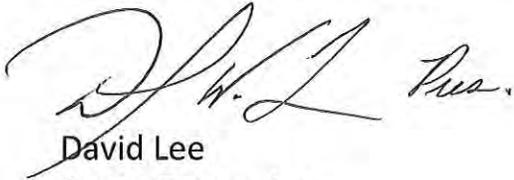
December 7, 2015

Mr. Adam Fletcher, Sr. Planner
Community Development
City of Harrisonburg
409 S Main Street
Harrisonburg VA 22801

Ref: The closing of a portion of Red Oak Street

Dear Mr. Fletcher:

It is my understanding that an 8523 sq. ft. section of Red Oak Street may be closed and offered for sale. My property TM 56-E-26 borders the subject street. This letter is to inform you that I do not wish to buy any portion of it. I relinquish my rights to the property.

A handwritten signature in black ink, appearing to read "D. Lee" with a flourish, followed by the word "Pres." in a smaller, cursive script.

David Lee
Acorn Enterprises
TM 56-E-26



City of Harrisonburg, Virginia

Department of Planning & Community Development
409 South Main Street
Harrisonburg, Virginia 22801
www.harrisonburgva.gov/community-development

Building Inspections: (540) 432-7700
Engineering: (540) 432-7700

Planning and Zoning: (540) 432-7700
Department Fax: (540) 432-7777

EXTRACT FROM MINUTES OF HARRISONBURG PLANNING COMMISSION MEETING HELD ON: June 10, 2015

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

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

- Site: Recreational and leisure time activity special use with cabins under construction and an accessory building, zoned M-1
- North: Industrial uses and undeveloped property, zoned M-1
- East: Industrial uses, zoned M-1,
- South: Undeveloped property, zoned M-1
- West: Pilgrim's Pride industrial operations, zoned M-1

The owners of 1430 Red Oak Street—the legal owner being Jamison Black Marble Wildlife Preserve, LLC, which consists of Richard L. Blackwell III, Edmond H. Blackwell, and Gregory S. Johnson—are requesting to amend the M-1 special use permit (SUP) section of the Zoning Ordinance (ZO) while simultaneously applying for the SUP they are requesting be amended so they can have the ability to permanently reside in dwellings on industrially zoned property. 1430 Red Oak Street is accessible from the temporary Red Oak Street cul-de-sac via a private gravel drive extending south from the cul-de-sac within the undeveloped Red Oak Street right-of-way (ROW). The undeveloped Red Oak Street ROW terminates at the subject property.

The proposed ZO amendment is to Section 10-3-97 (10), which currently allows M-1 property owners to request permission to have “recreational and leisure time activities.” The amendment would create the opportunity to have such uses while also allowing, on a case-by-case basis, nontransient dwellings. Specifically, the amendment would be as follows: (proposed text is underlined):

- (10) Recreational and leisure time activities, which may include nontransient dwelling units.

In 2009, the applicants were granted a recreational and leisure time activities SUP, which allowed them to formally utilize the property for recreational use and to build two cabins on the property to be used for shelter, which were for temporary recreational use only. At that time, the owners stated the use of the property was a retreat for themselves and their family and friends, where they could camp, picnic, swim, fish and more. They also noted that at times, and for no charge, small groups would use the property to recreate, and further that the property was closed to the general public. The SUP was approved with the following conditions:

- limiting the site to the two proposed cabins only,

- the cabins cannot be occupied on a long term basis, and
- staff shall be authorized to review any complaints received regarding the property and based on their finding may require the applicant to return to Planning Commission and City Council for a public hearing to re-examine the use of the property. Such re-evaluation may result in additional conditions being placed on the use or revocation of the special use permit.

The property owners are now interested in being able to permanently reside at 1430 Red Oak Street. As explained to the applicants, in general, there are two ways to allow their desired outcome: 1) rezone the property or 2) amend the ZO in some way to allow the use. After a great deal of discussion with the applicants, and in evaluating the different options available to them, staff suggested the text amendment approach, which the applicants ultimately decided upon as applied for in this request.

As noted above, the applicants are also simultaneously requesting approval of the SUP as proposed for modification. As their submitted application materials demonstrate, although they plan to have up to five single family detached dwellings, at this time, only two are planned to be finished in the near future. Along with the dwellings, they will have recreational and leisure time activities that include "...occasional special events for family and friends, (not for charge) and swimming and water activities."

Although they plan to utilize water from the quarry as their water source, the applicants should understand that they could be required to connect to the City's water infrastructure. This matter will ultimately be determined once the final decision is made to the exact location of the fire hydrant that they will be required to install. With regard to sewage, they plan to either connect to the City's infrastructure or utilize an onsite septic system regulated by either the Virginia Department of Health or the Department of Environmental Quality. Their submitted letter also notes they plan to have chicken coops, which for this piece of property would be permissible so long as they abide by the regulations as noted in Section 15-2-24 of the City Code.

As is required for all property owners wanting to develop a parcel along an undeveloped public (paper) street, per Section 3.5.1 of the Design and Construction Standards Manual (DCSM), "[i]f an owner, developer, etc. wishes to develop any parcel of land abutting a paper street, and the parcel abuts no other publicly maintained city street, it shall be the sole responsibility of the developer to construct the street to current standards until it accesses a publicly maintained street. If there is not a minimum width of fifty (50) feet of public street right-of-way or other width as determined by the City, then it must be dedicated to the City. Design of such improvement must be adequate to ensure extension of the remainder of the street in the future." However, in this particular situation, another option for them would be to request closing the remaining undeveloped ROW of Red Oak Street while working with the adjoining property owners to the north to dedicate the necessary property around the existing temporary cul-de-sac to permanently enclose the turnaround in public street ROW. At this time, the applicants believe they will tackle the latter option. In the future, if they request closing the remaining public street ROW, as part of that application, the applicants will also have to formally request Planning Commission's consent to permanently terminate Red Oak Street as Section 10-2-41 (e) of the Subdivision Ordinance prohibits permanent dead-end streets unless permitted by Planning Commission. At this time, staff would support this street's permanent termination as there is no current need for it to continue through the subject property to connect to other public streets.

With regard to access for emergency responders, regardless of whether Red Oak Street remains in its current location or it is extended to the subject property, at minimum, a 16 feet wide all-weather surface road (with shoulder) must be provided from the termination of the public street on and through the property for a distance appropriate to serve the dwellings. Early discussions with the applicant included, at minimum, extending the road past the existing 30 feet X 30 feet cabin and past the proposed 2,950 square feet dwelling and then back toward the entrance to the property—essentially, a "loop road"

following the existing gravel drive. However, depending upon the final locations of the other three planned dwellings, the 16 feet wide road as described above may need to be extended further south on the property so that emergency responders have appropriate access to the dwellings. Furthermore, to be able to construct the 16 feet wide private street as described, the applicants will be required to request a variance from the private street standards as listed in the DCSM Section 2.7. This variance can be requested either at the time they would submit a comprehensive site plan to improve/complete Red Oak Street to their property or during the street ROW closing request.

Although the applicants are already aware of this, as a reminder, aside from the 30 feet X 30 feet cabin and the accessory building, it appears portions of all of the other proposed dwellings could be partially in the floodplain. The property owners should be prepared to meet all requirements of the floodplain district.

Staff is recommending approval of both applications. First, with regard to the ZO amendment, staff does not believe affording recreational and leisure time use property owners the ability to request nontransient dwellings will negatively impact the integrity of the industrial zoning regulations. The approach is narrowly tailored to a non-industrial-like use, and because the SUP process gives the City the ability to deny the request or stipulate approval with appropriate conditions, there should be no damaging implications. As a reminder, this is not the first time that staff has recommended in favor of an amendment to allow permanent residential uses on industrially zoned property. In 2009, the City approved a staff proposed amendment to the ZO to allow boarding and rooming houses by SUP on M-1 property. (After that amendment was approved, in March 2010, a boarding and rooming house SUP was granted to 715 North Main Street, which is zoned M-1.)

With regard to the applicants' SUP request, the subject property is likely the perfect scenario for such a use. The property is located at the end of a public street, where there is no public plan to extend the street; it is also greatly secluded; and it would have very minimal impact to the surrounding uses. Staff's support, however, does not come without the following conditions:

1. The property shall be limited to five single family detached dwellings.
2. Occupancy of each dwelling shall be limited to a family or two persons.
3. Final certificates of occupancy shall be withheld until the following items are completed or an acceptable form of surety is accepted by the City to cover the cost for such work:
 - a. Red Oak Street shall be extended from its existing location to the subject property per public street standards as specified by the DCSM; or, the undeveloped Red Oak Street ROW shall be closed and purchased and the existing cul-de-sac permanently enclosed in public street ROW.
 - b. At minimum, a 16 feet wide all-weather surface road (with shoulder) shall be constructed from the termination of the completed public street on and through the property. The distance/extent that the road must travel shall be determined by the Fire Department, when the final locations of the residential structures are determined.
 - c. A fire hydrant shall be extended onto the property and located at a location determined by the Fire Department.

Chair Fitzgerald asked if there were any questions for staff.

Mr. Way said my only question is regarding the zoning ordinance amendment. Did we not have a discussion about reduction or encroachment of the M-1, Industrial District at some point last year?

Mrs. Banks said are you referring to the rezoning request along Mt. Clinton Pike.

Mr. Fletcher said yes, the request to eliminate the M-1 property in the area.

Mr. Way said we were trying to protect the amount of M-1 property.

Mr. Fletcher said we are not losing M-1 property in this case.

Mr. Way said I realize that but I was just trying to think about the implications of this request and are we going down the same route where we might be potentially opening up property to be less manufacturing suitable. But you are correct in the fact that it is restricted enough through the special use permit that it becomes more of a case-by-case basis. Therefore, it is not really an erosion of any manufacturing opportunities.

Mr. Fletcher said if you are looking at a major thoroughway zoned M-1 it makes it much harder to be in favor of a special use such as this. This request tonight is at the dead end of a public street with no plans for future extension.

Mr. Colman asked if the location of the dwellings were proffered or was it demonstrative for this presentation.

Mr. Fletcher replied there is no condition attached that the dwellings have to be in the exact location; of course two of them are basically there already.

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

Mr. Dick Blackwell with Blackwell Engineering said I am representing the owners of the property – the owner's are two of my sons and my son-in-law. This is an unusual piece of property that is zoned M-1; but, using it for an industry purpose seems a crime. This is a very beautiful setting. One reason the owners desire to live there is because of trespassing; people cut the fence and come in to party. That is one reason that the previous owners, Pilgrims Pride, decided to get rid of the property. It is somewhat of an attractive nuisance, but living there does help with the trespassing problems. I will be glad to answer any questions.

Chair Fitzgerald asked if there were any questions for Mr. Blackwell. Hearing none, she asked if there was anyone else wanting to speak in regard to the zoning amendment. Hearing none, she closed the public hearing for the ordinance amendment, opened the public hearing for the special use permit request and asked if the applicant's representative would like to speak.

Mr. Dick Blackwell said if there are any questions regarding the request, I would be glad to answer them.

Chair Fitzgerald asked if there was anyone else wishing to speak in regards to the special use permit request. Hearing none, she closed the public hearing and asked if there were further questions, discussion, or possibly a motion on the requests.

Dr. Dilts said she recommends approval of the zoning ordinance amendment to allow nontransient dwellings with recreational and leisure time activities, Section 10-3-97 (10) and to recommend approval of the special use permit for 1430 Red Oak Street to allow nontransient dwellings with the three conditions as specified by staff.

Mr. Colman seconded the motion.

Chair Fitzgerald asked if there was any further discussion on these requests. Hearing none, she called for a voice vote.

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

Chair Fitzgerald said this will move forward to City Council on July 14th.

VACATION OF A PORTION OF RED OAK STREET AND DEDICATION OF ADDITIONAL AREAS TO RED OAK STREET

CITY OF HARRISONBURG, VIRGINIA
AUGUST 12, 2015

OWNER'S CONSENT AND DEDICATION

KNOW ALL MEN BY THESE PRESENTS, THAT THE SUBDIVISION OF LAND AS SHOWN ON THIS PLAT, CONTAINING 12,991 SQ. FT., MORE OR LESS, AND DESIGNATED AS VACATION OF A PORTION OF RED OAK STREET AND DEDICATION OF ADDITIONAL AREAS TO RED OAK STREET IS WITH THE FREE CONSENT AND IN ACCORDANCE WITH THE DESIRES OF THE UNDERSIGNED OWNERS THEREOF AND THAT THE PUBLIC EASEMENTS SHOWN ON SAID PLAT ARE HEREBY DEDICATED TO PUBLIC USE.

(TAX PARCEL 56-E-26) – THE SAID LAND HEREBY SUBDIVIDED IS THE LAND CONVEYED TO ACORN ENTERPRISES, INC. BY SARCO CORPORATION BY DEED DATED NOVEMBER 21, 1986, AND RECORDED IN THE CLERK'S OFFICE OF THE CIRCUIT COURT OF ROCKINGHAM COUNTY, VIRGINIA IN DEED BOOK 820, PAGE 337.

(LOT 2A, TAX PARCEL 56-G-2A) – THE SAID LAND HEREBY SUBDIVIDED IS THE LAND CONVEYED TO REON PROPERTIES, L.L.C. BY ACORN ENTERPRISES, INC. BY DEED DATED MAY 3, 2005, AND RECORDED IN THE CLERK'S OFFICE OF THE CIRCUIT COURT OF ROCKINGHAM COUNTY, VIRGINIA IN DEED BOOK 2666, PAGE 126.

(TAX PARCEL 56-E-25B) – THE SAID LAND HEREBY SUBDIVIDED IS THE LAND CONVEYED TO QUARLES PETROLEUM, INC. BY ACORN ENTERPRISES, INC. BY DEED DATED JUNE 16, 1993, AND RECORDED IN THE CLERK'S OFFICE OF THE CIRCUIT COURT OF ROCKINGHAM COUNTY, VIRGINIA IN DEED BOOK 1209, PAGE 182.

(LOT 3, TAX PARCEL 56-G-3) – THE SAID LAND HEREBY SUBDIVIDED IS THE LAND CONVEYED TO MATTHEW S. EINSTEIN AND HOLLY C. EINSTEIN BY ACORN ENTERPRISES, INC. BY DEED DATED APRIL 18, 2007, AND RECORDED IN THE CLERK'S OFFICE OF THE CIRCUIT COURT OF ROCKINGHAM COUNTY, VIRGINIA IN DEED BOOK 3088, PAGE 177.

(RED OAK STREET) – THE SAID STREET IS HEREBY VACATED BY SEVERAL DEEDS, DEED BOOK 1107, PAGE 731, DEED BOOK 1047, PAGE 676, AND DEED BOOK 921, PAGE 1

GIVEN UNDER MY HAND THIS _____ DAY OF _____, 2016.

ACORN ENTERPRISES, INC.

DAVID LEE

STATE OF VIRGINIA AT LARGE

CITY/COUNTY OF _____, TO WIT:

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS _____ DAY OF _____, 2016, BY DAVID LEE, ACORN ENTERPRISES, INC.

NOTARY PUBLIC

REGISTRATION NO. _____

MY COMMISSION EXPIRES: _____

GIVEN UNDER MY HAND THIS _____ DAY OF _____, 2016.

PAUL GIAMBRA, PRESIDENT/CEO OF QUARLES PETROLEUM INC.

PAUL GIAMBRA, PRESIDENT/CEO OF QUARLES PETROLEUM INC.

STATE OF VIRGINIA AT LARGE

CITY/COUNTY OF _____, TO WIT:

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS _____ DAY OF _____, 2016, BY PAUL GIAMBRA, PRESIDENT/CEO OF QUARLES PETROLEUM INC.

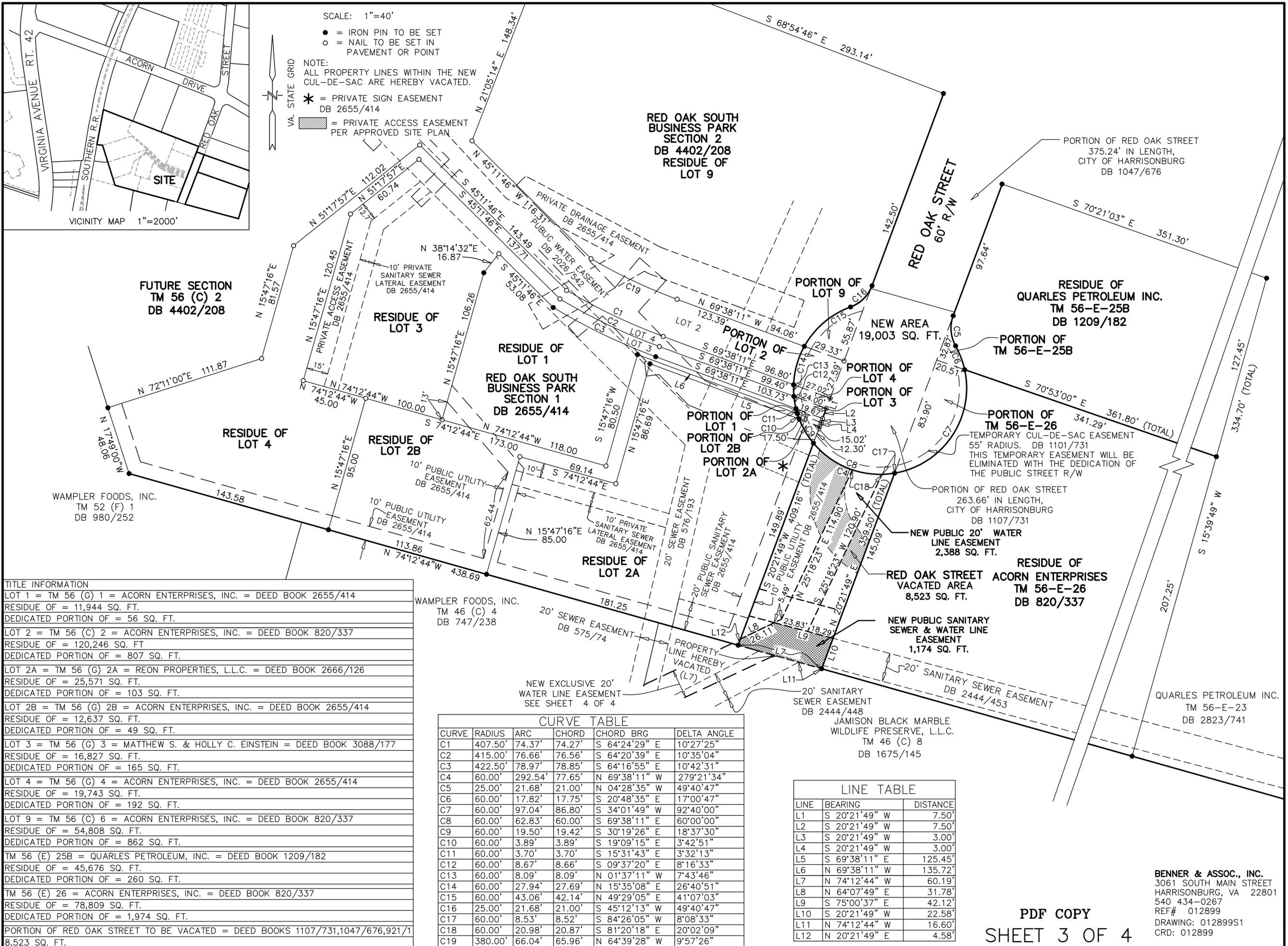
NOTARY PUBLIC

REGISTRATION NO. _____

MY COMMISSION EXPIRES: _____

BENNER & ASSOC., INC.
8 PLEASANT HILL ROAD
HARRISONBURG, VA 22801
540 434-0267
REF# 012899
DRAWING: 012899S1.dwg/CRD: 012899

**PDF COPY
SHEET 1 OF 4**

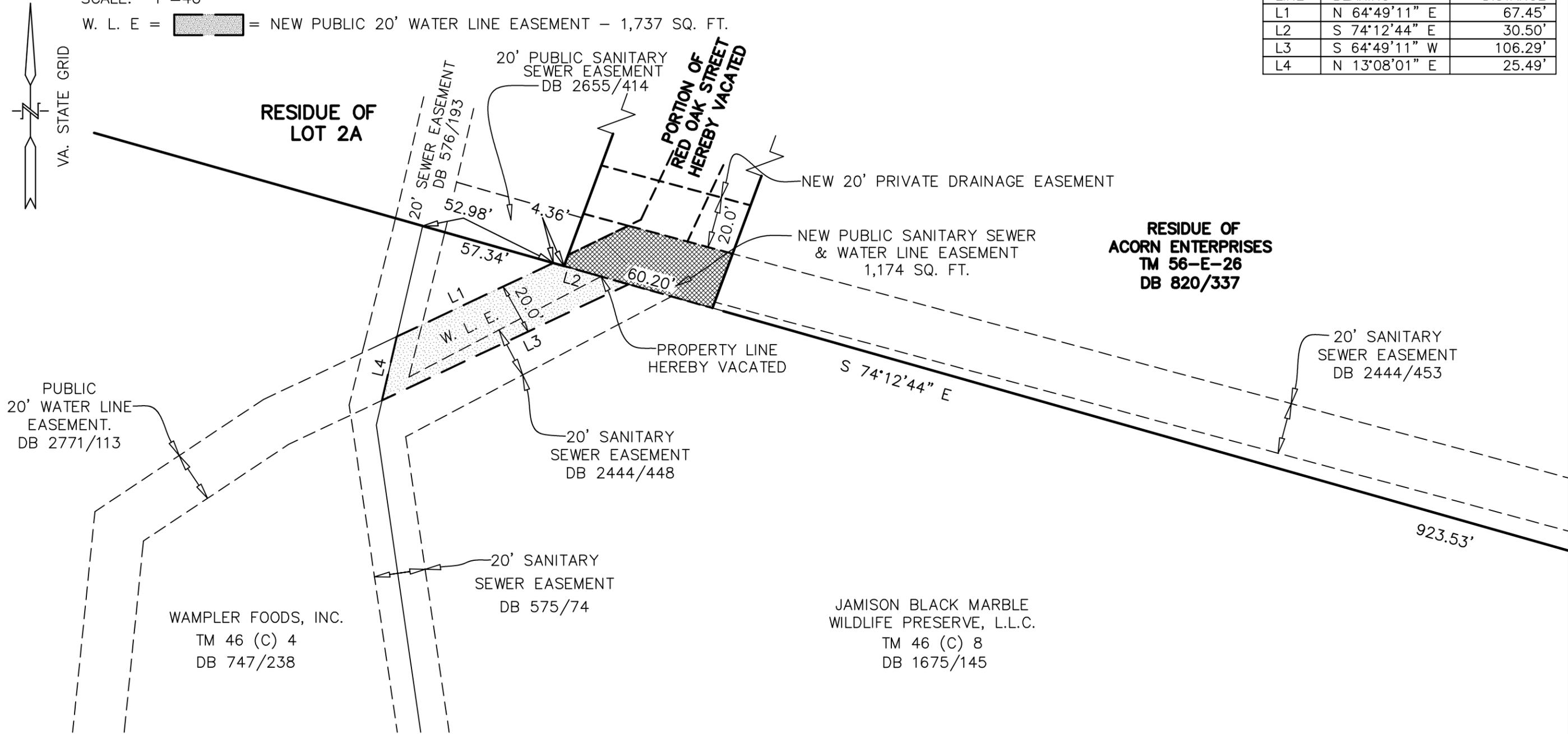


BENNER & ASSOC., INC.
 3061 SOUTH MAIN STREET
 HARRISONBURG, VA 22801
 540 434-0267
 REF# 012899
 DRAWING: 012899S1
 CRD: 012899

SCALE: 1"=40'

W. L. E =  = NEW PUBLIC 20' WATER LINE EASEMENT - 1,737 SQ. FT.

LINE	BEARING	DISTANCE
L1	N 64°49'11" E	67.45'
L2	S 74°12'44" E	30.50'
L3	S 64°49'11" W	106.29'
L4	N 13°08'01" E	25.49'



BENNER & ASSOC., INC.
 3061 SOUTH MAIN STREET
 HARRISONBURG, VA 22801
 540 434-0267
 REF# 012899
 DRAWING: 012899S1
 CRD: 012899

PDF COPY
 SHEET 4 OF 4



City of Harrisonburg, Virginia

Department of Planning & Community Development
409 South Main Street
Harrisonburg, Virginia 22801
www.harrisonburgva.gov/community-development

Building Inspections: (540) 432-7700
Engineering: (540) 432-7700

Planning and Zoning: (540) 432-7700
Department Fax: (540) 432-7777

To: Planning Commission
From: Department of Planning and Community Development
Date: April 13, 2016
Re: Special Use Permit – 1911 South High Street (Section 10-3-91 (9) Reduction in the required side yard setback to zero feet)

Summary:

Public hearing to consider a request from Erickson Road Investments, LLC with representative Edmond Blackwell for a special use permit per section 10-3-91 (9) of the Zoning Ordinance to allow for the reduction in the required side yard setback to zero feet along the lot line of an adjoining lot or parcel zoned B-2 or M-1. The 26,572 +/- square feet parcel is zoned B-2, General Business District, is addressed as 1911 South High Street, and is identified as tax map parcel number 112-A-5.

Background:

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:** Convenience store and gas pumps, zoned B-2
North: Across Erickson Avenue, Lumber and Building Material sales, zoned M-1
East: Across South High Street, Financial Institutions, zoned B-2
South: Commercial Businesses, zoned B-2
West: Automotive repair business, zoned B-2

Key Issues:

The applicant is requesting a special use permit (SUP) per Section 10-3-91 (9) of the Zoning Ordinance to allow for a reduction in the required side yard setback to zero feet along the lot line of an adjoining lot or parcel zoned B-2 or M-1. The property is located on the southwest corner of South High Street and Erickson Avenue. Currently on the site is a convenience store with four gas pumps, which are covered by a canopy that is attached to the convenience store. If approved, the applicant desires to redevelop the property and construct a new structure within 0.83 feet of its southern property line.

In 2009, the property was granted a variance of 10.1 feet from the required 30-foot setback along Erickson Avenue after right-of-way was purchased for the Erickson Avenue/Stone Spring Road improvement project. Thus, the existing structure sits only 19.9 feet from the Erickson Avenue right-of-

way. As shown on the attached site plan for the proposed redevelopment, the applicant does not intend to take advantage of the front setback reduction when redeveloping the parcel.

Within the area where the new building is proposed, there is a 30% grade change. The southern property line is at an elevation of about 1,280 feet while the parking area for the site is at about 1,298 feet. Any building constructed in this area would require a foundation wall of approximately 18-feet and may require some encroachment onto the adjacent property. There is also a storm drainage pipe and sanitary sewer located within this area of the subject parcel, which crosses onto the adjacent property to the south. When redeveloping the subject property, the applicant will need to work closely with the adjacent property owner in order to construct the foundation wall and to ensure relocation of the sanitary sewer and the stormwater infrastructure, and any necessary easements, can be properly located. These issues would be worked out during the Comprehensive Site Plan review.

The Fire Chief has expressed that should the adjacent property to the south be redeveloped to accommodate a multi-story building with no setback requirement, there would be serious concerns about the ability of a fire to pass from one structure to the other. There are also specific Building Code regulations regarding fire rating and wall openings for structures with a zero to less than three foot setback. The applicant has been made aware of these issues and will need to work closely with the Building Inspections Division when designing the proposed new building.

Staff has no concerns with the requested SUP and supports the application.

Environmental Impact:

N/A

Fiscal Impact:

N/A

Prior Actions:

N/A

Alternatives:

N/A

Community Engagement:

As required, the request was published in the local newspaper twice advertising for Planning Commission's public hearing for the special use permit. The advertisement was published as shown below:

“Public hearing to consider a request from Erickson Road Investments, LLC with representative Edmond Blackwell for a special use permit per section 10-3-91 (9) of the Zoning Ordinance to allow for the reduction in the required side yard setback to zero feet along the lot line of an adjoining lot or parcel zoned B-2 or M-1. The 26,572 +/- square feet parcel is zoned B-2, General Business District, is addressed as 1911 South High Street, and is identified as tax map parcel number 112-A-5.”

In addition, adjoining property owners were notified of Planning Commission's public hearing and the property was also posted with signage advertising the request.

Recommendation:

Staff supports the applicant's request for a special use permit per section 10-3-91 (9) of the Zoning Ordinance to allow for the reduction in the required side yard setback to zero feet.

Attachments:

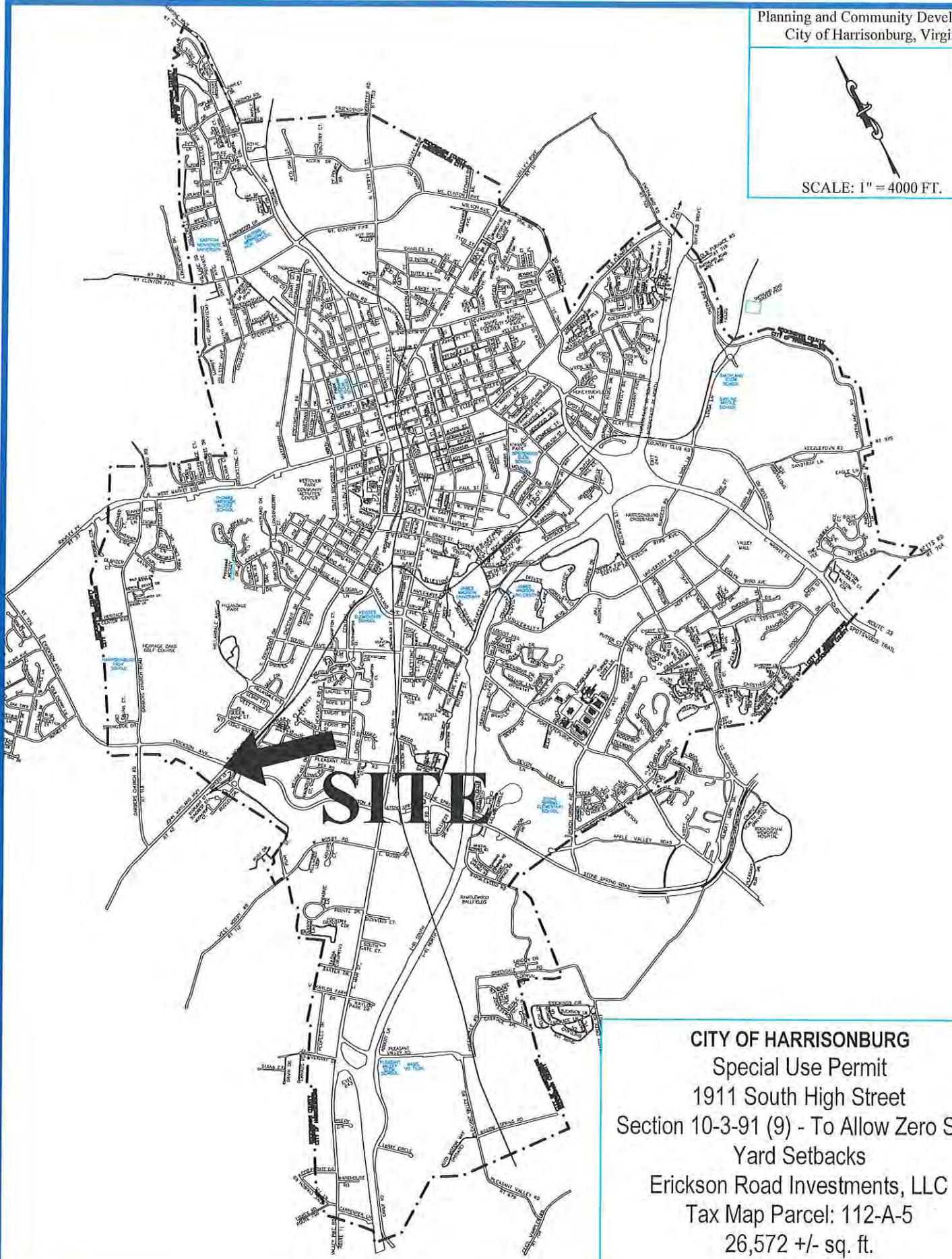
1. Site maps (2 pages)
2. Application (1 page)
3. Site plan for proposed redevelopment (1 page)

Review:

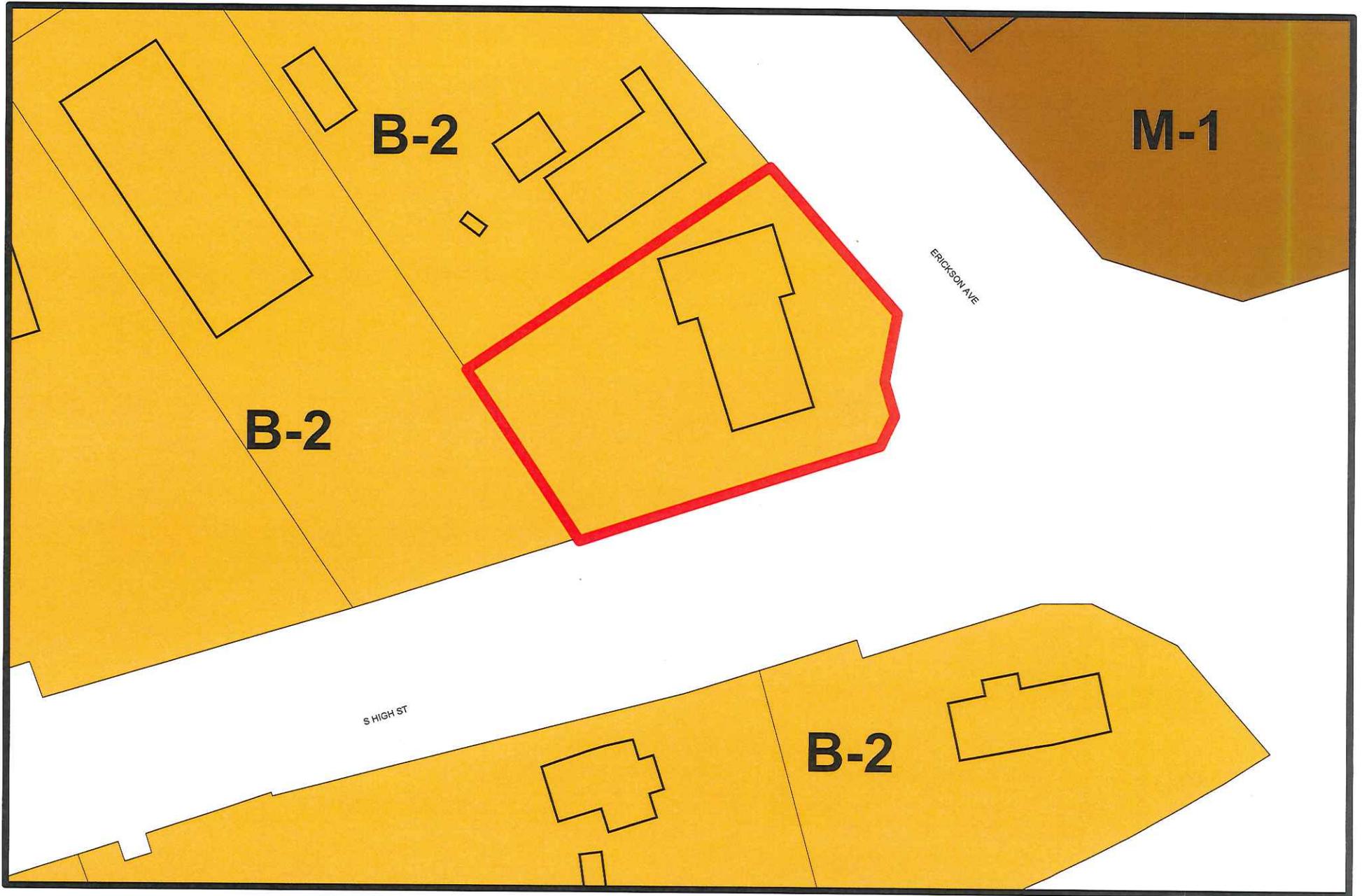
N/A



SCALE: 1" = 4000 FT.



CITY OF HARRISONBURG
Special Use Permit
1911 South High Street
Section 10-3-91 (9) - To Allow Zero Side
Yard Setbacks
Erickson Road Investments, LLC
Tax Map Parcel: 112-A-5
26,572 +/- sq. ft.
LOCATION MAP



SUP - 1911 South High Street
10-3-91(9) Reduction in Side Yard Setback to Zero



Date Application Received: March 8, 2014

Application for Special Use Permit City of Harrisonburg, Virginia

*pd 3-8-14
OBanville*

Fee: \$375.00 plus \$30.00 per acre Total Paid: \$ 405.00

Property Owner's Name: Erickson Road Investments, LLC

Street Address: P.O. Box 8 Email: _____

City: Mt. Jackson State: VA Zip: 22842

Telephone: Work _____ Fax _____ Mobile _____

Owner's Representative: Edmond H. Blackwell

Street Address: 566 East Market Street Email: ed@blackwellengineering.com

City: Harrisonburg State: VA Zip: 22801

Telephone: Work 540-432-9555 Fax 540-434-7604 Mobile 820-1964

Description of Property and Request

Location (Street Address): 1911 South High Street

Tax Map Number Sheet: 112 Block: A Lot: 5 Lot Area: 0.61 Ac

Existing Zoning Classification: B-2

Special Use being requested: 10-3-91(9) Reduction in the required side yard setback to zero feet on the south side

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

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

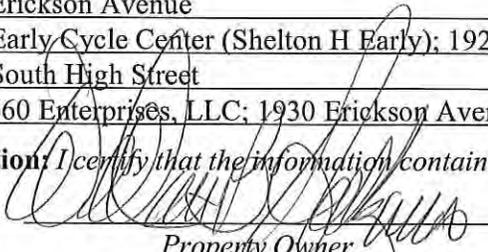
North: Erickson Avenue

South: Early Cycle Center (Shelton H Early); 1921 South High Street, Harrisonburg, VA 22801

East: South High Street

West: 660 Enterprises, LLC; 1930 Erickson Avenue, Harrisonburg, VA 22801

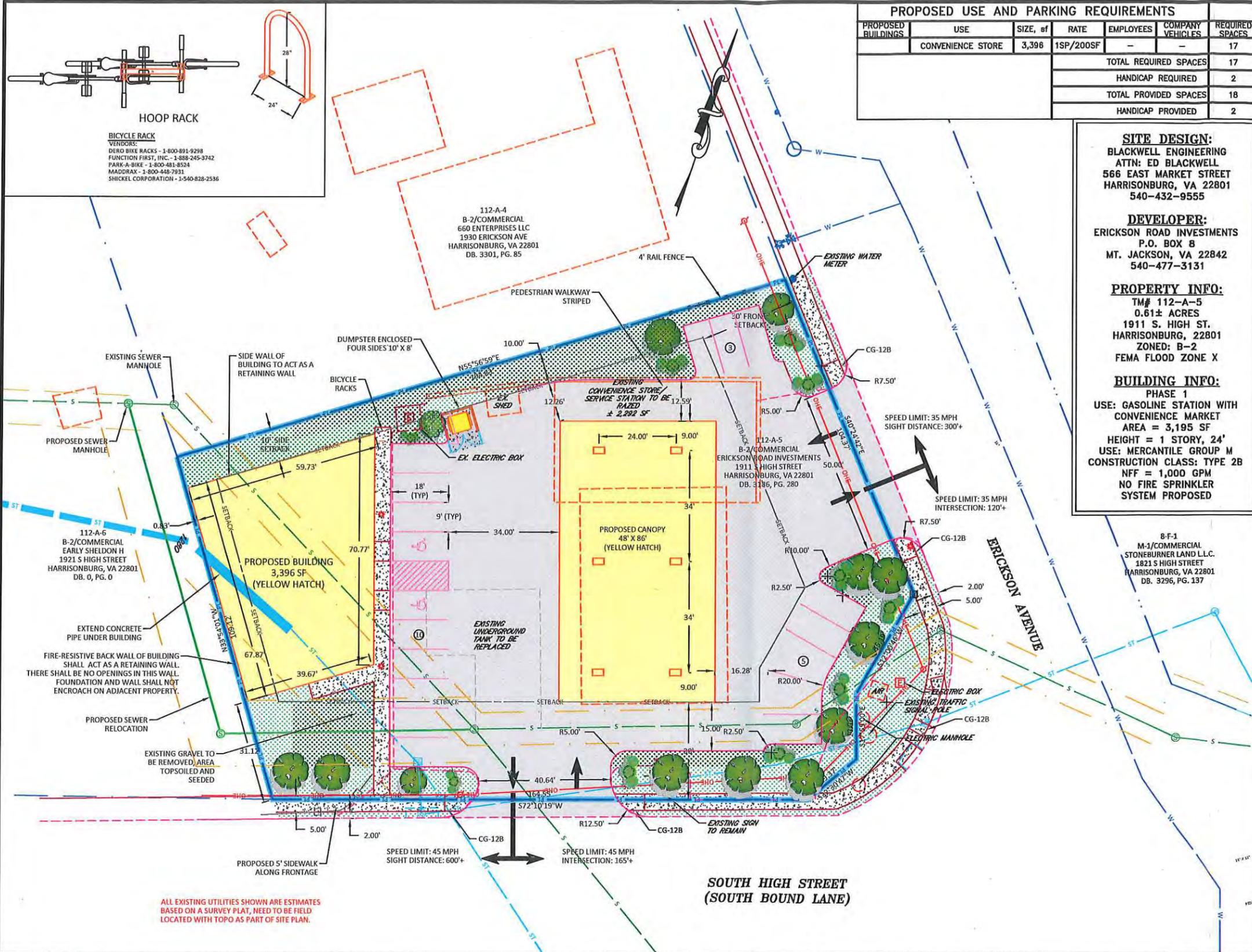
Certification: *I certify that the information contained herein is true and accurate.*

Signature: 
Property Owner

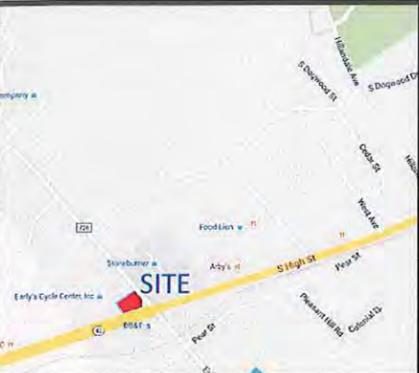
ITEMS REQUIRED FOR SUBMISSION

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

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



PROPOSED USE AND PARKING REQUIREMENTS						
PROPOSED BUILDINGS	USE	SIZE, sf	RATE	EMPLOYEES	COMPANY VEHICLES	REQUIRED SPACES
	CONVENIENCE STORE	3,396	1SP/200SF	-	-	17
TOTAL REQUIRED SPACES						17
HANDICAP REQUIRED						2
TOTAL PROVIDED SPACES						18
HANDICAP PROVIDED						2



VICINITY MAP
1" = 1000'

LEGEND

- CENTER LINE
- CITY/COUNTY LINE
- SITE BOUNDARY
- ELECTRIC/TELEPHONE
- METER/ TRANSFORMER
- GUY WIRE
- EXISTING UTILITY POLE
- EXISTING LIGHT POLES
- PROPOSED UTILITY POLE
- WATER LINES
- SANITARY SEWER FORCE MAIN
- SANITARY LINES
- SANITARY SEWER CLEANOUT
- STORM SYSTEM
- PROPOSED DITCH
- GAS LINES
- EXISTING PROPERTY LINE
- SETBACK LINE
- EASEMENT LINE
- EXISTING BUILDING
- PROPOSED BUILDING
- EXISTING BUILDING TO BE RAZED
- PROPOSED ROAD/EOP
- PROPOSED PARKING
- EXISTING ROAD
- EXISTING PARKING
- CURBING: CG-6 OR CG-7
- CURBING: CG-2 OR CG-3
- HANDICAP PARKING
- CG-12/ASPHALT RAMP
- DUMPSTER
- EXISTING FIRE HYDRANT
- PROPOSED FIRE HYDRANT
- FIRE DEPARTMENT CONNECTION
- WATER VALVE
- WATER METER
- EXISTING FENCE LINE
- PROPOSED FENCE
- CONCRETE PAVING
- HEAVY PAVEMENT
- LIGHT PAVEMENT
- GRAVEL AREA
- GRASS AREA
- SMALL DECIDUOUS TREE
- SHRUBS

SITE DESIGN:
BLACKWELL ENGINEERING
ATTN: ED BLACKWELL
566 EAST MARKET STREET
HARRISONBURG, VA 22801
540-432-9555

DEVELOPER:
ERICKSON ROAD INVESTMENTS
P.O. BOX 8
MT. JACKSON, VA 22842
540-477-3131

PROPERTY INFO:
TM# 112-A-5
0.61± ACRES
1911 S. HIGH ST.
HARRISONBURG, 22801
ZONED: B-2
FEMA FLOOD ZONE X

BUILDING INFO:
PHASE 1
USE: GASOLINE STATION WITH
CONVENIENCE MARKET
AREA = 3,195 SF
HEIGHT = 1 STORY, 24'
USE: MERCANTILE GROUP M
CONSTRUCTION CLASS: TYPE 2B
NFF = 1,000 GPM
NO FIRE SPRINKLER
SYSTEM PROPOSED

HOOP RACK

BICYCLE RACK
VENDORS:
DERO BIKE RACKS - 1-800-891-9298
FUNCTION FIRST, INC. - 1-888-245-3742
PARK-A-BIKE - 1-800-481-8524
MADRAX - 1-800-448-7931
SHICKEL CORPORATION - 1-540-828-2536

Blackwell
Engineering, PLC
566 East Market Street
Harrisonburg, Virginia 22801
Phone: (540) 432-9555 FAX: (540) 434-7604
Email: BE@BlackwellEngineering.com

Date: March 7, 2016
Revision Date

Designed by: MMS	Scale: 1" = 20'
Drawn by: MMS	
Job No. 2534	

SPECIAL USE PERMIT

HOLTZMAN SOUTH HIGH EXXON
ERICKSON ROAD INVESTMENTS
P.O. BOX 8
MT. JACKSON, VA 22842

Drawing No.
1
of 1 Sheets



City of Harrisonburg, Virginia

Department of Planning & Community Development
409 South Main Street
Harrisonburg, Virginia 22801
www.harrisonburgva.gov/community-development

Building Inspections: (540) 432-7700
Engineering: (540) 432-7700

Planning and Zoning: (540) 432-7700
Department Fax: (540) 432-7777

To: Planning Commission
From: Department of Planning and Community Development
Date: April 13, 2016
Re: Rezoning – 245 East Water Street, B-2 to B-1C

Summary:

Public hearing to consider a request from Wharton Aldhizer & Weaver, PLC to rezone a 2,316 +/- square foot portion of property comprised of two parcels from B-2, General Business District to B-1C, Central Business District Conditional. The property is addressed as 245 East Water Street and is identified as tax map parcels 26-E-5 & 6.

Background:

Wharton Aldhizer & Weaver, PLC (WAW) is requesting to rezone 2,316 +/- square feet of their property from B-2, General Business District to B-1C, Central Business District Conditional. The Comprehensive Plan designates this area as Mixed Use Development. These areas are intended to combine residential and non-residential uses in planned neighborhoods where the different uses are finely mixed instead of separated. These areas are prime candidates for “live-work” and traditional neighborhood developments. Live-work developments combine residential and office/service uses allowing people to both live and work in the same area, which could be combined in the same building or on the same street.

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

- Site: Vacant two story, structure, zoned B-2
- North: Across East Water Street, Urban Exchange mixed use building, zoned B-1
- East: Office building, zoned B-2
- South: Across Newman Avenue, office buildings, and non-conforming residential uses, zoned B-2
- West: Office building and parking lot, zoned B-2

Key Issues:

Currently, the WAW structure that they refer to as the “carriage house” is situated across two of the rear parcels within the six parcels that comprise the WAW property. The applicant desires to subdivide the structure onto an individual parcel, separate from the main property. After meeting with staff to discuss the proposed subdivision, two concerns were identified: setbacks and parking.

The carriage house currently is non-conforming to the B-2 setback regulations as a property line straddles the building and it does not meet the 30-foot minimum front setback requirement for the B-2 zoning district as it encroaches into City public street right-of-way as much as 0.8 feet. In September 1987 a

The City With The Planned Future

Boundary Line Agreement was made between WAW and the City of Harrisonburg and is included as part of this packet. Regardless of the existing setback non-conformities, when the applicant met with staff and described their desired lot configuration, which was to closely surround the carriage house, staff explained that such a configuration could not be done under the B-2 zoning regulations. Staff further explained that if subdivided, the structure must meet the minimum off-street parking requirements for any use.

There is an existing 20 X 27 foot parking area adjacent to the carriage house, which is adequate for three parking spaces. WAW described this area would remain on the property when it is subdivided. Staff explained, however, that depending on the use that occupies the structure, three spaces might not be enough to meet minimum requirements. Previous tenants of the carriage house could utilize the adjacent parking area as well as use the WAW parking lot to meet parking requirements; this non-conforming parking scenario changes once the subdivision occurs unless a shared parking agreement is created between the two properties. WAW was not interested in creating a shared parking agreement.

Because of these concerns, staff suggested the applicants might consider rezoning the proposed carriage house area/parcel to the B-1 district, where no setback or parking requirements exist. As is always emphasized by staff, since there are no minimum parking requirements in the B-1 district, if the City approves any B-1 rezoning request, the City is also accepting the responsibility of the parking demand such properties place on the City's downtown area. In this particular case, the building could be enlarged, or the property redeveloped, eliminating any parking area on site, and operate a use more parking intensive. The applicant understood staff's concern and submitted an application for a rezoning to B-1 with a proffer stating that "two parking spaces shall be provided on site if the subject property (245 East Water Street) is used for commercial/business purposes, and if used residentially, one parking space per tenant will be provided on site."

At this time WAW intends to maintain the existing paved area, which, as described, is essentially three parking spaces. However, depending upon the uses that might utilize the property and coupled with improvements that might be made to the structure, due to handicapped accessibility issues, the existing three spaces could end up being converted to two spaces.

The Comprehensive Plan designation of Mixed Use Development supports the idea for the B-1 zoning classification for this parcel. On-street parking is available along East Water Street and Newman Avenue within this area and with the submitted proffer, staff's typical concern regarding off-street parking for B-1 properties is resolved.

During the review of this application, the applicant was informed that there is an issue regarding easements for the existing water and sewer services to the carriage house that would need to be worked out prior to the approval of a subdivision for the parcel. This however, does not affect the rezoning request. The applicant was also informed that depending upon where the new property line is placed, there may be building code issues regarding future openings for any proposed doors or windows.

Environmental Impact:

N/A

Fiscal Impact:

N/A

Prior Actions:

N/A

Alternatives:

N/A

Community Engagement:

As required, the request was published in the local newspaper twice advertising for Planning Commission’s public hearing for the rezoning. The advertisement was published as shown below:

“Public hearing to consider a request from Wharton Aldhizer & Weaver, PLC to rezone a 2,316 +/- square foot portion of property comprised of two parcels from B-2, General Business District to B-1C, Central Business District Conditional. The property is addressed as 245 East Water Street and is identified as tax map parcels 26-E-5 & 6. The Comprehensive Plan designates this area as Mixed Use Development. This designation includes both existing and proposed new mixed use areas. These areas are intended to combine residential and non-residential uses in planned neighborhoods where the different uses are finely mixed instead of separated. These areas are prime candidates for “live-work” and traditional neighborhood developments. Live-work developments combine residential and office/service uses allowing people to both live and work in the same area, which could be combined in the same building or on the same street. The gross residential density in areas outside downtown should not exceed an average of 15 units per acre, though all types of residential units are permitted: single family detached, single family attached and apartments. Apartments are permitted only if single family detached and/or attached units are also provided and together cover a greater percentage of the project site. Residential densities in downtown may be higher than an average of 15 units per acre, and commercial uses would be expected to have an intensity equivalent to a Floor Area Ratio of at least 0.4, although the City does not measure commercial intensity in that way. The Zoning Ordinance states that the B-2, General Business District is intended to provide sufficient space in appropriate locations for a wide variety of retail shopping, commercial, automotive, miscellaneous recreational, and service activities. No minimum lot size restrictions exist in the B-2, General Business District. The B-1, Central Business District is intended as an urban and regional center for the conduct of commercial, financial, professional and governmental activities to which the public requires direct and frequent access. No minimum lot size or setback restrictions exist in the B-1, Central Business District.”

In addition, adjoining property owners were notified of Planning Commission’s public hearing and the property was also posted with signage advertising the request.

Recommendation:

Staff recommends approval of the rezoning from B-2 to B-1C with the proffer, which states “two parking spaces shall be provided on site if the subject property (245 East Water Street) is used for commercial/business purposes, and if used residentially, one parking space per tenant will be provided on site.”

Attachments:

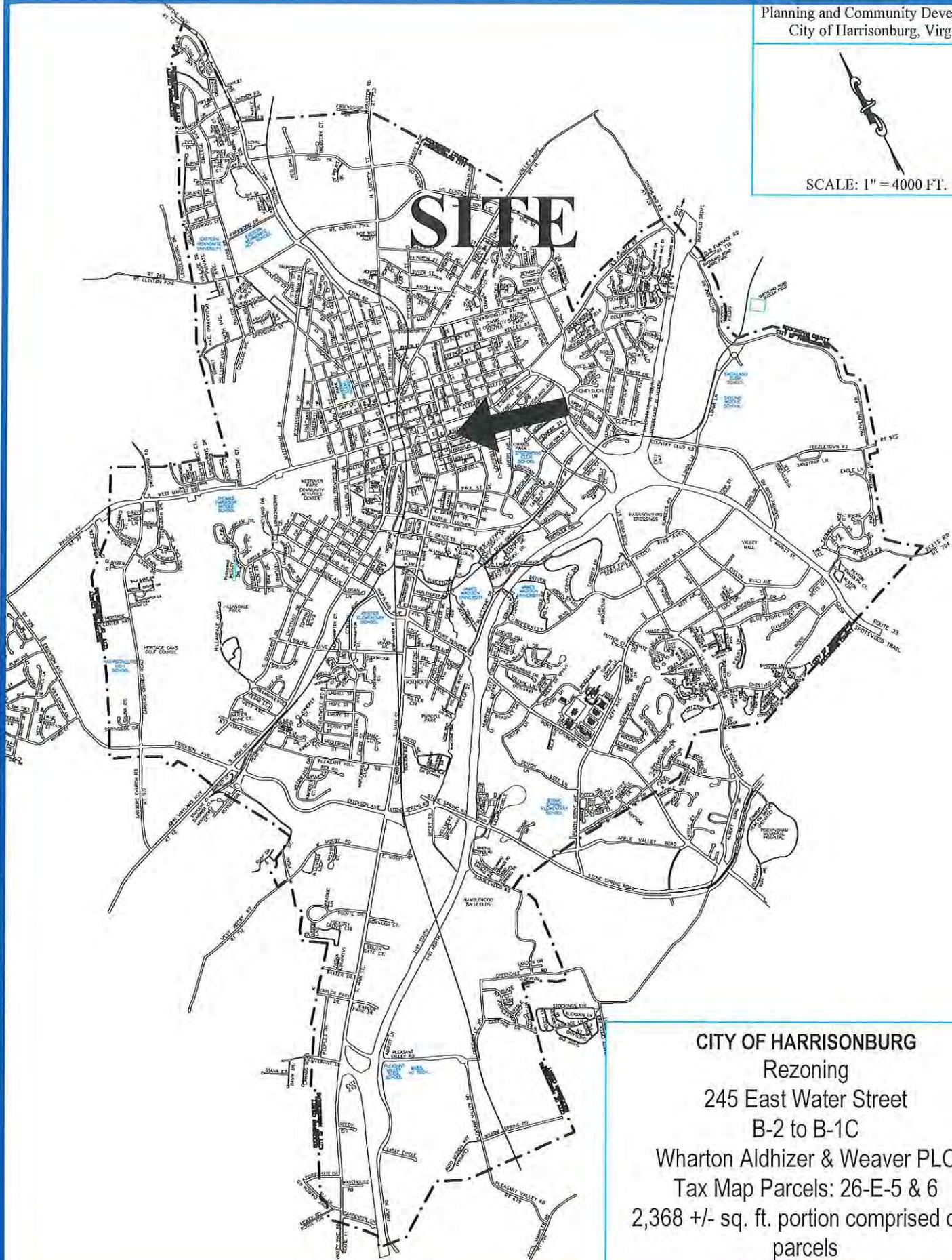
1. Site maps (2 pages)
2. Application (1 page)
3. Applicant’s letters (3 pages)
4. Boundary line agreement between WAW and City (6 pages)
5. Plat of proposed subdivision (1 page)

Review:

N/A



SCALE: 1" = 4000 FT.



CITY OF HARRISONBURG
Rezoning
245 East Water Street
B-2 to B-1C
Wharton Aldhizer & Weaver PLC
Tax Map Parcels: 26-E-5 & 6
2,368 +/- sq. ft. portion comprised of 2
parcels
LOCATION MAP



Rezoning - 245 East Water Street B-2 to B-1C



Date Application Received: 03-08-16

Total Paid: 405⁰⁰ pd. 03.

Application for Change of Zoning District City of Harrisonburg, Virginia

Section 1: Property Owner's Information

Name: Wharton Aldhizer & Weaver, PLC
Street Address: 100 South Mason St. Email: _____
City/State/Zip: Harrisonburg, VA 22801
Telephone (work): 540-434-0316 (home or cellular): _____ (fax): 540-434-5502

Section 2: Owner's Representative Information

Name: James L. Johnson and Gregory T. St. Ours
Street Address: 100 South Mason St. Email: jjohnson@wawlaw.com or gstours@wawlaw.com
City/State/Zip: Harrisonburg, VA 22801
Telephone (work): 540-434-0316 (home or cellular): _____ (fax): 540-434-5502

Section 3: Description of Property

Location (street address): 245 E Water St., Harrisonburg, VA 22801
Tax Map Number: Sheet: 026 Block: E Lot: 5 & 6 Total Land Area (acres or square feet): Approx. 2,368 sq. ft
Existing Zoning District: B2 Proposed Zoning District * : B1
Existing Comprehensive Plan Designation: _____

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

Section 4: Application Fee

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

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

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

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

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

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

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

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

North: _____
East: _____
South: _____
West: _____

Section 6: Certification

I certify that the information contained herein is true and accurate. Signature: _____
Property Owner

See Back for Items Required for Submission

Donald E. Showalter
Glenn M. Hodge
Gregory T. St. Ours
Charles F. Hilton
Daniel L. Fitch
Thomas E. Ullrich
Stephan W. Milo
Humes J. Franklin, III
Jeffrey R. Adams

WHARTON ALDHIZER & WEAVER^{PLC}

ATTORNEYS AT LAW

100 SOUTH MASON STREET
P.O. BOX 20028
HARRISONBURG, VIRGINIA 22801-7528
WWW.WAWLAW.COM

TELEPHONE
HARRISONBURG (540) 434-0316
STAUNTON (540) 885-0199
LEXINGTON (540) 463-3691

FAX (540) 434-5502

WRITER'S DIRECT DIAL: (540) 438-5302
WRITER'S E-MAIL: JJOHNSON@WAWLAW.COM

Lauren R. Darden
Matthew Von Schuch
George H. Roberts, Jr.
P. Marshall Yoder
Derek J. Brostek
Trisha A. Culp
James L. Johnson
Ashley H. Waterbury

Reply to the Harrisonburg office

April 4, 2016

Via Email

Adam Fletcher
City of Harrisonburg, Virginia
Department of Community Development
409 South Main Street
Harrisonburg, VA 22801

Re: Wharton Aldhizer & Weaver, PLC ("WAW")
Minor Subdivision and proposed Rezoning of 245 E. Water Street
A Portion of Tax Map Nos. 026-E- 5 and 6 (the "Application")

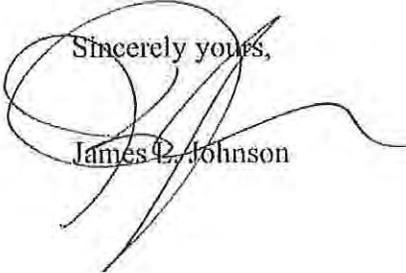
Dear Adam:

Per Comment #3 of the Staff Comments received from Alison Banks on March 24, WAW amends its parking proffer in the Application as follows: Two parking spaces shall be provided on site if the subject property ("245 E. Water St.") is used for commercial/business purposes, and if used residentially, one parking space per tenant will be provided on site.

Per Comment #2, prior to 1986 when WAW purchased the property, we understand that 245 E. Water St. was used for residential and professional office purposes. Since 1986, WAW leased the building for professional office purposes to a drafting company until 1997, a video and graphics company from June 1, 1997 to February 28, 2006, and another law firm from June 1, 2007 to November 30, 2008. WAW used the building thereafter until Alethia Church leased it from February 1, 2012 until February 28, 2014 for church offices. Currently, the space is vacant.

To our understanding, Comment #1 and #4 do not require WAW's response or action. Please let us know if you have any comments or questions.

Sincerely yours,


James L. Johnson

cc: Alison Banks
16003943

Donald E. Showalter
Glenn M. Hodge
Gregory T. St. Ours
Charles F. Hilton
Daniel L. Fitch
Thomas E. Ullrich
Stephan W. Milo
Humes J. Franklin, III
Jeffrey R. Adams

WHARTON ALDHIZER & WEAVER^{PLC}

ATTORNEYS AT LAW

100 SOUTH MASON STREET
P.O. BOX 20028
HARRISONBURG, VIRGINIA 22801-7528
WWW.WAWLAW.COM

TELEPHONE
HARRISONBURG (540) 434-0316
STAUNTON (540) 885-0199
LEXINGTON (540) 463-3691

FAX (540) 434-5502

WRITER'S DIRECT DIAL: (540) 438-5334
WRITER'S E-MAIL: GSTOURS@WAWLAW.COM

Lauren R. Darden
Matthew Von Schuch
George H. Roberts, Jr.
P. Marshall Yoder
Derek J. Brostek
Trisha A. Culp
James L. Johnson
Ashley H. Waterbury

Reply to the Harrisonburg office

March 8, 2016

Via Hand Delivery and Email

Adam Fletcher
City of Harrisonburg, Virginia
Department of Community Development
P.O. Box 20031
409 South Main Street
Harrisonburg, VA 22801

Re: Minor Subdivision and Rezoning of 245 E. Water Street
A Portion of Tax Map Nos. 026-E- 5 and 6

Dear Adam:

This letter is submitted with the enclosed Application for Change of Zoning District (the "Application") for the above-referenced parcels (the "Existing Parcels"). Currently, the zoning classification for the Existing Parcels is "B-2". Wharton Aldhizer & Weaver, PLC (the "Applicant") is requesting that a portion of the Existing Parcels' zoning classification be amended to "B-1". In conjunction with and as a condition to the Application, the Applicant will also be requesting that a new parcel be created from the Existing Parcels, with the boundary lines of said new parcel to closely surround an existing improvement (the "Carriage House") and an adjoining 20 ft. by 27 ft. parking lot (collectively, the "Proposed Carriage House Parcel"). A rough sketch of the Proposed Carriage House Parcel is affixed as Exhibit A to the enclosed Application. The Proposed Carriage House Parcel is the only portion of the Applicant's property that is affected by the Application.

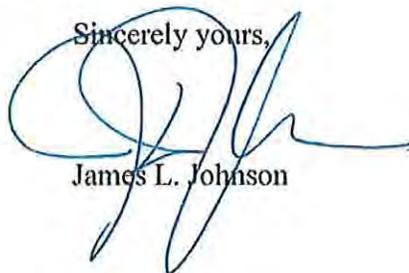
The Applicant hereby proffers that the Proposed Carriage House Parcel, which is the subject of the Application, shall be in strict accordance with the conditions set forth in this submission. The Proposed Carriage House Parcel shall be subdivided through the "Minor Subdivision" application process. It shall retain the 20 ft. x 27 ft. existing parking lot area shown on Exhibit A. The Applicant intends to continue to use, lease, or market for sale the Proposed Carriage House Parcel for office use for the foreseeable future, but desires to open the property up for additional uses provided for under zoning classification "B-1".

Adam Fletcher
City of Harrisonburg, Virginia
Department of Community Development
March 8, 2016
Page 2 of 2

The lot size of the Proposed Carriage House Parcel shall be roughly 2,368 sq. feet, with the exact lot location and lot size to later be determined by a licensed surveyor and plat.

Your time and consideration is appreciated.

Sincerely yours,

A handwritten signature in blue ink, appearing to be 'JLJ', with a long horizontal stroke extending to the right.

James L. Johnson

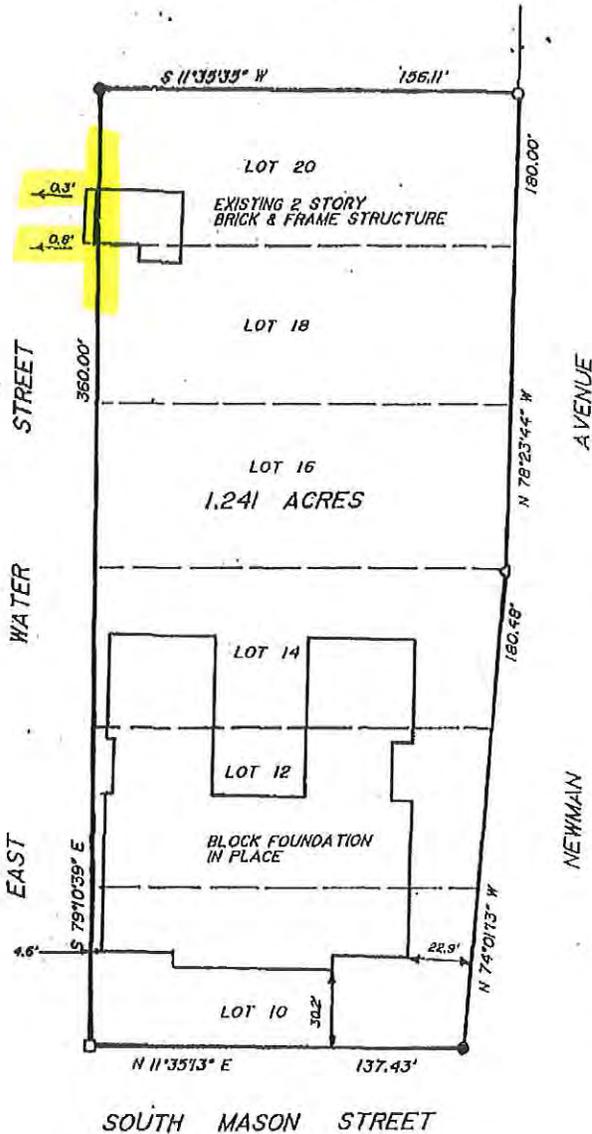
JLJ/GTS/kr

Enclosures

16002951

BK867 P60301

LOT 22
MICHAEL L. LAYMAN, TRUSTEE
D.B. 693, P. 209



MAGNETIC

LEGEND

- IRON PIN FOUND
- △ CHISELED HOLE IN SIDEWALK
- IRON PIN SET
- CHISELED NOTCH IN BACK OF SIDEWALK

NOTES:

- 1) DATUM AS SHOWN HEREON IS ACCORDING TO RECORDED INFORMATION AND A CURRENT FIELD SURVEY.
- 2) THIS PROPERTY IS SHOWN ON TAX MAP 26 (E) 1,2,3,4,5,6.
- 3) FOR A. M. NEWMAN ADDITION TO HARRISONBURG SEE D.B. 87, P. 126.

PLAT OF
 LOTS 10, 12, 14, 16, 18, & 20,
 A. M. NEWMAN ADDITION TO HARRISONBURG
 PRESENTLY IN THE NAME OF

WHARTON, ALDHIZER & WEAVER

CITY OF HARRISONBURG, VIRGINIA

SCALE 1" = 50' AUGUST 14, 1986, REVISED JULY 30, 1987
 REVISED AUGUST 7, 1987

COPPER & SMITH P.C.
 SURVEYORS ENGINEERS PLANNERS
 1041 SOUTH HIGH STREET
 HARRISONBURG, VIRGINIA 22801



THIS BOUNDARY LINE AGREEMENT made and entered into this 1st day of June, 1987, by and between the City of Harrisonburg, Virginia, a municipal corporation (City of Harrisonburg) and Wharton, Aldhizer & Weaver, a Virginia partnership (Wharton, Aldhizer & Weaver),

RECITALS:

1. Wharton, Aldhizer & Weaver acquired Lots 10, 12, 14, 16, 18 & 20 of the A. M. Newman Addition to Harrisonburg bounded on three sides by streets of City of Harrisonburg being Newman Avenue, South Mason Street and East Water Street.
2. There exists a controversy between Wharton, Aldhizer & Weaver and the City of Harrisonburg, as to the location of the southern line of East Water Street. Wharton Aldhizer & Weaver relies on the survey of the property by Copper & Smith, P.C., C.L.S. dated August 14, 1986, performed for Wharton, Aldhizer & Weaver prior to its acquisition of real estate by deed dated August 25, 1986 from Richard L. Chew and wife, which deed and survey plat are recorded in the Clerk's Office of the Circuit Court of Rockingham County, Virginia in Deed Book 805 at Page 312, and further relies on the dedication of the subdivision plat of A. M. Newman Addition to the Town of Harrisonburg recorded October 17, 1908 in Deed Book 84, at Pages 125 - 126. The City of Harrisonburg relies on a 1916 survey dated by William G. Myers, subsequent

EXHIBIT

C

tabbies

to the recordation of the subdivision plat of the A. M. Newman Addition to the Town of Harrisonburg, of record in the papers of ended Chancery cause: City of Harrisonburg v. J. C. Staples, et al.; and further relies on recent field work of its own engineers.

3. The parties have agreed to establish the location of East Water Street and desire to enter into this Boundary Line Agreement for the purpose of establishing the limits of Water Street and the property of Wharton, Aldhizer & Weaver and to provide a license for the continued maintenance of a certain structure now on the property owned by Wharton, Aldhizer & Weaver.

NOW, THEREFORE, the parties hereto agree as follows:

1. Establishment of Boundary Line. Wharton, Aldhizer & Weaver and City of Harrisonburg hereby agree that the property line for East Water Street shall be as indicated on the plat which is attached hereto as Exhibit A and Wharton, Aldhizer & Weaver hereby quit claims unto City of Harrisonburg any right, title and interest it may have in such property located North of that property line and lying within what shall now be the designated boundary of East Water Street.

2. License. City of Harrisonburg hereby grants to Wharton, Aldhizer & Weaver, its successors and assigns forever, a perpetual license to permit it to maintain, repair and replace the building and structure which encroaches over

the boundary line and located in the Northeastern corner of Wharton, Aldhizer & Weaver's property. Wharton, Aldhizer & Weaver shall be entitled to repair and replace such property at its present location so long as any repair or replacement does not increase the encroachment upon the lands of City of Harrisonburg. This license shall run in favor of Wharton, Aldhizer & Weaver and its successors and assigns.

IN WITNESS WHEREOF, City of Harrisonburg and Wharton, Aldhizer & Weaver have caused this Agreement to be duly executed on their behalves as thereunto duly authorized.

CITY OF HARRISONBURG

By Walter L. Green III
Mayor

WHARTON, ALDHIZER & WEAVER

By Walter L. Green III
Partner

STATE OF VIRGINIA
CITY/COUNTY OF Harrisonburg, to-wit:

The foregoing instrument was acknowledged before me in the jurisdiction aforesaid this 8th day of September, 1987, by WALTER L. GREEN, III, who is Mayor of the City of Harrisonburg, a municipal corporation, on behalf of the City.

My commission expires: August 9, 1991

Mary Lee Harrison
Notary Public

BK867 P60300

STATE OF VIRGINIA
CITY/COUNTY OF Roanoke, to-wit:

The foregoing instrument was acknowledged before me
in the jurisdiction aforesaid this 12th day of
August, 1987, by George H. Roberts Jr., who is a
partner of Wharton, Aldhizer & Weaver, a Virginia
partnership, on behalf of the partnership.

My commission expires: January 15, 1989

I WAS COMMISSIONED AS DEBBIE L. PIRKEY

Debbie L. Pirkey
Notary Public

GHR/C999999/AA4

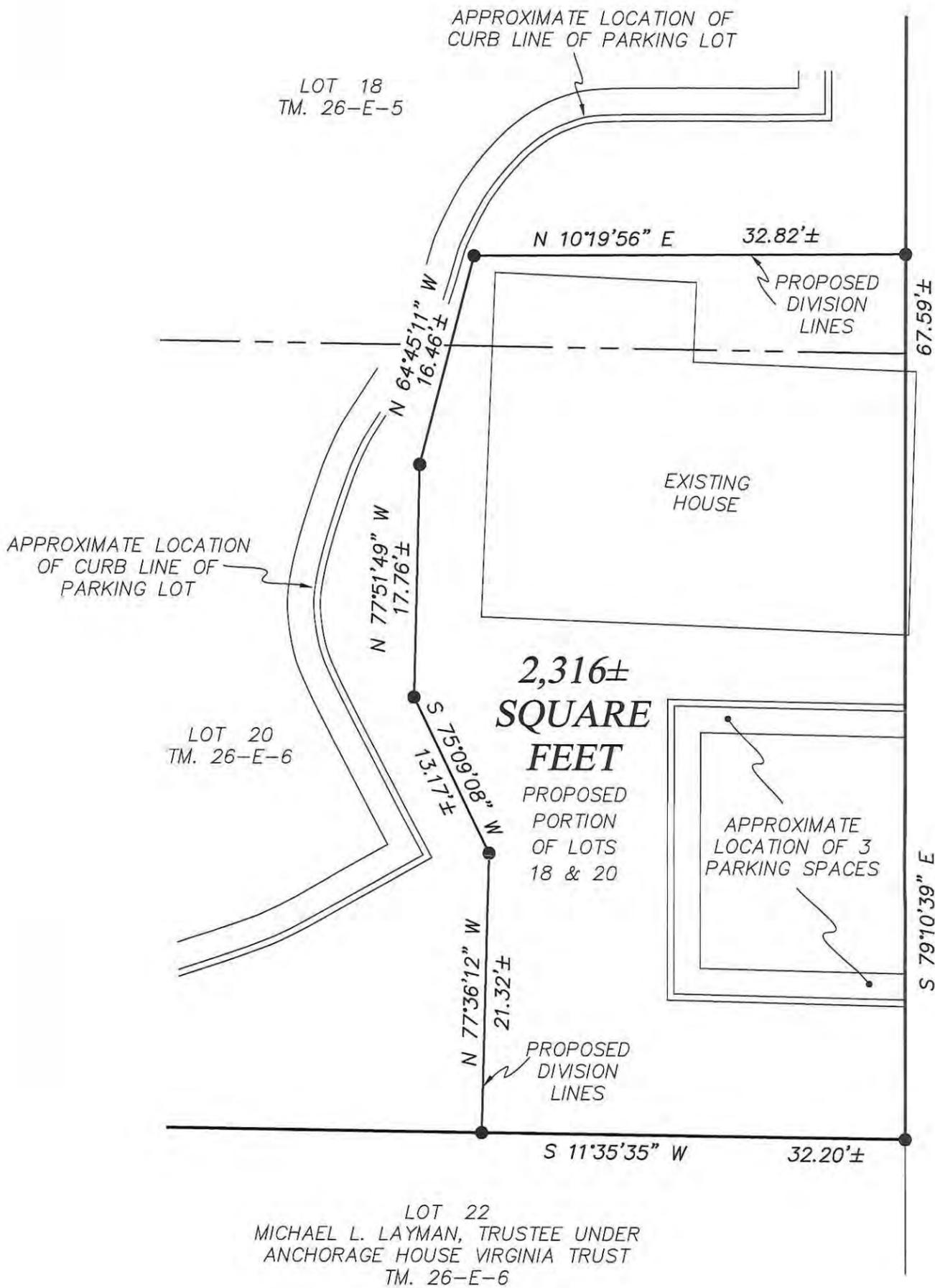
... of the ... of the ... of the ... of the ...
... of the ... of the ... of the ... of the ...
... of the ... of the ... of the ... of the ...

... of the ... of the ... of the ... of the ...
... of the ... of the ... of the ... of the ...

Deed Book No. 857 Page 297

L. WAYNE HARPER
CLERK

RECORDED
Circuit Clerk
341707
SEP 22 11 87



EAST WATER STREET

**PROPOSED REZONING SKETCH
PORTION OF LOTS 18 & 20**

**A. M. NEWMAN ADDITION TO HARRISONBURG
CITY OF HARRISONBURG, VIRGINIA**

SCALE 1" = 10'

MARCH 18, 2016

VALLEY ENGINEERING
IDEAS MADE REAL

3231 PEOPLES DRIVE
HARRISONBURG, VIRGINIA 22801
TELEPHONE (540) 434-6365 OR (800) 343-6365
FAX (540) 432-0685
www.valleyesp.com





City of Harrisonburg, Virginia

Department of Planning & Community Development
409 South Main Street
Harrisonburg, Virginia 22801
www.harrisonburgva.gov/community-development

Building Inspections: (540) 432-7700
Engineering: (540) 432-7700

Planning and Zoning: (540) 432-7700
Department Fax: (540) 432-7777

To: Planning Commission
From: Department of Planning and Community Development
Date: April 13, 2016
Re: Proposed Chicken Ordinance Amendments

Summary:

Consider a recommendation of the proposed revisions to Section 15-2-24 Fowl, Chickens and other Domestic Birds (commonly referred to as the Chicken Ordinance).

Background:

During 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 (PC) for review. Issues that City Council noted they wanted to explore included: 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.

At the October 14, 2015 regular PC meeting the group discussed how to move forward with becoming fully informed about the ordinance and generally about backyard chicken issues. Eventually PC requested for staff to provide the packet of information that was provided to PC in 2009 when the existing ordinance was discussed and approved. PC also requested for someone considered to be an expert on the topic of avian influenza to come and speak to the group.

During the January 13, 2016 regular PC meeting, Dr. Don Hopson, Regional State Veterinary Supervisor, with the Virginia Department of Agriculture and Consumer Services (VDACS), spoke to the group about avian influenza. After Dr. Hopson’s presentation, a brief discussion occurred related to the virus and generally about backyard chickens. At the end of the discussion, PC decided to further explore the chicken ordinance at their February 10, 2016 regular meeting by taking public input on the specific talking points that City Council requested for PC to consider.

On February 10, 2016, PC held the public input session. For the meeting the Virginia Poultry Federation submitted several comments, one of which included a suggestion to prohibit chickens on properties that were within 1,000 feet of particular poultry facilities. After receiving input from the public and discussing the issue further, at the end of the meeting PC decided for staff to draft amendments to the ordinance based on the following points:

- to eliminate the 2 acre minimum requirement for individuals wanting to keep chickens and thus have no minimum lot size requirement;

- to not require a neighbor waiver;
- to not have a trial period for a certain number of permits;
- to reduce the existing 25-foot setback;
- to prohibit property owners from keeping chickens if their property was within a certain distance from the facilities noted by the Virginia Poultry Federation; and
- to accept the recommendation from the Stormwater Advisory Committee that included for chicken pens to be setback 20 feet from streams, tributaries, ditches, swales, stormwater management facilities, or other storm drainage areas.

For the March 9, 2016 regular meeting, staff prepared the draft ordinance per the recommendations of PC and proposed a few other minor modifications. Staff also provided additional miscellaneous information as well as maps to assist in understanding the impact of the proposed setbacks and the buffer area requested by the Virginia Poultry Federation. At the end of the March meeting, PC requested a few other changes to the ordinance, which are reflected in this submission.

Minutes from the meetings discussed above are attached herein.

Key Issues:

Per the direction of PC, staff has prepared additional revisions to the chicken ordinance. The changes that are reflected since the March meeting include: 1) that chickens shall not be permitted on any parcel of land that is within 500 feet or less from any poultry processing plant, poultry hatchery, poultry feed mill, poultry truck lot, poultry farm, or from property where facilities are operated by the Virginia Department of Agriculture and Consumer Services (VDACS); and that if any portion of a parcel is located in the prohibited 500-foot buffer from the noted properties, no chickens shall be kept on that parcel; 2) that chicken pens shall be located in the rear yard and to be no closer than five feet from any parcel line; and 3) that all unexplained bird deaths shall be reported to VDACS prior to burial or transport to the county landfill.

Staff also communicated with the Department of Environmental Quality (DEQ) regarding burial of dead chickens. DEQ noted that our proposed regulations would not conflict with their requirements as they noted that there are no regulations associated with burying pets and that there are no regulations prohibiting routine poultry disposal for routine poultry mortality.

With regard to the disposal of chicken litter and the proposed addition to the ordinance for individuals to be able to dispose of such litter through a bona fide poultry litter service, staff contacted poultry litter services to find out whether they would collect litter that accumulated on residential property in the City. Their responses included that they mainly serve the commercial poultry industry and that they likely would not be interested in coming to a residential property to collect the waste because the amount of waste would probably not be of an amount to make it worth their time.

Note under the “Attachments” section below that staff has revised the existing application for keeping chickens and has included it in this submission for your reference. To assist individuals that want to keep chickens, the application provides the email address and website for the VDACS Virginia Livestock Premises Registration. As noted within Section 15-2-24 (c) (10), it is proposed that individuals must provide verification of the registration with the submitted application. In addition, staff has provided copies of information that we obtained from the United States Department of Agriculture (USDA) website that can be included with the application to keep chickens in the City. The information includes educational resources associated with keeping backyard chickens. Please note that staff has copies of these materials in the Spanish language, but are only including the English versions for this submission.

Environmental Impact:

N/A

Fiscal Impact:

N/A

Prior Actions:

N/A

Alternatives:

Do not recommend the revisions as discussed and maintain the existing ordinance.

Community Engagement:

On February 10, 2016, Planning Commission held a public input session. To promote the event, city staff sent a press release to different media sources informing members of the community where and when they could provide public input. In addition, a discussion topic regarding the chicken ordinance was created on the “Be Heard Harrisonburg” website.

Recommendation:

Planning staff has maintained a neutral position throughout this process and has not offered recommendations on whether the proposed changes should be approved or not. Staff has served as a resource to answer questions regarding implementation of the ordinance from a land use perspective.

Attachments:

1. Draft amendment document. (3 pages)
2. Revised Application to Keep Chickens. (1 page)
3. Minutes from each of the recent Planning Commission meetings regarding the proposed changes to the ordinance. (34 pages)
4. Educational resources from USDA regarding the keeping of backyard chickens. (4 pages)
5. Map demonstrating the areas in which chicken keeping would be prohibited per the proposed 500-foot buffer from any of the facilities noted by the Virginia Poultry Federation. (1 page)
6. Diagrams illustrating the proposed 5-foot chicken pen setback. (3 pages)

Review:

N/A

ORDINANCE AMENDING AND RE-ENACTING SECTION

15-2-24

OF THE

CODE OF ORDINANCES

CITY OF HARRISONBURG, VIRGINIA

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

That Section 15-2-24 Fowl, chickens and other domestic birds is amended as shown:

- (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 residentially used property only, containing single family detached dwellings. No chickens shall be allowed on townhouse, duplex, apartment, or manufactured housing park properties. Chickens shall not be permitted on any parcel of land that is within five hundred (500) feet or less from any poultry processing plant, poultry hatchery, poultry feed mill, poultry truck lot, poultry farm, or from property where facilities are operated by the Virginia Department of Agriculture and Consumer Services. If any portion of a parcel is located in the prohibited 500 feet area described above, no chickens shall be kept on that entire parcel. People keeping chickens must also abide by ~~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)~~(2) No roosters shall be allowed.
- ~~(4)~~(3) There shall be no outside slaughtering of birds.
- ~~(5)~~(4) All chicken hens must be kept at all times in an enclosed and covered, secure, movable or stationary pen that contains at a minimum four (4) square feet per bird.
- ~~(6)~~(5) 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. Pens shall be located in the rear yard and shall be situated at least five (5) feet from all property lines. In addition, all pens shall be located at least twenty (20) feet from streams, tributaries, ditches, swales, stormwater management facilities, drop-inlets, or other storm drainage areas that would allow fecal matter to enter any city storm drainage system or stream.
- ~~(7)~~(6) 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)~~(7) All feed for the chickens shall be kept in a secure container or location to prevent the attraction of rodents and other animals.
- ~~(9)~~(8) 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 either composting on site or disposed of through a bona fide poultry litter service. ~~at the county landfill in accordance with the applicable permit.~~
- (9) ~~Also a~~Any dead bird shall not be deposited in any trash container that is collected by any public or private waste collector but shall be either buried on site or taken to the county landfill, to be composted in accordance with the applicable permit. Further, all unexplained bird deaths shall be reported to the Virginia Department of Agriculture and Consumer Services prior to burial or transport to the county landfill.

(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 pens~~ 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.~~ Verification of the registration shall be submitted with the application required herein. Once the site and ~~enclosures pens~~ 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.

This ordinance shall be effective from the ____ day of _____, 2016.
Adopted and approved this ____ day of _____, 2016.

MAYOR

ATTESTE:

CITY CLERK

Date Received: _____

Review/Permit Fee \$25.00: _____



Application to Keep Chickens Per Section 15-2-24

City of Harrisonburg, Virginia

409 South Main Street, Harrisonburg, Virginia 22801

Telephone: (540) 432-7700 Fax: (540) 432-7777

<http://www.harrisonburgva.gov>

Animal Care and Control

Telephone: 540-437-2670 Email: HACC@harrisonburgva.gov

<http://www.harrisonburgva.gov/animal-care-and-control>

Applicant (primary chicken care provider): _____

Property Address: _____

Telephone: (Home or Work): _____ **(Mobile):** _____

Email Address: _____

Property Owner's Name (if different from applicant): _____

Zoning District: _____ **Tax Map Number(s):** _____

I, _____, hereby certify that I have received a copy of Section 15-2-24 of the Harrisonburg City Code and agree to comply with the requirements of the ordinance.

Signature: _____ **Date:** _____

The information and items below shall be included with this application:

- Site layout showing proposed location of pen and confirmation that setbacks from property lines and the setback from streams, tributaries, ditches, swales, stormwater management facilities, drop-inlets, or other storm drainage area will be met.
- Information or drawing of enclosed and covered pen that contains at least 4 square feet per bird.
- Verification of Virginia Livestock Premises Registration.
Premises Registration Email Address: prem.id@vdacs.virginia.gov
Premises Registration Website: <http://www.vdacs.virginia.gov/animals-premises-registration.shtml>
- \$25.00 permit fee.

The information below shall be completed by Animal Care and Control

INSPECTION DATE: _____ PASS: FAIL:

INSPECTION NOTES: _____

PERMIT APPROVED: PERMIT DENIED:

ANIMAL CARE & CONTROL: _____ DATE: _____



Cleaning and Disinfecting Checklist for Backyard Poultry Owners

Cleaning and disinfecting coops and enclosures are important to help keep your birds' environment healthy. While the process takes some time, your birds are worth the effort. Use this handy checklist as a guide.

- Move** your birds to a separate area so you can do a thorough cleaning.
- Remove** all old litter, manure, and other debris.
- “Dry” clean** all areas—brush, scrape, and shovel off manure, feathers, and other materials. Disinfectant will not work on top of manure and caked-on dirt.
- “Wet” clean** all surfaces—scrub with water and detergent. Work from top to bottom and back to front.
- Rinse** all surfaces carefully with water.
- Apply** a disinfectant according to the directions on the label. Be sure to use a U.S. Environmental Protection Agency (EPA)-registered disinfectant that is effective against avian influenza virus or other diseases of concern. This information will be on the label.
- Leave** the enclosure empty until it is completely dry. Using fans and/or opening doors and windows will help speed the drying process.
- Clean** and disinfect your boots, and wash your hands thoroughly with soap and water when you are done. Wash the clothes you were wearing.

Remember, you are the best protection your birds have.

Copies of this checklist are available at:

<http://healthybirds.aphis.usda.gov>



United States
Department of
Agriculture



United States Department of Agriculture

Backyard Biosecurity

6 Ways To Prevent Poultry Diseases



imagesource.com



Veer.com



Veer.com



1. Keep Your Distance.

Restrict access to your property and your birds. Consider fencing off the area where you keep your birds to form a barrier between “clean” and “dirty” areas. Allow only people who take care of your birds to come into contact with them. If visitors have birds of their own, **do not** let them enter your bird area or have access to your birds. Game birds and migratory waterfowl should not have contact with your flock because they can carry germs and diseases.



2. Keep It Clean.

Wear clean clothes and scrub your shoes with disinfectant. Wash your hands thoroughly with soap and water before entering your bird area. Keep cages clean and change food and water daily. Clean and disinfect equipment that comes in contact with your birds or their droppings, including cages and tools. Remove manure before disinfecting. Properly dispose of dead birds.



3. Don't Haul Disease Home.

Car and truck tires, poultry cages, and equipment can all harbor germs. If you travel to a location where other birds are present, or even to the feed store, be sure to clean and disinfect these items before returning to your property. Have your birds been to a fair or exhibition? Keep them separated from the rest of your flock for at least 2 weeks after the event. New birds should be kept separate from your flock for at least 30 days.



4. Don't Borrow Disease From Your Neighbor.

Do not share lawn and garden equipment, tools, or poultry supplies with your neighbors or other bird owners. If you do bring these items home, clean and disinfect them before they reach your property.



5. Know the Warning Signs of Infectious Bird Diseases.

Early detection is important to prevent the spread of disease. Here's what to look for:

- Sudden increase in bird deaths in your flock
- Sneezing, gasping for air, coughing, and nasal discharge
- Watery and green diarrhea
- Lack of energy and poor appetite
- Drop in egg production or thin- or soft-shelled, misshapen eggs
- Swelling around the eyes, neck, and head
- Purple discoloration of the wattles, comb, and legs (avian influenza)
- Tremors, drooping wings, circling, twisting of the head and neck, or lack of movement (exotic Newcastle disease)



6. Report Sick Birds.

Don't wait. If your birds are sick or dying, contact your agricultural extension office/agent, local veterinarian, local animal health diagnostic laboratory, or the State veterinarian. Or, call the U.S. Department of Agriculture (USDA) toll free at **1-866-536-7593**, and we'll put you in touch with a local contact.

You are the best protection your birds have.
For more information, go to <http://healthybirds.aphis.usda.gov>.

Animal and Plant Health Inspection Service
Program Aid No. 1764 • Revised March 2015
USDA is an equal opportunity provider and employer.
(Spanish on reverse side.)



Avian Influenza

Avian influenza (AI), or “bird flu,” is a contagious disease that can infect all types of birds.

Know the Signs of AI

- Lack of energy and appetite
- Drop in egg production or thin- or soft-shelled, misshapen eggs
- Swelling of the head, eyelids, comb, wattles, and hocks
- Purple discoloration of the wattles, comb, and legs
- Nasal discharge, coughing, sneezing
- Lack of coordination
- Diarrhea
- Sudden death without any signs

How AI Spreads

AI spreads quickly by bird-to-bird contact. AI viruses can travel on manure, egg flats, crates, other farming materials or equipment, and people who have picked up the viruses on their clothing, shoes, or hands. Migratory waterfowl can also carry the disease.

Practice Backyard Biosecurity

To help keep disease from spreading:

- Restrict access to your property and your birds.
- Clean and disinfect equipment that comes in contact with your birds or their droppings, including cages and tools.
- Avoid visiting farms or other households with poultry.

Smart Practices When Buying Birds

Buy from a reputable hatchery or dealer, and request certification from suppliers that the birds were legally imported or come from U.S. stock and were healthy before shipment. Also, be sure to maintain records of all sales and shipments. Keep new birds separated from your other birds for at least 30 days. Keep young and old birds and birds of different species and from different sources apart.

Report Sick Birds at 1-866-536-7593

If your birds are sick or dying, contact your agricultural extension office/agent, local veterinarian, local animal health diagnostic laboratory, or the State veterinarian. Or, call the U.S. Department of Agriculture (USDA) toll free at **1-866-536-7593**, and we'll put you in touch with a local contact.

You are the best protection your birds have.



United States
Department of
Agriculture



Exotic Newcastle Disease

Exotic Newcastle disease (END), also known as virulent Newcastle disease, is a deadly poultry disease that can spread quickly, killing all your birds.

Know the Signs of END

- Sudden death and increased death loss in flock
- Sneezing, gasping for air, nasal discharge, coughing
- Greenish, watery diarrhea
- Decreased activity, tremors, drooping wings, twisting of the head and neck, circling, complete stiffness
- Swelling around the eyes and neck

How END Spreads

END spreads when healthy birds come in direct contact with bodily fluids from sick birds. The disease affects all species of birds and can infect and cause death even in vaccinated poultry. The END virus can travel on manure, egg flats, crates, other farming materials or equipment, and people who have picked up the virus on their clothing, shoes, or hands.

Practice Backyard Biosecurity

To help keep disease from spreading:

- Restrict access to your property and your birds.
- Clean and disinfect equipment that comes in contact with your birds or their droppings, including cages and tools.
- Avoid visiting farms or other households with poultry.

Smart Practices When Buying Birds

Buy from a reputable hatchery or dealer, and request certification from suppliers that the birds were legally imported or come from U.S. stock and were healthy before shipment. Also, maintain records of all sales and shipments of flocks. Keep new birds separated from your other birds for at least 30 days. Keep young and old birds and birds of different species and from different sources apart.

Report Sick Birds at 1-866-536-7593

If your birds are sick or dying, contact your agricultural extension office/agent, local veterinarian, local animal health diagnostic laboratory, or the State veterinarian. Or, call the U.S. Department of Agriculture (USDA) toll free at **1-866-536-7593**, and we'll put you in touch with a local contact.

You are the best protection your birds have.



United States
Department of
Agriculture



City of Harrisonburg, Virginia

Department of Planning & Community Development
409 South Main Street
Harrisonburg, Virginia 22801
www.harrisonburgva.gov/community-development

Building Inspections: (540) 432-7700
Engineering: (540) 432-7700

Planning and Zoning: (540) 432-7700
Department Fax: (540) 432-7777

EXTRACT FROM MINUTES OF HARRISONBURG PLANNING COMMISSION MEETING HELD ON: October 14, 2015

Mr. Fletcher said 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 your 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.

Our four bullet points for our conversation tonight are:

- Whether the lot size threshold of 2 acres should be reduced,
- If there should be a “neighbor's approval added to the permit process,
- Whether a certain number of permits should be issued within an implemented trial period
- Any other issues not discussed in 2009

My guess is that we are not “reinventing the wheel” with this, but to take these bullet points and focus on adding these items or not to what is already existing. I have had some suggestions offered to me from a citizen representative, as well, staff has talked internally regarding this and the topics suggested were: lot sizes based upon the minimum square footage as to the district in which chickens would be located (i.e. R-3 would be 6,000 square feet, R-2 would be 7,000...); or, lot sizes having no minimum requirement, but limiting it to the factor of whether setbacks can be met. If you do restrict it to the lot sizes of zoning districts, and just for single-family homes, there are still many parcels which do not meet that requirement. So the theory of no lot sizes is not a bad one. The existing required setbacks are 25-feet from all property lines.

Dr. Dilts asked why the City has this limit on chickens.

Mr. Baugh said until the ordinance was adopted in 2009, there was a blanket prohibition, it simply was not allowed.

The City With The Planned Future

Mr. Da'Mes asked what was prohibited, the agricultural use or just chickens in general.

Mrs. Banks said agricultural animals in general.

Dr. Dilts said my point is that we allow other animals that can be more of a disturbance problem than chickens.

Mr. Da'Mes said I think the biggest argument is the poultry industry being such an economic factor in our community and the concern of the avian flu.

Mr. Heatwole said working in the industry it does cause concern, but if they are caged it cannot be spread. I would like to hear from veterinarians regarding this.

Mr. Baugh said the poultry industry will probably oppose this – they take a stance of zero tolerance. If you are going to take a zero tolerance on this issue that makes you a “no” vote on this matter.

Chair Fitzgerald asked does Planning Commission accept the charge from Council to look at this matter again. Is there anyone here that does not want to look at this?

There was a consensus among Planning Commission to look at the Chicken Ordinance.

Chair Fitzgerald asked how Planning Commission wants to approach this.

Mr. Heatwole said I would like to hear from someone with the USDA just to make certain that it would not cause any major issues.

Mr. Way asked if there was a time frame at which this needed to be accomplished.

Mr. Baugh said no, there is no time frame or direction as to when a report back is needed.

Mr. Fletcher said please do not think that staff is in any way an expert on this matter. But as the Commission discusses it we (staff) are going to be more of your resource to answer the “what ifs” and “what does this mean” for implementation. Therefore, we definitely need to know how you are thinking about doing this before we can move forward. I do not want Planning Commission to get lost in what the objective is; I think the ordinance we have is very good, we just need to touch on these (bullet) points.

Mr. Baugh said the ordinance we have really reflects the thinking of the advocates for keeping chickens, except for the lot size.

Chair Fitzgerald said I understand that, but, in order to answer the bullet points I think we need a bit more information. Especially, for those of us who have not previously been involved in this matter.

(Mr. Way left the Planning Commission meeting at this time 8:30 p.m.)

Mr. Fletcher said one thing that staff can get for Planning Commission to look at is the original packet that was reviewed in 2009. What else do you want in the near term?

Dr. Dilts said I think Mr. Heatwole's point is a valid one and we should get some sense of whether the avian outbreak is significant or not.

Mr. Colman asked whether there were any statistics from other areas regarding the risks of keeping birds.

Chair Fitzgerald said if I am hearing everything correctly, we are asking staff to get the 2009 packet information for us and we are hopefully going to have some conversations with different people about coming in to speak to Planning Commission regarding avian flu and the impact on the industry versus domestic chickens.

Mr. Heatwole offered some suggestions as to contacts within the poultry industry that could be contacted.

Mr. Fletcher said what if we cannot get this person to come in and speak with Planning Commission.

Dr. Dilts said we can research other literature, there appears to be plenty out there. We want citizens to know we have looked at it, we understand the risks, and that it looks minimal, (or not).

Mr. Fletcher said staff will definitely get the 2009 packet to Planning Commission next month, we will continue to work to on research; but, I do not want to make promises that cannot be kept for next month. We are very busy within our division right now with employee time allotments.

There was a consensus that the 2009 packet would be enough for the November 11th meeting and Mr. Heatwole would look into getting a name of someone in the industry that could talk with Planning Commission regarding concerns.

Mr. Colman said do not forget that if we are hearing from someone in the industry, we need to have a speaker come to advocate for the movement.

Chair Fitzgerald said we need to be cognizant of the fact that staff is down two persons right now and Council has said there is not a real time pressure with this.

EXTRACT FROM MINUTES OF HARRISONBURG PLANNING COMMISSION MEETING HELD ON: January 13, 2016

Mr. Fletcher said Dr. Don Hopson, Virginia State Veterinary Supervisor with the Virginia Department of Agriculture and consumer Services, is here tonight to speak with you and present a PowerPoint presentation about avian influenza. He will answer questions after the presentation. I have also told citizens that were directly interested in the conversation that the Planning Commission was going to hold this discussion and invited them here as well.

Dr. Hopson thanked everyone for the invitation. I am here tonight to educate you on the events of the 2015 Highly Pathogenic Avian Influenza (HPAI) event that took place in the United States and how that reflected in the backyard poultry. During the 2015 HPAI event 232 total flocks were affected; 211 of those were commercial flocks. A commercial flock is one that is being raised by an owner for the main purpose of income and a non-commercial flock is considered all others.

This disease is spread by people not practicing good bio-security; when boots and other equipment are not being disinfected on and off the farm. It is also spread by feathers, dust, moisture, and wind. It is resolved through rapid detection within a flock and rapid containment (depopulation). Only a few viral particles will cause poultry to get sick and die. When the 2015 HPAI virus showed up in the United States it showed up in backyard flocks first. If a virus can be kept away from backyard flocks we have a much better chance of not having the virus affect our commercial flocks.

It is imperative to have good bio-security, which is the set of preventive measures designed to reduce the risk of transmission of infectious disease onto an operation. As well, there needs to be a system of bio-containment, which is the control of the disease agents already present in a particular area, thus working to prevent inter-operational transmissions from flock to flock.

Dr. Hopson said I do have some considerations that I would like to share with you as you review your ordinance.

- The Virginia HPAI response plan requires depopulation within 24 hours of diagnosis and on-site disposal of poultry by composting.
- Composting must take place for 14 days and then the pile is stirred and composted for another 14 days, for a minimum of 28 days.
- Do Harrisonburg properties provide the necessary square footage to depopulate and compost their carcasses on site?

- Risks – Backyard poultry flocks versus the Harrisonburg/Rockingham County commercial poultry industry and their contribution to the local economy.

Dr. Hopson said I would be glad to answer any questions you may have.

Dr. Dilts said I was struck by your statement that the owner had to bring in samples from the flock for testing. What did you all do here in this area for testing when the outbreak happened? Are you all proactive in this area?

Dr. Hopson said yes, we are proactive; however, most backyard flock owners do not want to have us come in and test their flocks knowing they may have to be put down. We will not turn away anyone who wants to submit a sample for testing.

Dr. Dilts said you stated that you must follow the Federal guidelines for containment and disposal; but you were also clear that there is a difference between Virginia and West Virginia. Is there a difference?

Dr. Hopson said yes. It is because of manpower. For the USDA to come into Virginia the State Veterinarian has to invite them in and one reason we would do so is if we were overwhelmed and needed the extra manpower and supplies. That brings the Federal agents in and then they become the “boss” in charge and we do things their way. So until we invite the USDA in, if there is a case that spills over into West Virginia, the State Veterinarian in West Virginia would take the lead role for the state until they saw fit to bring in the USDA.

Dr. Dilts asked if the trucking of birds across state lines is also an issue.

Dr. Hopson said yes, anytime a bird, or any animal, crosses a state line it must have a health certificate and it must have some form of official identification. This is for traceability so that the state knows where the birds are coming from and where they are going.

Mr. Baugh said it is my understanding that the trend has been for more and more places to begin allowing backyard chickens. I have not heard of any places that have gone the other direction of once allowing them and now taking that right away. How are you seeing that?

Dr. Hopson said the State Veterinarian has no authority to say you cannot have backyard poultry; that is completely up to the localities. My opinion is, and I am obviously swayed, I am with the State Veterinarian to do three things – to protect the food supply, to promote agriculture, and to regulate our regulations. It is difficult for me to say “bring on the backyard flocks,” because I know folks with backyard flocks that have absolutely no bio-security whatsoever. We have more humanitarian issues with backyard flocks as we do with avian flu; backyard flocks where the birds are not properly cared for and do not properly dispose of waste or carcasses. This creates issues for your animal control officials.

The avian influenza can be spread by waterfowl and this is where backyard flocks can be susceptible to contamination. Commercial flocks are contained within a building and bio-securing is practiced.

Chair Fitzgerald asked if there were any further questions for Dr. Hopson. Hearing none, she thanked him for the presentation and asked if there were any comments.

Quillon Hall said he is a resident of Harrisonburg and he is interested in acquiring backyard chickens. One of my questions would be what measures have been taken to protect commercial flocks? The couple of instances that were discussed tonight were from 1983 and 2002, but this is 2016 and there were new measures taken after the 2015 outbreak.

Dr. Hopson replied we have increased the amount of surveillance, even prior to 2015; every commercial poultry house in Virginia is sampled for avian influenza within 14 days of it moving off the farm. We

have now intensified that surveillance, no poultry moves off of a premise in Virginia until we know for certain that farm is negative for the virus. More so, we have done extensive educating of the commercial folks, growers, and so forth, on proper bio-security. That is probably the two most important things we have done.

Mr. Hall said I do have some further comments. From what I am understanding most of the disease is spread from waterfowl. I lack to see the connection between how someone with four chickens contained in their backyard somehow increases the ability for commercial chickens to become sick. Does Planning Commission have any comments regarding that?

Chair Fitzgerald said what our intent is, was to get the presentation tonight and take time to think it through, then come back and consider several specific questions that City Council has tasked us with. At this point I do not know if the group is thinking they would like to do something different?

Dr. Dilts said I would actually like to have Dr. Hopson address Mr. Hall's comment.

Dr. Hopson replied there are a couple of things. Backyard poultry are not housed inside; they are exposed to the wild birds and waterfowl. The other thing is you have a lot of backyard poultry owners who do not have good bio-security practices, from what I have seen. Some actually try to fight birds, competitively. There are actually circumstances of owners that have mortalities place the carcasses in the household waste; they are not properly disposed of.

Mr. Hall said if people were educated on that would it be helpful.

Dr. Hopson replied yes, it would be helpful.

Mr. Colman said is bio-security practices something you feel could be achieved within the City for backyard chickens.

Dr. Hopson said how would the City ensure that a person is practicing good bio-security? Prior to your current poultry ordinance, when there was no ordinance in place and no poultry was allowed in the City, we were constantly called out because of poultry flocks. If it was not regulated then, what makes one believe a backyard flock can be regulated now? Who is going to oversee this within the City of Harrisonburg?

Dr. Dilts said the outbreak this past year affected both chickens and turkeys?

Dr. Hopson said yes along with some wild game birds as well. Waterfowl were affected as well; however, they are a-symptomatic. When avian influenza affects waterfowl it is more of a gastrointestinal problem. When it affects your gallinaceous birds it is more of a respiratory problem. Whenever your waterfowl contract avian influenza they are usually "pooping" all over the place; so when you see them fly over they are like flying flu factories spreading the virus.

Chair Fitzgerald said that is then a vector for the transmission of the avian flu.

Dr. Hopson said yes. Owners, growers, and workers walk in contaminated droppings, yet they are practicing bio-security at the door to the poultry house. This is not the same for backyard poultry.

Mr. Hall said can you describe the measures that are taken to go inside a poultry farm and house.

Dr. Hopson said you must contact the owner to make an appointment to come to the site, you must sign in, and you must also put on personal protection equipment (PPE) before you enter the house.

Mr. Hall said it is not like a person who owns backyard chickens could just walk into a commercial chicken house.

Dr. Hopson said I understand your point; however, there is no law enforcement making sure that doesn't happen. I do not believe that anyone is intentionally going to spread the disease; it is usually because people do not think about it.

Mr. Hall said education is a key.

Mr. Da'Mes asked Dr. Hopson to discuss vaccination.

Dr. Hopson said to vaccinate for the H-5 or H-7 Avian Influenza it must be approved by USDA. We did get that approved, but only to be used at the discretion of the State Veterinarian; however the State Veterinarian of Virginia is not going to allow that. If you vaccinate commercial poultry for H-5 or H-7 foreign countries will not take your poultry for consumption because they assume you are vaccinating because you have the virus and it is not controlled.

Mr. Da'Mes said how about for a private citizen with a backyard flock?

Dr. Hopson said that would be a class one misdemeanor if backyard flocks were vaccinated without the approval of the State Veterinarian.

Mr. Baugh asked for some clarification. What you are saying is why you would not vaccinate commercial flocks makes total sense. What I am understanding you saying is that even if I, as an individual backyard flock owner, wanted to vaccinate, I could only do so with approval from the State. Has that ever been explored for backyard flocks and whether there is any merit to vaccinating?

Dr. Hopson said if you vaccinate even one backyard producer you have now shut down all of the Virginia commercial poultry.

Mr. Baugh said that was the clarification I was looking for. It is looked at State wide whether it is a backyard flock or a commercial flock. Thank you.

Dr. Dilts asked if this strand of virus was stable or does it undergo a lot of mutations.

Dr. Hopson replied it undergoes numerous mutations. Life expectancy is roughly four years. It is going to circulate and it is going to mutate because these are single stranded DNA viruses that would like to marry up to another single strand to create an entirely new strand.

Dr. Dilts said that is very important. What we could get next could be even worse than what we have.

Mr. Hall said the City of Harrisonburg currently has an ordinance for chickens and the lot size is set at two acres. What I was hoping, would be to strike the requirement all together. What changes would you suggest to the existing ordinance?

Dr. Hopson said to be honest I do not know your ordinance. I can appreciate your concern and your desire to have poultry in the backyard, but why did you move to your current location if you knew what the law about backyard poultry was?

Mr. Baugh said we all have a right to petition our Government to change our rules. If you have an infection and you are following appropriate protocol for disposal of the bird, would that correspond to any minimum lot size?

Dr. Hopson replied I do not believe so. There is nothing that tells us that we have to have so many square feet for each bird.

Mr. Baugh said I am asking about the composting area, is there a minimum.

Dr. Hopson said there is no minimum standard. It comes down to the Virginia Department of Environmental Quality (DEQ), those folks head that operation. The ideal way is of course to compost on site, by moving the carcasses there is a greater chance of spreading the virus.

Mr. Hall said I hope we can work together for a resolution.

Mr. Hobey Bauhan said he is the President of the Virginia Poultry Federation, which is based here in Harrisonburg and I also reside here. I just want to thank you all for your diligence in trying to learn more about avian influenza. The poultry industry is a large economic factor in Virginia and probably no locality has more impact on the industry than the City of Harrisonburg with the processing plants, feed mills, live jobs, and indirect jobs from businesses that provide goods and services to the poultry industry. So far, we are concerned about this issue here in Harrisonburg because of the density of the poultry in this immediate area and Rockingham County as well. If we can be of any assistance to you as you move forward through this process, let us know. Thank you for taking a cautious approach and trying to have all the facts presented.

Chair Fitzgerald thanked everyone. She then asked Planning Commission if there were further questions. Hearing none, she asked how Planning Commission would like to handle this next month.

Mr. Fletcher said believe it or not there are no new cases for next month's agenda, so you could take a very in depth look at this. We can check about drumming up some public input on the topic next month, perhaps some free media to get those folks interested to come out and participate. This was first brought to Planning Commission in October, so we are several months out at this point; being that there are no new business items for next month's agenda, it would be a great opportunity if you want to flush it out.

Dr. Dilts said when the current ordinance was under consideration, was there a conversation about the bio-hazard portion of it?

Mr. Fletcher said I would have to re-look at the minutes.

Dr. Dilts said perhaps you could just send the minutes. Do you remember why the two acre limit? It almost sounds like it had something to do with neighbors and neighborhoods.

Mr. Baugh said if I recall correctly, the two acres kind of evolved from averages of other communities. As for your first question, I would say nothing then rose to the level of debate here in any of the open sessions of discussion. I know that Council Members had people give us articles and data to review, but this conversation alone is at a higher level than anything that took place during the original discussions.

Dr. Dilts said part of it is that we just came off of the 2015 outbreak; therefore we are a bit more cautious about what we do and why we do it. The larger discussion of what an individual wants versus what is happening to a society is part of the conversation also.

Mr. Fletcher said if Planning Commission absolutely wants to talk about it next month it would be good to know so that we can prepare and we can get the opportunity to get this out to the public. This is not a public hearing so it is not advertised.

Chair Fitzgerald said it would be a public input session. We could also vote on recommendations to City Council.

Mr. Fletcher said this is not part of the zoning ordinance, and staff is not offering any recommendations; these are just the talking points that City Council has offered for this group to talk about.

Chair Fitzgerald said there was a lot of discussion in the materials that you gave to us previously about the number of times Animal Control got called out about chickens before the 2009 ordinance. Is there any sense as to whether that has changed? Or has this ordinance done nothing to the way people have chickens in the City. Do people who cannot meet the two acres continue to have chickens?

Mr. Fletcher said we can certainly contact Jetta Earhart regarding those questions; but my quick view is it is exactly the same.

Chair Fitzgerald said do we agree that we will think about this, advertise it through the media, but not as a public hearing just get the word out through social media, come back to it next month for public input and discussion, and then maybe decide what we would like to send forward to City Council.

Mr. Fletcher asked if the group was hoping the public input would speak to these four talking points. Because there are measures in place and we do not want to re-invent the wheel with the ordinance.

Chair Fitzgerald said perhaps the Public Information Officer could craft the outreach notice along those talking points.

There was a consensus among the Planning Commissioners that this was indeed the direction they wanted to take regarding the chicken ordinance discussion.

EXTRACT FROM MINUTES OF HARRISONBURG PLANNING COMMISSION MEETING HELD ON: February 10, 2016

Chair Fitzgerald said at this time we will take public comment and discussion regarding revisions to Section 15-2-24 Fowl, chickens, and other domestic birds – commonly referred to as the Chicken Ordinance. I believe Mr. Fletcher has some comments before we begin taking public input on the ordinance.

Mr. Fletcher said I just want to highlight a few things that were included in the packet. I also have a few slides that are to be used for visual reference tonight if needed. Last month Dr. Don Hopson – Regional State Veterinarian, which the Planning Commission invited to speak regarding the avian influenza, was here and there was a discussion about the virus. There was also some general discussion about the backyard chicken operations and how we might want to look at amending the ordinance.

Mr. Fletcher reviewed the four talking points that City Council had given to Planning Commission to discuss and said remember we are not looking to recreate the wheel, but more to focus on these topics. The topics include: the two acre threshold, should there be a neighbor's approval, issuance of only a certain number of permits, and if there are major topics that are not covered already within our existing ordinance.

Last month Planning Commission also asked staff to check with Officer Earhart, the Animal Control Officer with the Police Department, to see if there had been an increase or decrease in the number of backyard chicken violations since the 2009 ordinance was adopted. Her response, which was included within your packet, was that she did not have a concern with reducing the lot size square footage requirements or increasing the number of allowed hens. She suggested keeping the minimum setback requirements from property lines, restricting the hens to only single family (detached) home lots, and to continue to prohibit roosters and slaughtering. Officer Earhart says that she appreciates that the City already has an existing permit process in place because it provides a paper trail for her to be able to enforce the ordinance.

Mr. Fletcher went on to remind the group that this is not a Zoning Ordinance regulation, it is an animal control ordinance. Officer Earhart specifically noted that the number of complaints since the 2009 implementation has pretty much remained the same; but the outcomes have improved tremendously because there is an ordinance in place – something she can show them and refer to.

Included in the packet was a copy of the discussion from the “Be Heard Harrisonburg” blog. Also within the packet there are suggestions from the Harrisonburg Stormwater Advisory Committee, comments and suggestions from the Virginia Poultry Federation, the existing ordinance, and again a copy of the talking points.

Mr. Fletcher continued by describing several maps that staff had prepared and added to a Powerpoint presentation for visual reference when discussing the chicken ordinance this evening. The maps showed a standard 10,000 square foot lot with several different setback scenarios. Another map illustrated the 1,000 foot buffer that has been suggested by the Virginia Poultry Federation, which would buffer feed mills, poultry processing plants, hatcheries, poultry company truck lots, and any active poultry farms within the City. If the City felt this was a good regulation to adopt, this demonstrates the areas that would not be allowed to keep chickens. That is all I have to share with you this evening.

Chair Fitzgerald said we are not having a formal public hearing, we are just asking folks to come forward and talk, after which Planning Commission will have some discussion about where they would like to go with this.

Mr. Da’Mes said I would like to recognize that there were 46 inputs and 32 participants with the BeHeardHarrisonburg blog regarding this topic. I would like to suggest that all of the BeHeardHarrisonburg conversation be entered into the minutes.

Mr. Fletcher said we can certainly do that.

The information herein was copied from <http://beheardharrisonburg.org/>.

Discussion: [Chicken Ordinance](#)

In 2009, an ordinance was created to set parameters for those residents who met the requirements to have backyard chickens and other domestic birds.

Most recently, City Council has requested a review of this ordinance to evaluate its effectiveness and determine if any changes need to be made.

1 Topics 44 Answers Closes 2016-02-05

Topic: [Exploring the Chicken Ordinance](#)

City Council revisited the requirements of this specific code section and is further exploring the following in regards to the ordinance:

- Whether the lot size threshold of two acres should be reduced;
- If there should be a neighbor's approval added to the permit process;
- Whether a certain number of permits should be issued within an implemented trial period; and
- Any other issues or concerns.

What do you think?

44 Responses

David Williamson at January 25, 2016 at 4:21pm EST

No, the lot size should not be reduced. Yes, all neighbors should be required to give approval for someone to house loud chickens within the city limits. I can't even believe city council or the city of Harrisonburg allows chickens to be housed within the city.
4 Supports

Lara Ressler Horst at January 25, 2016 at 4:29pm EST

Lot size doesn't really seem relevant--we are talking about urban approaches to raising poultry, it's not about having a large lot.

I don't think neighbor's approval is appropriate as a requirement. Perhaps crowing roosters can be banned. I think most people just want fresh eggs . . . everyone I know who actually has chickens in town gets rid of the males as soon as they are discovered.

No trial period needed, there are plenty of cities around the country and state that we can look to for examples--time for H'burg to catch up with places like Chicago.

I am also interested in other poultry--guinea fowl, for example (which are much better for your home garden than chickens). It would be great to see a positively-framed regulation that describes the conditions that are acceptable for keeping poultry and assumes that its OK unless its a problem.

H'burg has so many good things going for it these days, updating the chicken ordinance will makes us an even friendlier city! Thanks!

16 Supports

Josie Kinkade at January 25, 2016 at 4:40pm EST

Reducing the acres to 0.5 might be a good compromise as a next step.

2 Supports

Peaceful Yard at January 25, 2016 at 8:08pm EST

The state vet testified before planning commission that from an animal welfare and safety perspective he did not see a need for a minimum lot size. What would be the purpose of a minimum lot size? The two acre limit was pretty obviously a de facto ban. A smaller lot size seems mostly to restrict the permission to people with more expensive homes.

Chickens, as opposed to dogs and roosters, don't make much noise and don't give off noxious fumes like other permitted activities. My guess is that people who want a minimum lot size really mean they don't want it at all and would not consider 0.5 a compromise, leaving it as a needless burden if council otherwise determines this practice is acceptable.

10 Supports

Paul Yoder at January 25, 2016 at 6:02pm EST

4 chickens make less noise then a dog. Contained they are of no hazard to the neighborhood, especially 25 feet from the nearest lot line and can provide nutritious food for our families. Even larger cities accept the value of having a few chickens contained in a back yard.

13 Supports

Elaine Blakey at January 25, 2016 at 7:40pm EST

I absolutely am against having chickens raised within the city limits. I certainly would not want chickens near my home. I dealt with this problem once in another neighborhood and it was never resolved. A very bad idea to even consider!

2 Supports

Peaceful Yard at January 25, 2016 at 7:57pm EST

Could you be specific about what the problem was so decision makers can consider it?

0 Supports

Sam Nickels, Director, Center for Health and Human Development at January 25, 2016 at 10:13pm EST

Elaine, could you say more about what the problem was with your neighbor's chickens before? For example, were there crowing roosters? Were the chickens ranging free into other yards? Thanks, Sam

1 Support

Elaine Blakey at January 25, 2016 at 8:08pm EST

This problem involved chickens in a yard and it was reported to authorities and it may or may not have been addressed, however ... Bottom line is the chickens never left area at that time.

1 Support

Peaceful Yard at January 25, 2016 at 8:57pm EST

Thanks for the clarification, I see what you are saying. Some people have said that since chickens are a fact of life, maybe making them legal would improve matters. If people are determined to keep chickens they have no motive to follow any standards since they are already outside the law. If they can keep chickens legally, they can openly seek and accept advice on care and safety rather than hiding or being unaware of a potential problem. This might also help them be more pro-social rather than feeling like they are against the city and on the other side of the law?

1 Support

Peaceful Yard at January 25, 2016 at 8:21pm EST

If chickens are deemed acceptable, there should absolutely not be neighbor restriction. This would in effect say that only people who 'fit in' in their neighborhood would be allowed to live as they like. To have the government consider, let alone enforce this is repugnant. It would encourage discrimination and segregation. Consider a neighbor who is not accepted in her neighborhood, perhaps because of her race. We could easily imagine her neighbors wishing to make her life difficult to try to pressure her out. Is it right for the government to serve as a tool to deny rights to her that she would have if she 'stayed in her place?' This is abuse, if not a lawsuit, waiting to happen.

6 Supports

Sam Nickels, Director, Center for Health and Human Development at January 25, 2016 at 10:24pm EST

My comments have already mostly been covered by Lara above. I think it's time to expand the ordinance for people wanting their own healthy eggs since there are not enough producers even in our area. During the last debate the local chicken corporate lobbyist argued against allowing it because of concerns about disease/avian. While specialists I've read and talked to

(https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=0ahUKEwingdiEwsbKAhVEVh4KHUjEBgMQFggcMAA&url=https%3A%2F%2Fwww.ces.ncsu.edu%2Fdepts%2Fpoulsci%2Ftech_manuals%2Fpreventing_avian_influenza_backyard.pdf&usg=AFQjCNFrB8wbQI8OyxQhGXzJP4Z7RrgpYA&sig2=495Toe1P1MvfCCHkwGCZYQ&bvm=bv.112454388,d.dmo&cad=rja) are cautious and make recommendations for prevention, they are not at all opposed to backyard chickens. In fact, the major outbreaks are in large in-door flocks, the disease is frequently spread by moving chickens or equipment moving between farms, neither of which happens (or rarely) with backyard chickens. Thanks for having this community exchange! Sam Nickels, Harrisonburg VA

10 Supports

Tad Williams at January 26, 2016 at 7:23am EST

I'm hopeful that the city council will ignore all input from the Virginia Poultry Federation and allow backyard chickens with few limitations. All potential issues from noise to trespassing can be addressed in existing ordinances. I don't think there needs to be a license. The Poultry Federation will claim that backyard chickens pose a threat to the confined farms in Rockingham county, but like the avian flu outbreaks in Virginia in 1983 and 2002 transmission of the disease was due to movement of workers and equipment from farm to farm versus contact from wild birds or backyard chickens.

6 Supports

Quillon Hall at January 26, 2016 at 11:46am EST

I don't recall my neighbors with the barking dogs asking me if they could have them. Nor do I remember my neighbors with the cats that are always wandering in my yard if they could have them. I reckon they don't need to tell me that I can't have my pets either. Especially if I'm keeping them safely in a coop from their cats and dogs!

12 Supports

Noel Levan at January 26, 2016 at 12:22pm EST

I hope that our community leaders will withstand the pettiness of curmudgeons, the coercion of industry and recognize that a few fowl do not foul our neighborhoods. Sans roosters, male JMU students, tractor trailers and dump trucks, the only loud sounds in my neighborhood come from the half-dozen times a day when fire trucks scream by on their way to address our communities' medical and fire emergencies. Even three rooster couldn't hold a candle to that cacophony. And the JMU students, yelling sometimes goes on until

after 1:00 a.m.! Anyone who would engage in the never-ending tasks of animal husbandry (poultry raising and care) must have the energy to address their needs. Rather than restricting by property size, offer low-cost poultry raising workshops (on a three-time/year schedule) to include fowl physiology and health issues, best housing and chicken run practices, chicken shelter and tractor building, how to protect from predators, what to do with litter/waste, how to candle eggs, etc. Invite the community to create and run an annual tour of local, backyard chicken operations. Invite the community to make group purchases of varied chicken and poultry varieties through a local buying club (supported by the group's advocacy and presence at local, festivals and downtown events. Offer annual veterinary discount coupons to owners to help ensure that their backyard denizens stay healthy and are supported to do so. Do what you will. Parents will commit to the tasks to keep a few backyard chickens for eggs, pets, education, garden assistance and the teaching of responsible (and fun) animal husbandry.

12 Supports

Quillon Hall at January 26, 2016 at 1:14pm EST

Very well said!

1 Support

Peaceful Yard at January 26, 2016 at 2:37pm EST

Except he left out the cacophony, fumes, and destruction of lawn mowers.

0 Supports

Roy Nelson at January 26, 2016 at 2:18pm EST

comment...Harrisonburg promotes itself as being a progressive small city. The growth of backyard chickens nationally and within Virginia sets a precedent that we need to learn from and follow. Residents should be encouraged, not discouraged by permit fees, lot size requirements, or neighbor permissions. Concerning noise, I would support a hen only policy.

4 Supports

Cate Nelson at January 27, 2016 at 11:01am EST

Harrisonburg, being the Friendly City with a focus on local food, absolutely should allow this type of urban homesteading. Chickens are easy to keep and aren't noisy, messy, or smelly (the last, despite what the George's trucks might have us believe). My hound dog makes more noise than my chickens ever did, and they're helpful for pests, weeds, and provide compostable material via their waste. Noise simply isn't an issue, especially considering we're discussing this in a college town.

Let's keep the parts of the ordinance that bans backyard slaughter within the city limits, but join the other cities (both large and small) across the country that have embraced backyard chicken keeping. No size restrictions necessary in my experience. A good chicken keeper can easily house a small flock in any lot, provided they keep the area clean and well tended. If the city is concerned about the cleanliness factor, residents can pay for permits that would cover the cost of any inspections needed.

8 Supports

Roy Nelson at January 29, 2016 at 6:29am EST

Permits are just another way to discourage backyard chickens by adding a cost to make this economically nonviable.

0 Supports

Cate Nelson at February 01, 2016 at 11:17am EST

I would happily pay an annual fee in order to have a backyard flock.

0 Supports

Kristen FultonWright at January 27, 2016 at 2:28pm EST

I am in support of allowing chickens in the city with no limit on lot size. And as long as hens are contained within fencing, I'm not sure why neighbors would need to approve a household's decision to keep them.

7 Supports

Virginia Cutchin at January 27, 2016 at 3:05pm EST

Perhaps I missed it but I have not read anywhere about what constitutes adequate shelter, protection, food/water availability, etc. Do proposed provisions cover these aspects too?

0 Supports

Quillon Hall at January 27, 2016 at 3:15pm EST

I believe that when you apply for a permit that the animal control officer will make a visit to check that the chicken coop meets the guidelines outlined in the existing ordinance. After that it's up to the owner to give them food and water.

0 Supports

Ken Rutherford at January 27, 2016 at 4:34pm EST

Our family supports backyard chickens - family activity, producing ones own healthy food. I support no lot size requirement with no setbacks if less than 4 hens. Right to raise chickens is not unlimited, however, such as hens only (No roosters or breeding). if you keep more than 4 chickens, you must have neighbor set aside, Chickens must be kept securely enclosed in the yard or pen at all times, adequate shelter from harsh elements must be provided.

1 Support

Tim Cummings at January 27, 2016 at 5:50pm EST

I'm all for backyard chickens. I agree with a 4-6 hen limit, 0.5 acre minimum lot, and absolutely no roosters, slaughter or breeding. Bring on the birds!

0 Supports

Dale Goodwin at January 27, 2016 at 10:20pm EST

Personally, I would not be in favor of any changes to the existing ordinance; however, if changes are made - ROOSTERS should NEVER be allowed. [as per existing code Sec. 15-2-24 (c) (3)]

1 Support

Wes Douglas at January 28, 2016 at 11:06am EST

You don't need two acres. Depending on how you intend to feed them you need very little space at all. If space were an issue with chickens, mass produced chickens/eggs wouldn't be a thing. I would just come up with a new max number per home and say no roosters....unless you have an acre or more. Chicken don't make noise and having a few of your own is a wholesome, rewarding and nutritional activity. If people can tolerate dogs (which I love) chickens are a non-issue. If you don't secure your chickens the cats will have a free lunch. Chickens also do wonders for pest control to include ticks and other undesirable pests.

4 Supports

karen thomas at January 28, 2016 at 11:18am EST

I absolutely do NOT want chickens in my neighborhood, although there are some running around on Broad Street now stopping traffic at times. The authorities know where they are, and nothing has been done about it. They should be on a farm in the county same as the pigs and cows, I cannot believe the City is revisiting this matter. If you must revisit, leave the ordinance we have in place at 2 acres, or even more!

0 Supports

Sean Egger at January 28, 2016 at 2:12pm EST

In my experience, most of the negative feelings towards backyard chickens come from ignorance. I include myself in that statement since i was adamantly against them until i was exposed to them a few times and realized my assumptions were unfounded. Chickens make less noise than dogs, cause less order than a litter box, and take up very little space. In addition, there are countless community benefits such as reduced waste (chickens eat food scraps), decreased insect pests, decreased reliance on mass produced, factory eggs, increased community education regarding food and farming, and more money in the hands of local businesses.

Section 15-2 of Harrisonburg law already regulates pet ownership to protect the well-being of pets and the rights of neighbors. Why is more regulation needed? Having backyard chickens is no more obtrusive than dogs, cats, rabbits, ferrets, or any other "standard" pet, except in extreme situations. Those extreme situations can be handled using the same animal welfare and animal nuisance laws we already have in place. Additionally, the current 2 acre regulation is excessive. A half a dozen chickens take up less space than a shed.

The progressive, local conscious, and farm-appreciating Harrisonburg that I love should be promoting the raising of chickens through education, programs, and incentives. Please don't let the small minority ruin it for the general community.

6 Supports

Jenny Reid at January 29, 2016 at 6:14am EST

I am in support of allowing chickens in the city with no limit on lot size. I agree that they should be contained with fences. I also do not think neighbors need to approve a house

getting them (they dont ask permission for dogs and cats). I am excited about the possibility of saving money on eggs, reducing the bugs in my yard, and teaching my children about caring for these animals!

3 Supports

Roy Nelson at January 29, 2016 at 6:32am EST

We will only save money on eggs if there is no excessive permit fee involved.

1 Support

Cate Nelson at February 01, 2016 at 11:19am EST

No different than getting a dog license, and it would be incentive for the city to approve this.

0 Supports

Jennifer Brown at January 30, 2016 at 3:42pm EST

Given that Rockingham County allows 50 chickens per acre, the fact that Harrisonburg only allows four hens per two acres is a bit extreme. Given that most areas are not designated agricultural use, the fact that there are only four hens would not create an agricultural environment if the lot size were to be reduced. Many larger cities allow at least six hens in a lot that is no more than 50,000 sq ft.

Of all the Virginia communities that allow urban chickens, none of them require neighbors' approvals. Individuals wanting urban chickens are already required to obtain a permit, requiring them to gain neighbor approval is unnecessary and an added hindrance. However, in order to make neighbors happy, perhaps Harrisonburg should follow Richmond's model requiring "a sketch plan of the coop to be sent to zoning to make sure it complies with zoning requirements, and an inspection of the coop and coop area." Richmond also requires an animal cruelty background check.

Larger cities do take into consideration noise and odor regulations, and perhaps Harrisonburg should consider that before issuing too many permits in a given area.

I would like to see the following language from the Vinton, VA ordinance be adopted: "(6) All enclosed permanent henhouses/coops must be at least 25 feet from the adjoining property lines and no closer than 50 feet from any adjacent residential dwelling or to any other building used for residential purposes, other than that of the owner of the chicken hens. All enclosed permanent henhouses/coops shall not be located in the front yard, required street side yard, required side yard, nor shall be located in any drainage area that would allow fecal matter to enter any storm drainage system or stream. (7) Secure movable/portable henhouses/coops and chicken tractors must be located at least 20 feet from the adjoining property line and no closer than 25 feet from any adjacent residential dwelling or to any other building used for residential purposes, other than that of the owner of the chicken hens. (8) All enclosures for the keeping of chicken hens shall be constructed and maintained as to prevent rodents or other pests from being harbored underneath, inside, or within the walls of the enclosure. The henhouse/coop must be impermeable to rodents, wild birds, and predators, including dogs and cats. All enclosed pens must be kept dry, well-ventilated, and in sanitary condition at all times, and must be cleaned on a regular basis to prevent offensive odors. All manure not used for composting or fertilizing shall be

removed promptly. Odors from chickens, chicken manure, or other chicken-related substances shall not be detectable at the property boundaries. (9) No dog or cat that kills a chicken hen will, for that reason alone, be considered a dangerous or aggressive animal. (10) Adequate shelter, care and control of the chicken hens are required. Any person allowed to keep chicken hens under this section shall comply with all of the provisions and definitions of the Code of Ordinances regarding care, shelter, sanitation, health, rodent control, cruelty, neglect, noise, reasonable control and any other requirements pertaining to the adequate care and control of animals in the town."

1 Support

Brian Bogan at January 31, 2016 at 8:50pm EST

I certainly think the lot size should be reduced to maybe as small as a 1/4 acre. I do think that there should be containment regulations (i.e. fencing around coop areas) I can see other neighbors pets being a problem and creating conflict. I have had neighbors with chickens in the past that would let them roam and would wander into my yard and cause my dogs to act crazy, I can see cat issues as well. But I don't think we should be regulated as to what food we can grow for our own families, just because we are in "city limits" This is certainly not a city by any means, it is a small town in the Shenandoah valley, where poultry farming was established in this country. Don't let big poultry fight us on this and force their commodity product down our throats, fight back Harrisonburg!

1 Support

Ben Wyse at February 01, 2016 at 11:42am EST

Hens can be much less of a noise problem than dogs. They also don't pose a physical threat. We have a loud and aggressive dog chained in our neighborhood (pit bull) who would certainly pose a physical threat if he broke his collar and got loose when we walk by with our children on the way to and from school. He is allowed to be out there for an hour at a time (up to 4x/day) and no neighbors have any say. It seems that if we are giving neighbors veto power over animals, then dogs might be an animal that could be added to the list.

It would be wonderful for us to be able to have a few hens as part of a way to teach our children about caring for animals who provide us with food. We would support having the ordinance allow chickens. It would seem that any lot that is big enough for a house to built on it should be allowed to have 4 hens. And no roosters should ever be allowed.

1 Support

Erin Bishop at February 02, 2016 at 2:50pm EST

I support our city allowing backyard chickens!

I grew up on a farm in Virginia where my family has always kept a healthy flock of chickens. The benefits are too numerous to list here. I mention this because though our farm was central to over 50 acres of land, the chickens (20+), their coop and fenced enclosures did not exceed 2,000 sq feet. It seems to me that the lot size regulation is irrelevant when considering such a small number of birds will be permitted.

I would NOT support any decision to allow neighbors to have a say in the execution of rightfully permitted activities. If the City can refine the backyard chicken ordinance to allow for more families to take part in the practice - and do so in ways that have been proven by cities and towns across our state and country - we should not grant the power to neighbors to limit that activity. (I agree with those who say this would open the debate for making the same arguments against other activities: dogs, free-roaming cats, loud parties, and other disturbances.) No roosters is a fine idea. I think these regulations will remain strongest if written to include only chickens; guinea fowl can make more noise and they fly - they should be addressed separately because their needs are different and so as not to potentially vilify all backyard birds cited in this specific ordinance if their noise became an issue.

(I LOVE the idea of allowing pigeons to be kept as well.)

2 Supports

Jen Kettelkamp at February 02, 2016 at 9:06pm EST

I support backyard chickens. I do not think neighbors should get to approve the decision. I fear that with restriction of space/lot size many people would not be able to participate. This is a wonderful way for families to support themselves with fresh eggs, and a great way for children to learn about where their food comes from!

2 Supports

Fred Copithorn at February 02, 2016 at 11:11pm EST

I add my voice to the many who want backyard chickens. Other cities seem to have this and it makes sense. But no to roosters; for egg production only.

2 Supports

Michael Zook at February 03, 2016 at 6:23am EST

I was excited to hear the idea of having chickens in the Burg was being revisited. I think enough has been said in regards to the fact that backyard chickens do not pose any threat to humans or other animals. The folks I know who would like to have chickens aren't going to run the large poultry folks out of business and aren't going to be an issue with their neighbors either. They are doing it because they have young children who are interested in having a "pet" and ultimately want to know where their food is coming from. I think some will find it more difficult and expensive than they imagined - just like the responsibility of owning and caring for a dog or cat. Within a two-year period of passing a new ordinance I would suspect that +/- 5% of folks living in H'burg would own chickens. I would suggest a maximum of 6 chickens on less than 2 acres, no approval needed from neighbors (one less piece of paperwork for city officials to deal with) and no roosters allowed. In the worst case scenario if chickens start running wild in the city this ordinance could be revisited again and changed in the future. I appreciate city council taking time to revisit this ordinance and look forward to taking eggs off of our grocery list for ourselves and our neighbors.

2 Supports

Gail Fox at February 04, 2016 at 12:23pm EST

There are multiple facets with regard to this issue to be considered by the city Planning Commission and Council: * Community health and safety are paramount. Information from the VA Poultry Commission will be essential to the decision. * The Planning Commission must consider the philosophical choice of a traditional city environment or one of a more rural/farm oriented environment. * The Council will need to address the impact of any decision on real estate values. * Administration costs must be considered; for example, potential for increased numbers of staff, increased training requirements to monitor safety issues, and increased inspections to assure compliance. * Outcomes: 1) If current regulations are to remain unchanged, Council should consider reviewing at a specified interval; 2) If the regulations are modified, these should apply across the city without neighborhood exceptions. 3) All parties should work collaboratively to abide by the city regulations.

Gail and Fred Fox

0 Supports

Quillon Hall at February 04, 2016 at 3:18pm EST

Anyone that is concerned about real estate values dropping because of backyard chickens should do a simple Google search or speak with a realtor on the subject. There is no cause for concern.

0 Supports

Quillon Hall at February 04, 2016 at 4:33pm EST

Phoenix, Los Angeles, Denver, Miami, Atlanta, Chicago, Indianapolis, Baltimore, Boston, Minneapolis, Kansas City, New York, Cincinnati, Portland, Dallas, Seattle and Milwaukee are among the countless number of city's that allow backyard chickens. I don't think of any of these cities as rural or farm environments. Virginia cities that allow backyard chickens include Alexandria, Arlington, Fredericksburg, Reston, Roanoke, Richmond, Norfolk, Virginia Beach, Charlottesville and Staunton. Let's add Harrisonburg to that list of progressive cities that allow families to house chickens for eggs!

0 Supports

Teresa Haase at February 04, 2016 at 7:25pm EST

We've had great experiences raising chickens in the context of education and sustainability endeavors. Our family supports backyard chickens.

1 Support

Citizen Unknown Comment from Feb 05, 2016 at 4:08pm

I believe backyard hens can be a real asset to a community: healthy food, sharing (Eggs) and cooperative caring (seeing after others' hens when out of town).

Citizen Unknown Comment from Feb 05, 2016 at 4:27pm

I also support backyard chickens, with appropriate houses and/or fencing to protect from neighborhood free-range. Definitely lesson the lot size requirement, and place a maximum on the number of hens allowed. No roosters. Follow the models already in place by other similar cities, and families will be able to enjoy raising chickens and delicious fres eggs!

Aniko Safran, 87 Laurel Street, said she moved here from Salt Lake City about one and a half years ago. A lot of my friends and neighbors in Salt Lake City had chickens and we actually thought it was great. They were never a bother and there were no smells. Each year they would have a “tour the coop” where you could go around and tour the different style chicken coops. There was no need for us as neighbors to authorize anyone keeping chickens. It is important to be able to talk to and be friends with your neighbors; but when you add an authorization for something like chickens, it can set up animosity between neighbors that is not necessary. It would be great if the property size that allows chickens could be smaller so that more people could have them.

Mr. Way asked if roosters were allowed in Salt Lake City.

Ms. Safran replied they did not allow roosters, although you would occasionally hear some.

Brian Martin Burkholder, 1246 Upland Drive, said I am in favor of decreasing the lot size and keeping the remainder of the ordinance as it is with one exception. It seems to me that the best scenario would be for the hens to be in the “chicken tractor” type of pen that can be moved around the yard each day. This is partly because about 20% of a chicken’s diet is grass and they could then be put on new grass every day. It is also easier to maintain the cleanliness of the pen with a movable pen. If the 25-foot setback is maintained it very much limits the space that the chickens can be moved, which I believe is the more sanitary option. The existing setback limits mean there would be more chickens in enclosed pens, increasing the maintenance requirement. I would hope for a 10-foot setback, similar to the out buildings in one’s backyard. I would generally argue that they should have the same setback because out buildings are usually in the back yard, not the front, and folks might be more offended by chickens in the front yard.

Mr. Fletcher said if I could add something with regard to the setbacks that I meant to mention earlier. The applications of the setbacks really kind of work together; the way that staff would interpret what the structure would be for a chicken coop would be an accessory building. Therefore, they would not be permitted to be located within the front yard as per zoning regulations. We did not represent that on the map illustrations; but that is how zoning would interpret it. As we move forward with this I feel there should be some clarification of what the language is, for instance, what is meant by an enclosed pen. And to be clear, the accessory building setback in residential is five feet, not ten.

Mr. Way said how much detail can we get into on what the pen or enclosure should look like?

Mr. Fletcher said that would be entirely up to you.

Mr. Martin Burkholder said if five foot is the accessory setback, then I would propose a five foot setback for chicken coops.

Fred Fox, 700 New York Avenue, said thank you for having this hearing. I am going to refer to the four talking points listed. Reducing the required acreage – I would not be in favor of that. We do not have numbers here about how that spreads out across the community, but in my own area, the ponderous of people do not want chickens in the neighborhood or to decrease the size. In terms of neighbor’s approval, I have not heard of anyone who is in favor of that. In terms of number of permits – either you are going to do it or you are not going to do it. With other issues not previously discussed, I would refer to the blog information that we wrote. I still maintain that there is a health issue here; just as Flint, Michigan is dealing with water, you are dealing with poultry. On Sunday the New York Times ran a lead article on “Has the flu returned” and provided very significant figures about what is happening throughout the world regarding epidemics. The flu epidemic last year came from Asia and it resulted in 48 million birds being destroyed in the United States, within 21 states. It was described as the largest avian flu epidemic in the history of this country. There is no full-proof way of predicting the flu. Granted other cities may be allowing this, but keep in mind in your deliberations, it could happen and you need to reflect on that.

Unfortunately the argument from the point of view of our neighborhood is a bit skewed, having had experience with someone who chose to have chickens without going through the application process, without having paid fees, and without allowing inspections. There is no idea of how waste was being disposed of. When the chickens were taken it was not a pleasant event. In all of the discussion within the blog, I do not see any acknowledgement of what is happening right now regarding violations. Nor do I see anyone addressing future compliance. I would ask that you weigh again the health issues and the oversight and administration of this.

Chair Fitzgerald said for those of you who may not be aware Planning Commission did have a presentation from the State Veterinarian's office about the avian flu and we did receive a lot of information on those very topics.

Michael Zook, 484 South Mason Street, said I have been in the chicken business before and I feel that people may not realize that having chickens is a lot of work; it is not just fresh eggs. I really do feel that if there is an ordinance that allows more people in the City to keep chickens, I think it would be a small percentage of people in the City who would actually keep them. In reviewing the four comments, I agree with the previous gentleman who spoke, except for number one – I do feel that the acreage should be reduced.

I live in Old Towne and I deal with college students across the street that are worse than any chicken or pet and I have no say in that. This was just passed in 2009 with a two acre minimum and if you lower it and it becomes a problem you can always go back.

Smith Coleman, 665 Elmwood Drive, said I have been around chickens for much of my adult life; I have raised chicks, had flocks, and worked with chickens in a rural setting. I think that chickens are a real delight for a lot of people. I am in favor of reducing the acreage, I am in favor of something like a ten foot setback, and I am in favor of the idea of having something that you can move around in the yard because chickens do feed heavily on grass. I am not a scientist, but I do not think that you can draw a line between bird flu and backyard chickens. The birds that land on my bird feeders are much better at moving around than chickens.

I also want to say that, like anything else when you are thinking about policy or restrictions, less is best. It is hard for me to see why people with two acres can have four birds and my children cannot. It does not make much sense.

Tom Benevento, 910 Collicello Street, said I want to say that I really appreciate being in a City where citizen's concerns and hopes are really looked at carefully. I applaud all of you that have spent so much time looking at this and many hours reading documents. I have two points that I wish to express. One is the urgent need to create more secure and healthy food systems and the second is to inform more people to be involved with where their food comes from.

The concern for avian flu is real and serious and I appreciate the hard work of scientists and farm workers who help to keep that at bay; however, Susan McMillian, a Senior Director with the SPCA, notes that "avian flu is a window into how today's poultry flocks live day-to-day in terms of confinement and unsanitary conditions. Outbreaks of avian flu are a signal to us, that there are current industrial agricultural practices that are unhealthy, unsustainable, and manifestation of a broken system." According to the USDA, backyard chickens actually show us the solution to avian flu. Everywhere they have been exposed to the virus they are more immune. Backyard chickens are maintained by logical diversity and are given sunlight with air flow, which is lethal to avian flu.

Backyard chicken waste has no antibiotic arsenics and consequently it quickly decomposes into usable compost for home gardens. Additionally, recent studies have found that eggs from pastured chickens, like those in the movable coops, offer four to six times more vitamin D, one third less cholesterol, one-quarter less saturated fat, two thirds more vitamin E, and two times more omega three.

Mr. Benevento continued by telling an account of an experience he had when finding a young chicken that had fallen from a poultry truck. He said the bird was covered in fecal material, its beak had been clipped, probably to keep them from pecking one another, and he realized it had never walked before because it had been caged its entire life. The chicken's breast was designed to be so heavy that it really could not walk or run. This is just a powerful experience in reality of the life of these chickens.

Whitney March, 441 East Gay Street, I am in favor of chickens in the City. I do not know much about chickens, they sound like they would be fun; but, as said, they may be more of a financial and time investment than a lot of people realize. I would really be interested in having backyard chickens, I do not know our square footage, but it is a fairly decent sized yard. Maybe limiting the number you could have would be a good idea. As far as neighbor approval, that may be a bit awkward. I have a friend who has four chickens in a rather small yard and I do not find them a problem. I believe with the effort put forth I feel it is something people should be allowed to do. I also think it is a very small population of people who want to keep chickens.

Bill Grant, 341 New York Avenue, said I am no expert in chickens, but I am in favor of allowing backyard chickens. Having read a bit about the debate in Staunton over backyard chickens and having spoken to several folks locally, I just wanted to add my voice to the list of those in favor. I support reducing the lot size and also, I do not think a neighbor's approval is desirable.

Quillon Hall, 675 New York Avenue, introduced his family and said we would like to have chickens. We are in favor of reducing the lot size, we do not feel that you should have to ask your neighbor for approval, and I do not know if you need to regulate the number of permits – I do not think there will be a lot of people rushing out to get permits. I would like to address the concern brought up earlier about the avian flu. At the last Planning Commission meeting you had Dr. Hopson speak with you, and I have the minutes from the meeting here with me. I would like to quote a question from Mr. Baugh directed to Dr. Hopson, "If you have an infection and you are following appropriate protocol for disposal of the bird would that correspond to any minimum lot size?" Dr. Hopson responded "I do not believe so. There is nothing that tells us we have to have so many square feet for each bird." Mr. Baugh continued "I am asking about the composting area, is there a minimum?" Dr. Hopson replied "There is no minimum standard."

Hobey Bauhan, President of the Virginia Poultry Federation, said I appreciate you listening to all the comments tonight. I do want to add that Dr. Hopson is the expert on avian influenza and it is a serious issue. I have dealt with issues related to outbreaks and I would be happy to answer any questions you may have. The main thing that our organization is interested in, and we understand that folks would like to have backyard chickens, is protection of the poultry industry. I think we have proposed some reasonable protections for the commercial poultry industry via the setbacks that we suggested from critical infrastructure for the industry. I hope that you will give that some serious consideration.

I do want to say that there has been some information discussed tonight that I would like to speak to. The Commonwealth of Virginia produces about 250 million broiler chickens annually; that is part of what it takes to meet the demand for poultry to feed the world. It is fine if someone wishes to raise their own, that is fine; but do not be critical of what is providing poultry meat to the vast majority of people in this country. It was stated earlier that these birds spend their entire lives in cages; of the 250 million broiler chickens in the Commonwealth each year, no bird spends any time of their life in a cage. Poultry is raised in climate controlled poultry houses, great efforts are made to provide clean water and a sanitary environment. Anything other than that would be detrimental to the flock. The notion that birds are not able to stand up is false, and that of arsenic laced antibiotics is false. I would invite you to reach out to the Poultry Science Department at Virginia Tech to learn more about the facts instead. Anyone who desires to raise their own food should be allowed, there is nothing wrong with that; but, please do not use misinformation to tear down what is really feeding the world.

Mr. Heatwole asked about the reasoning for you to ask to increase the setbacks on property lines from 25-feet to 35-feet.

Mr. Bauhan said it is to provide additional protection. I do think that having the birds away from roadways is important. The avian flu can affect backyard chickens. I like hearing the discussion of having the chickens in the rear yards only as opposed to front yards. But as far as the exact footage, you all probably have more expertise than me.

Mr. Heatwole said my other question is with regard to your logic of having the pens covered; is that because of the risk of avian influenza, which is usually spread by water fowl?

Mr. Bauhan replied yes.

Mr. Way said you suggest a 1,000-foot buffer from property housing a poultry processing plant, hatchery, feed mill, truck parking lot and farm; again, what is the rationale for that number?

Mr. Bauhan said the rationale is I looked at a map of the City and got a general idea of where these facilities were and tried to provide a decent setback from the commercial uses.

Michael Zook, owner of Great Outdoors Landscaping, said I am wearing a different hat this time to speak. I want to reiterate what Mr. Bauhan said, respect what the poultry industry is doing. I have a father-in-law that raised chickens for 33 years, and when he went out of town I was the “chicken farmer.” It was not something that I loved, but I certainly respect that is how someone makes a living. I do think we need to respect a buffer around the poultry industry; but I also think Harrisonburg is big enough that folks outside of those areas should be able to raise backyard chickens if they wanted to. I am not a scientist, but I am probably more afraid of mosquitoes right now than the avian flu.

Quillon Hall added that one thought he had after speaking with Dr. Hopson at the last meeting is that I do not think people are aware of what to do in the event that their chickens do get the avian flu. People need to know what precautionary measures to take. I think that when people apply for a permit, they should be given the number to the State Veterinarian office so that they have it handy and do not cause any more risk if something were to happen with their chickens.

Chair Fitzgerald said you are suggesting an educational piece along with the permit.

Mr. Hall said I think it should be added so that someone applying for a permit with the City would know what to do in the event that something was to happen. I do not want to do anything that would harm the chicken industry and I think this would just be common sense to include with the permit.

Mr. Bauhan said the USDA has some really good resources and literature on bio-security for backyard chicken producers and there is most definitely a contact number that can be provided.

Poti Giannakouros, 98 Emery Street, said I am not going to be getting chickens in my backyard, I have companion animals, I do not own my companion animals, and they come and go as they please. As you all know this is not about chickens, this is about people. I think that we have seen enough of the science, and the State Veterinarian last time made a very telling statement last month about a backyard flock can be infected just like a commercial flock can; we never did get to the direction of the causality of whether backyard chickens infect commercial flocks.

This issue is about people. Are we going to live in a City that is changing – where people of different cultures and different socio-economic backgrounds can peacefully co-exist with each other? I can speak as a member of the board for the Northeast Neighborhood Association, where I have had a chance to see a window of a very diverse setting and I see the cultural differences that folks have. I see that there is a potential that, if the City could ease up, loosen regulations, and provide an educational role there would be an opportunity for people who may be new to one another and do not have a way to talk to one another, could meet over some common grounds – chickens. I think this is a great opportunity, and I think it is

time. Harrisonburg is ready to make some of these changes. So please, no minimum lot sizes, no setback limits, no neighbor permissions, and I think the poultry industry will see that the right thing to do is to get behind their workers and customers.

Mr. Way asked how this would be an issue of socio-economic integration and bringing different groups together.

Mr. Giannakouros replied different people want backyard chickens for different reasons. That alone is an opportunity for people to cross a social boundary. There are people who may have grown up in an area where the neighbor had chickens and would like chickens now. There are other folks who maybe never had to have subsistence agriculture in their own yard and they may be interested in backyard chickens – they can communicate about their very different experiences. I think we span those cultural dimensions in this City. There are people who want to do everything they can to be away from the farm once they are in the City and they have very specific reasons and there are people who cannot see why you would not want nature, like chickens, in your neighborhood. It would be good for those individuals to talk to one another to understand what their history may have been and why they may have the opinions they do. We saw some of this in the BeHeardHarrisonburg dialogue. Hopefully the City will let that type of dialogue continue; it is a very healthy, positive thing. I have seen people in a neighborhood who have not talked to one another – this could be a great opportunity.

Aniko Safran said she would like to second what Mr. Giannakouros just said. A lot of us live in culturally mixed neighborhoods and it is very true that people come together to talk about chickens.

Tom Benevento said I appreciate the hard work that Mr. Bauhan and his organization does. I would like to incorporate some sort of educational component so that people can know what avian flu looks like and other ways of treating chickens.

Mr. Way said while we are talking about education, the current ordinance does not allow chickens to be kept on school property; only on residential property.

Mr. Fletcher said yes, only on single-family detached lots.

Chair Fitzgerald asked if there was any further input on this. Hearing none, she asked the Planning Commission for thoughts and discussion.

Mr. Baugh said I have been looking at the map of the 1,000-foot buffer that staff provided and it actually does not cover very much residential area. I would like to go to the two points of whether or not we should consider a permit limit and then the other of the possibility of considering a neighbor waiver. It is interesting that there is not a whole lot of enthusiasm on either side for these two points. The idea with both of them is trying to see if there is any middle ground in this. What you tend to find with this is that people who want chickens – want them; and people who do not want chickens – do not want them period. I feel fairly confident that within the City you have got neighborhoods where you probably have got enclaves where backyard chickens would be very popular and enclaves where backyard chickens would be very unpopular. There is no way for us to write a City wide ordinance that lets you do this on a neighborhood basis. So those two points were a way to kind of try and get at that.

The poster child for this approach is Ann Arbor, Michigan. Their ordinance, in terms of general structure, looks a whole lot like ours. They do have the provision as part of the permit that you must get a written blessing from your contiguous neighbors – those neighbors that touch your side or back, not across the street. It also has a five year renewal process for permits.

My sense of this ordinance is they did this neighbor approach and they found that it worked. They went through a very contentious process to get there; but decided that was the direction they wanted to go if they were going to allow chickens. I think they would tell you that once they enacted it, they did not have anywhere near the problems or contention that many told them they would have – everybody got used to

it and moved forward. What I did find interesting about it is just last year they tweaked the ordinance. Instead of having a four hen limit they created two categories, a two and a six. And with the neighbor waiver, instead of having to get neighbor approval you have to give everyone notice that you are applying for chickens and if the neighbors want to object they have to do so. This raises the bar a bit higher for the neighbors. Also, within the categories, they said when it comes to two or fewer birds you have to have a real problem before we will consider an objection to birds.

I wanted to get this information out on the table, just so we know what other possibilities are and whether anyone feels it is something we want to consider.

Mr. Way asked if the City had very many active home owners associations.

Mr. Fletcher replied we have many associations, but active is the key. Most of the townhome communities will have them and any community the has a private street will have them.

Mr. Baugh said this is a good thing to get out onto the table, and this got vetted rather thoroughly in 2009. Residential neighborhoods are going to fall into one of two categories. You will either have some sort of restriction with a neighborhood or you do not. If you do not then the City ordinance alone governs. If you do have restrictions then, and this did come up in some of the 2009 public input, the association may have a prohibition to poultry. Then the question of enforcement comes up and is the association active. In theory there is a mechanism to enforce the association regulations, but in reality it may not happen.

Mr. Way said I certainly understand; I am just trying to gain the sense that each neighborhood might be a bit different and is there a way to capture that.

Mr. Fletcher said there is a very small population of active homeowner associations.

Mr. Heatwole suggested that Planning Commission start from the top of the bullet points and discuss each one. On the lot size restriction of two acres – basically it is a de-facto ban. This recommendation that came from the Poultry Federation that speaks more to the setbacks, than acreage would remove that ban. Therefore, would it not be better to structure an ordinance in a manner that allows residents with an interest in proper management of backyard chickens the opportunity to raise them in accordance with an ordinance that is protective of the industry and reasonable for them. Focusing on the reasonable part, would it not be better to run it more with setbacks than on the lot size. Also, to add to the setback, I want to say I like the idea of having the pens covered. So possibly, you could have one setback for a permanent pen and maybe a different setback for movable structures.

Mr. Way asked if staff had any thoughts about a definition for a pen.

Mr. Fletcher said the fact that item C, number 5, states that “all chicken hens must be kept in an enclosed secure movable or stationary pen” – when Mrs. Banks and I discuss zoning we know that enclosed means four walls and a roof above. However, I have noted to make a change to say “...kept in a covered, enclosed pen...”, if that is where you are headed with this, we can certainly make that change to be more specific.

There was a consensus among the Commissioners to make that change.

Mr. Way suggested reducing the lot area to 7,000 or less square feet.

Mr. Heatwole said again if you make it by setback rather than lot size, you add all single-family lots.

Chair Fitzgerald agreed and said it is much more flexible.

Mr. Da'Mes said I agree with Mr. Heatwole; however I feel we need to make sure we emphasize the poultry industry and the detriment that the influenza would have on the poultry industry, on jobs and the economy. I think we need to express why Harrisonburg is unique when compared to other communities when it comes to backyard chickens.

Chair Fitzgerald said yes, even though it might be relatively low, just the probability of having to kill thousands of birds for no good reason other than they are sick, is something we need to consider. It is not like they would be killed to provide food for people throughout the country or world, but just killing them because they are ill. This is something we are trying to avoid here.

Mr. Heatwole said the two biggest things in my mind that would help to mitigate that are making sure that the people know the requirement of having a roof over the birds and to make sure that those people getting permits are aware of the risks, know what to look for with a sick bird, and where to call for assistance. Give to each applicant the USDA information brochure so that they are aware of these things.

Mr. Baugh said I think that is a good idea. Presumably, if we go down this path, for the people who come in to get a permit it just makes common sense to provide them with the information from the USDA.

Mr. Fletcher said I am sure that Mr. Bauhan can assist us in getting the right information from the USDA.

Mr. Bauhan said the USDA has a lot of web based information, but they have many brochures as well. You can get in touch with the USDA and they will provide you with boxes of these brochures that are specific to small backyard flocks.

Mr. Way said when we talk about a residential neighborhood like R-1 or U-R, special use permits and other uses like daycare and schools can be permitted within those districts; correct? Does this ordinance allow those other residential uses to have backyard chickens?

Mr. Baugh said not as currently written. It is only single-family detached dwellings. I know this body spends most of its time in the “zoning world;” but this particular ordinance is not defined by the zoning district, it is defined by the actual use – a single-family detached dwelling. Changing that is not one of the points we have been specifically asked to tweak.

Mr. Way said I am just thinking there are other uses that fall within a residential neighborhood, such as churches, schools, and daycares, that might want to have chickens for an educational purpose.

Mr. Baugh said for whatever it is worth, I have only been approached with that idea once, and it was by a church.

Chair Fitzgerald said the idea of expanding this past the residential use is something that I would have to be convinced that the diffuse responsibility of a church, or a group of people that kind of come in and go away, would be the right choice for maintaining birds. Especially given some of the things we have heard tonight. I am on board with single-family dwellings only right now.

Mr. Baugh said there is no contingency advocating for such right now; whereas, there is a large group of residential homeowners desiring to keep chickens.

Mr. Heatwole said are there currently setback requirements for pens that are containing any other type of pet?

Mr. Fletcher replied if the question came up of where can I place my dog house on my property, the answer would be five feet from the property line; however, the fencing around the house could be right on the property line.

Mr. Heatwole inquired if a covered chicken house would be considered a structure?

Mr. Fletcher replied yes.

Mr. Heatwole asked what that requirement would be.

Mr. Fletcher replied with the existing ordinance it is 25-feet. If you are considering changes, we would look at it as it must be placed within the rear yard and I suggest putting that into the chicken ordinance.

Mr. Heatwole said if we work up something that required permanent pens to have a 25-foot setback and mobile pens could have a 10-foot setback; does that seem reasonable.

Mrs. Banks asked why the permanent structure needed a greater setback.

Mr. Heatwole said just thinking that there may be small lots that would not have enough room for the 25-foot setback for a permanent structure; but, they may have enough room for a movable pen with a 10-foot setback.

Mr. Fletcher asked are you saying that with a mobile pen you are required to move that pen and how often.

Mr. Heatwole said given the fact that chickens like to scratch a lot and eat grasses, you would want the pen to move around.

Mr. Fletcher said it may be a really good question for the animal control officer.

Mr. Baugh said it does kind of beg the question “will this cut a break for some people?” It does raise the question that if it is regulated to setback, does it matter if it is fixed or movable. The flip side of that is it helps people with smaller lot sizes; but, a large lot size is now more restricted. If easier is what we want the setback to be, then perhaps we should just simplify it with a smaller setback.

Mr. Way said if we are talking about reducing the lot size requirement, then 25 feet is a lot. I may have to go with reducing the requirement to ten or even five feet. You do not really gain anything with the 25-foot setback unless there are some compelling health, safety, hygiene issue to deal with.

Mr. Heatwole agreed that reducing the 25-foot requirement was okay. I also support the 1,000-foot buffer from any poultry processing plant, feed mill, truck lot, or poultry farm. I think that is just common sense.

Mr. Way said I respectfully disagree with that one. I would actually suggest a buffer; but not the 1,000 feet.

Mr. Da’Mes said I agree that 1,000 feet may be a bit excessive.

Chair Fitzgerald said there is no disagreement about a buffer it is just the distance of the buffer.

Mr. Fletcher said with a buffer as shown there will also be the situation of parcels having a portion of the lot in the buffer zone. How would that be regulated?

Mr. Baugh said this may be something that staff should look at more closely. I certainly like the idea of what the Poultry Federation is suggesting along the lines of the buffer. What I would like to inquire about is what are the County requirements for setbacks of poultry houses. If I remember correctly, it is relatively small. Would it make sense for the City to have a buffer restriction that is significantly greater than what is required by the County?

Chair Fitzgerald said do we need to press pause at this point and collect some more information, such as that from the County.

Mr. Da’Mes said should we give staff some specific direction so they do not have to interpret our ideas.

Mr. Heatwole said let us go through each bullet point we have been asked to explore, line by line, and give staff what we are interested in seeing.

Mr. Da’Mes said I believe we have a consensus on lot size. We are interested in regulating by setbacks as opposed to lot size.

Mr. Way said what is meant by consensus of setback; because I am in favor of a five foot setback.

Mr. Baugh said I like the idea of getting rid of the lot sizes. The two acres was to establish a framework. I am thinking from an enforcement standpoint, if you go with a lot size, then animal control needs to know how big your lot is. A setback would be much easier to enforce.

Mr. Fletcher said you are essentially talking about eliminating subsection C (2) which reads “Each single-family dwelling shall contain at a minimum two (2) acres of land.”

There was a consensus to remove subsection C (2).

Chair Fitzgerald asked what is the setback that we want to propose.

Mr. Way said I am not convinced that five is the magic number, but I believe it is a good starting point. Would that be changed within subsection C (6)?

Mr. Fletcher said may I offer a suggestion. Within subsection C (5) or (6), staff will write language describing that the pen will be considered an accessory structure as per zoning, or something along those lines, and then we will all know what we are referring to.

Mr. Heatwole said with regard to the neighbors approval, are we all not in favor of acquiring that?

Mr. Da’Mes said I think a valid point was brought up in terms of that. What if there was a neighbor that was adamantly against chickens and has a valid reason. We should be able to hear that.

Mr. Heatwole said we should be able to hear that, but does that require a neighbor’s approval? That could be something that is done at the permit process to see if there are valid neighbor reasons for not having chickens.

Mr. Way said some type of notification at time of permitting to tell the neighbors what is being requested.

Mr. Baugh said I do not think the notice issue is a problem; it could be done through the permit process. My question is what is the dispute resolution mechanism? That is the piece that hits me as we discuss this. I am not certain, but I believe appeals regarding animal control go right to court.

Mr. Fletcher said an enforcement mechanism is very difficult for interpretation purposes. What is a legitimate reason to not allow the chickens?

Mr. Da’Mes said I think we are going in a direction that we do not need to go. Again, I point out that you can get a dog or other animal that is kept outdoors without neighbor approval.

Mr. Heatwole agreed.

Mr. Way said philosophically, there is an element of trying to enforce civic spirit with this; perhaps it is better handled by the individual neighbors.

There was a consensus that a neighbor approval was not needed.

Chair Fitzgerald asked where do you stand with issuing a certain number of permits within a specified trial period.

Mr. Baugh said the rationale behind this was meant to alleviate the idea that as soon as you open this up to all parcels, you are going to get hundreds of chicken permit applications in sixty days and overwhelm the system, which would create problems. The idea was to allow a more orderly transition towards more chickens.

There was a consensus that issuing a certain number of permits was not necessary.

Chair Fitzgerald asked what other issues would you like to discuss.

Mr. Heatwole said back to the buffer issue. I think we should research further into the proper way to create that buffer. We do not want to cut someone's property in half. Is 1,000 feet necessary, what is the reasonable number for the buffer?

Chair Fitzgerald asked staff if that was clear enough.

Mr. Fletcher said the area within the 1,000-foot buffer that we are most concerned about is the area downtown where there is a processing facility and feed mill. I am just trying to flush out what I believe Planning Commission is referring to with the buffer. We can definitely investigate it and quite honestly, I do not know where we are going to end up with this. Because what you are saying is that you would like for staff to arbitrarily determine which parcels should, or should not, be in the 1,000-foot buffer, based on their boundaries. What I was trying to focus on was the travel routes of poultry trucks and trying to figure out if a property was within that route.

Mr. Heatwole said I was looking more for a suggestion from staff on a good way to create a common sense buffer around these areas. Is it 1,000 or 800 or whatever and why? I really like the idea of a buffer.

Mr. Way said what about just saying the properties directly adjacent to or adjoining any of these listed uses from the Poultry Federation. That creates a bit of a buffer. If your property is directly adjoining a poultry processing plant, a feed mill, a hatchery, a truck lot, or a poultry farm you are within the buffer zone. Does that capture the key issue?

Mr. Heatwole said it does for me.

Mr. Da'Mes said we are trying to mitigate influenza as much as possible with this. What is the right balance?

Mr. Heatwole said it creates a buffer.

Mr. Da'Mes said is that sufficient from a scientific standpoint? Is there someone who can tell me a bit more about that?

Chair Fitzgerald said I do not think there is an answer to that question.

Mr. Baugh said again, it would be worth seeing what the equivalents are in the County.

Mr. Bauhan said we have concerns with chickens in the County as well and there is not anything in the County that says backyard chickens have to be so far from commercial poultry houses. The key is to identify where you may have industry vehicles coming in and out of the area every day and what is the buffer for those vehicles.

Mr. Heatwole asked if it would be prudent to ask Dr. Hopson. If anything he may have data to support the buffer distance.

Mr. Quillon Hall said I think the simpler the better – adjacent to and directly across the street from, that is very clear.

Mr. Bauhan said I think adjacent is good; whether it is adequate, I cannot speak to that.

Mr. Way said the thing with the adjoining lots is it is very clear; you are either adjoining or not. It is a map that can be read by anyone.

Mr. Da'Mes said let's go with a map of the adjoining parcels and then ponder it when we see it.

Chair Fitzgerald said we have moved through our bullet points. Is there anything else that we need to discuss?

Mr. Heatwole expressed the need to get some type of educational brochures from the USDA that could be handed out to the applicants.

Mr. Way said Dr. Hopson did bring up the notion of disposal of the bird carcasses.

Mr. Da'Mes said I believe subsection C (9) addresses that rather well.

Mr. Way asked if it is appropriate to take the carcass to the County Landfill or does it need to be disposed of on the property.

Mr. Fletcher said I believe Dr. Hopson was only referring to birds that were sick.

Mr. Da'Mes said I believe it was for all birds.

Mr. Fletcher said perhaps we should do some research on that matter. On another matter if you would look at the suggestions from the Harrisonburg Stormwater Committee regarding setbacks. Are you all comfortable with their suggestions? They are adding that a 20-foot setback is needed from streams, tributaries, ditches, swales, stormwater management facilities, or other storm drainage areas that would allow fecal matter to enter any storm drainage system or stream. Staff is prepared to follow-up with them regarding where the interpretation extends for drop-inlets. But, is Planning Commission okay with the change proposed?

There was a consensus from Planning Commission that the proposed language was appropriate.

Chair Fitzgerald asked if there is anything else to discuss.

Mr. Fletcher said we will put this together and do our best to get it all back to you next month.

The minutes extract below are “draft” minutes and as of April 6, 2016, have not been approved by Planning Commission.

EXTRACT FROM MINUTES OF HARRISONBURG PLANNING COMMISSION MEETING HELD ON: March 9, 2016

Vice Chair Way said under “Other Matters” we are going to discuss revisions to Section 15-2-24.

Mrs. Banks said I have several slides for review tonight that capture several of the issues discussed at last month’s meeting. There is a draft copy of Section 15-2-24 with some of the changes that Planning Commission (PC) agreed upon last month; for example, removing the two acre requirement and the reduction of the 25-foot setback. There was a desire to better define chicken coops or pens; and proposed language is added within Section 15-2-24 (c) 4. PC was interested in providing some type of educational component to those desiring to keep chickens and we have acquired brochures and literature from the Department of Agriculture, as well as a website we can refer to.

During last month’s conversation PC talked about a reduction in the required setback for chicken coops/pens. I have provided several maps showing a reduction to 10 and five feet for the setbacks; five feet is the current setback for accessory buildings within residential areas. As well, Section 15-2-24 was modified to specify that coops/pens must be within the rear yard.

The Virginia Poultry Federation proposed a 1,000-foot buffer from all poultry facilities at the February meeting and, after review, PC asked to see a map showing just adjacent property setback from the specified facilities. I realize it is difficult to see the smaller version of the map and there are larger versions laying on the table if you would like to look at them.

Several questions arose after last month’s meeting regarding some of the current language within the chicken ordinance. For example under subsection (7), where it states “all pens must be kept in a neat and sanitary condition at all times and cleaned on a regular basis and once a permit is obtained pursuant

to this section, the permittee agrees to a semi-annual inspection by the Virginia Department of Agriculture and Consumer Service Veterinarian,” there was a question as to whether this is correct. I contacted Dr. Hopson and he informed me that no, this type of inspection would not occur. Therefore, we have removed the portion regarding the semi-annual inspection. Remember, the City Animal Control Office will be inspecting site each year you apply for your permit, or on a complaint basis.

Under current subsection (9) which discussed litter, waste and removal of carcasses; the landfill does not accept litter and waste. If you are not composting or using the litter for fertilizer on site, you would need to contact a bona fide litter service. As well, the landfill does accept animal carcasses, by appointment; they should not be put in the trash.

Lastly, we included the language proposed by the Stormwater Advisory Committee regarding a 20-foot setback from specific drainage areas.

I know this is a lot to take in at once, but staff is here to help answer questions should you have anything for us.

Mr. Colman asked if there were any requirements for how deep you needed to bury a dead animal on site.

Mrs. Banks said not that I have found. We have had some conversation with Dr. Hopson regarding some information he provided requiring a 50-foot setback when burying animals on site. However, after research we discovered this does not specifically apply to back yard chickens.

Mr. Fletcher said as I thought about this, I questioned how does one know whether their bird died of natural causes or from the avian flu.

Vice Chair Way said under the draft ordinance language in subsection (9), it suggests the dead animal must be taken to the landfill and cannot be buried on site. Is this correct?

Mr. Fletcher said what we have learned is that yes, you can bury on site. This subsection would need to be amended and updated with the new information we have gathered.

Dr. Dilts said the point of this is that you cannot just put it in a trash container.

Mrs. Banks replied yes, you cannot put it in the trash that is collect at the street. However, if you do not want to bury it on site you may make an appointment with the County landfill to drop it off there. There is a fee associated with taking it to the landfill.

Dr. Dilts asked how would one know if a bird has died of the avian flu and can that bird be buried on site? Do they bury entire infected flocks on site?

Mr. Heatwole replied yes, they bury on site and it is a rather big process. But remember there is a big difference between a backyard chickens and the poultry industry.

Mr. Colman said how do we enforce not burying in the backyard if the bird has avian flu?

Vice Chairman Way said the critical element is that no dead bird shall be deposited within the trash container that is collected by public or private waste collectors. That is the bigger concern of transporting and spreading the disease. The primary option is to bury on site.

Mr. Fletcher said moving forward I promised Mr. Bauhan with the Virginia Poultry Federation that I would provide you with the information from them regarding their position that they would prefer the 10-foot setback over the five-foot setback; that they would also like for the VDACS facility on Mt. Clinton Pike to be included in that list of facilities within the buffer zone; and they felt that the adjacent lot buffer was not secure enough and would like something else considered.

Mrs. Banks said another question brought up last month was regarding Rockingham County's regulations for setbacks for chicken coops/pens and staff did speak with the County about this. For a commercial poultry facility, a very intense use, it requires a large setback. The County does allow backyard chickens in the Agricultural Zoning District – setbacks for structures less than 580 square feet is five-feet on sides and rear; setbacks for structures greater than 580 square feet is 15-feet on sides and 35-feet on the rear. Most residential subdivisions, such as Belmont or Battlefield Estates, have language within their covenants that restricts the keeping of any poultry; as well, the County Ordinance does not permit the keeping of poultry in residential districts. However, there are some Residential/Recreational (RR) districts that do allow the up to five birds by special use permit.

Mr. Colman said the setback for poultry houses is 300-feet in the County?

Mrs. Banks said yes, that setback is for the large commercial poultry facilities.

Mr. Colman asked if there was any type of buffer zone from the poultry houses, such as the one we are trying to establish.

Mrs. Banks replied no.

Mr. Baugh said it is banned in the residential districts. However, the County just did a study that shows that slightly over half of their residential units are on agriculturally zoned property, not residentially zoned property. So it is banned in the residential zoning; but most of their dwellings are not within a residentially zoned area.

Vice Chair Way asked if there were any further questions for staff. Hearing none, he asked if staff would return to the "bullet point" slide. He then said this is not a public hearing; however, we will open the floor to those who wish to speak.

Mr. Hobey Bauhan with the Virginia Poultry Federation said he appreciates the fact that PC is open to additional input. We do have serious concerns about trying to protect our poultry industry. I suggest that when you do have an unexplained death of a backyard chicken not to remove the bird and instead contact VDACS before burying. They would come out and take a look, probably take samples and test them back at their lab. Basically, you would keep the site on lock down until the test came back. If it was negative, then your proper disposal would go into play; if not, you would have a whole other issue with quarantine and stopping the spread. So I suggest talking to VDACS first when a chicken dies. I am a bit uncertain about the best thing from an environmental standpoint when burying on site; we do not bury on farms for a routine death. I suggest contacting Virginia Department of Environmental Quality (DEQ).

Again, I would appreciate your re-evaluating that adjacent property only buffer zone. Perhaps there is an answer somewhere in the middle.

Mr. Heatwole said I did like the language the Virginia Poultry Federation proposed that said if the parcel, or lot, falls within that specified amount of feet, then that property would not be allowed chickens. I do agree that just the adjacent parcel is not enough of a buffer.

Vice Chair Way asked if there was anyone else desiring to speak.

Quillon Hall, 675 New York Avenue, said again, thank you for bringing this topic up and the time spent on it. As far as the setback is concerned, I think a 10-foot setback for the chicken coop/pen in the backyard leaves a good amount of space for people to move their coops around in their yards. I also think a 500-foot buffer is a good compromise from the 1,000-foot buffer and the adjacent lots. I do realize that will leave some people will be left out, but again it does open it up for a lot more people to do it than before.

I did a quick Google search on the life expectancy of a chicken, and it is 7-8 years. So when you talk about disposal of a carcass because of age of a chicken you are talking about possibly four carcasses in about eight years; which is not an exorbitant amount of chickens to bury in your backyard.

Mr. Heatwole said I think between five and ten feet is adequate for a setback as well.

Mr. Da'Mes said if you have a right to put a rabbit cage right up to the property line, then why does the bird cage have to be set back? I do not understand the preference of ten feet for chickens, when it is five for other pets.

Mr. Fletcher said if someone were to put a dog house on their property it would be considered an accessory building and staff would tell them there is a five foot setback. However, if it is just a fence or opened unenclosed pen, like the ones you can buy, those are sometimes incorporated right into the backyard fence. In other words you could fence in your entire property and that is your pen for your pet. Or you could pen your pet in a corner of your property and the structure is within that penned in area.

Vice Chair Way asked how PC would like to proceed with this. Do we want to make a recommendation to City Council regarding this?

Mr. Fletcher said my suggestion is that you not move forward to City Council until you have a solidified, pre-written ordinance that Council can read through.

Vice Chair Way said would you like for PC to give recommendations to you at this time and then staff would bring something back next month.

Mr. Fletcher said yes, that is what staff would prefer. We would also do new maps based on the buffer that you suggest and the setbacks.

Vice Chair Way said some of the outstanding points that we have are the property line setbacks, the distance of a buffer zone around poultry facilities...

Mr. Heatwole said on that point I would put forward that the buffer be 500-feet and that if any property falls within a portion of the 500-feet it is included within the buffer and thus they are excluded from having chickens.

Mr. Colman said any property that touched the 500-foot buffer?

Mr. Heatwole replied yes.

Mr. Colman said I would like to mention that if DEQ has something, we should include it within this ordinance.

Mr. Fletcher agreed and said he would check with DEQ.

Vice Chair Way said he is strongly supporting the five foot setback for chicken coops/pens rather than the 10-foot.

Dr. Dilts said the reason I am not convinced is that some of these lots are really narrow. How do you respect the integrity of your neighbor's yard or living space and yet also have your dog, cat, or pet out there. That is why I was more for the 10-foot.

Mr. Colman said do we want language that specifies a minimum number of feet from a residence?

Mr. Fletcher said that would be tough to enforce.

Mr. Heatwole said it will be inspected by the Animal Control Officer and she will know the property lines.

Mrs. Banks said no, not necessarily. We will provide her with an estimated idea; however, we do not know the exact property line.

Mr. Fletcher said there was a comment last month about setbacks being a bit easier to regulate and in reality, unless you have a current survey and pins marked, you really do not know.

Mr. Colman said so the distance from a residence could be much easier to enforce than a setback from the property line.

Vice Chair Way said if that is the case, should we not be increasing the distance for dog houses, rabbit cages, and such; if it is good for the chicken, why not for all pets or animals? He continued by asking if there was a consensus regarding the buffer from poultry facilities; is 500-feet the consensus?

Mr. Fletcher said is that including the recommendation that the VDACS facility be added to the list of facilities buffered?

Mr. Da'Mes said I am a bit concerned about putting that on staff to determine 500-feet and which lots does it include.

Mr. Fletcher said it really is not an issue. A 500-foot buffer will be drawn around the parcel using GIS. It will indicate all parcels that are touched by the buffer, and then by clearly stating that if the 500-foot buffer touches your parcel you cannot have chickens; there should be no issues. I am comfortable with that.

There was a consensus among the members to include the VDACS facility and a buffer of 500-feet.

Vice Chair Way said what is our suggestion regarding dead birds. Should it read bury on site, or take to the landfill for disposal; but, do not place in trash for pick-up.

Mr. Fletcher said that is good and I will be contacting the DEQ with questions as well.

Vice Chair Way said the remaining question is five or ten feet; what are we thinking?

There was a consensus to require a setback for chicken coops/pens of five-feet.

Vice Chair Way asked if there were any other outstanding elements of the revised Section 15-2-24 ordinance that staff needs direction on.

Mr. Fletcher said I believe that will cover it. If you all give us the freedom to amend other small things as we see fit, and to come back next month with the changes, I believe we will be fine.

Mr. Colman said I do believe a distance from an adjacent neighbor's residence would be helpful.

Dr. Dilts said these homes on the narrow lots are already within five-feet of the property line.

Mr. Fletcher replied correct, most are within five to zero feet of the property line.

Mr. Colman said are we saying we do not even want to consider a distance from neighboring residences?

Mr. Heatwole said I believe we are okay with just requiring a five-foot setback from property lines. Is everyone okay with that?

There was a consensus to just go with the five-foot setback.

Vice Chair Way thanked everyone for their work on this and asked if there was any "Other Matters" to be discussed.

Poultry Facilities 500' Buffer

City of Harrisonburg, VA
A Shared Vision for the Future

April 2016

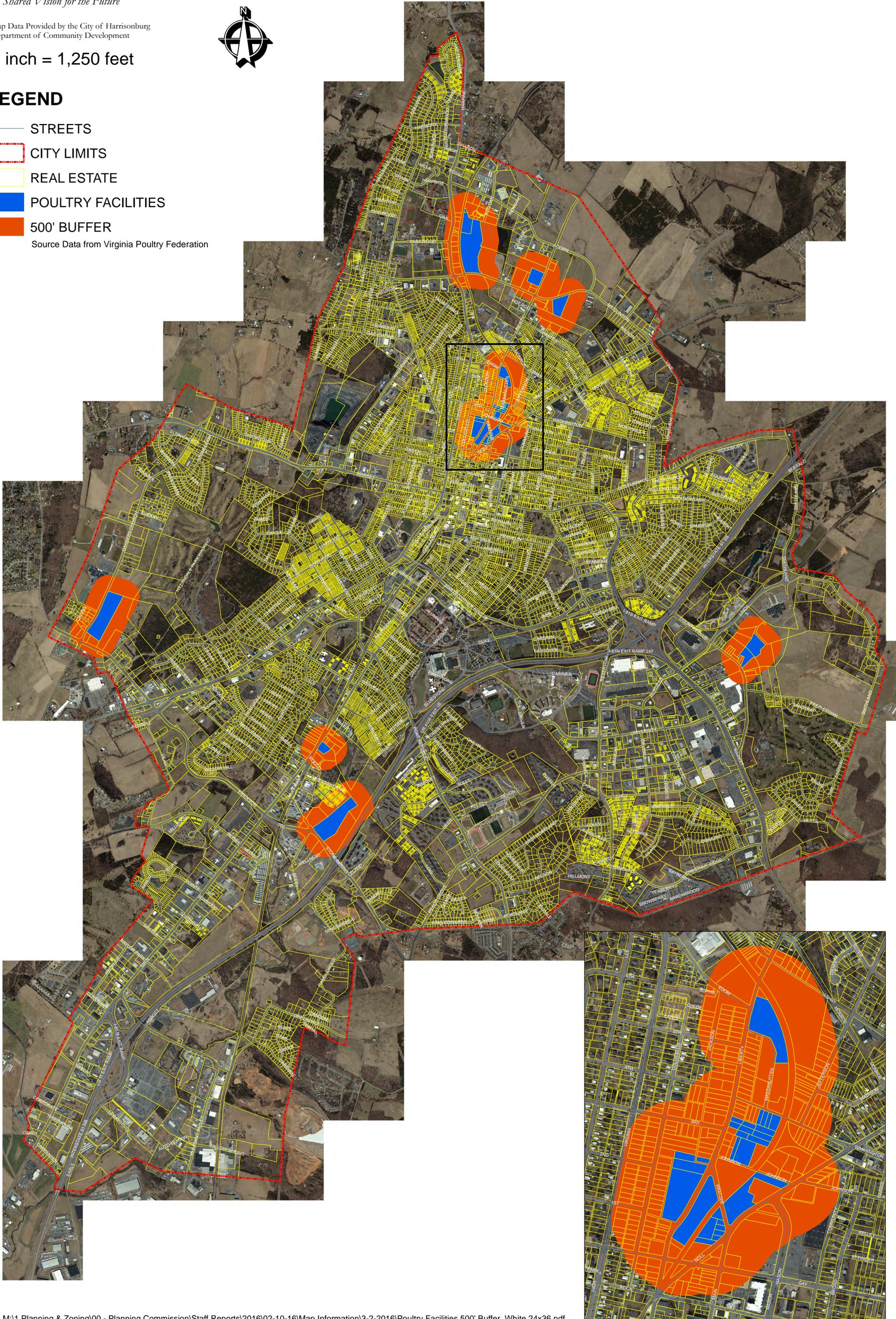
Map Data Provided by the City of Harrisonburg
Department of Community Development



1 inch = 1,250 feet

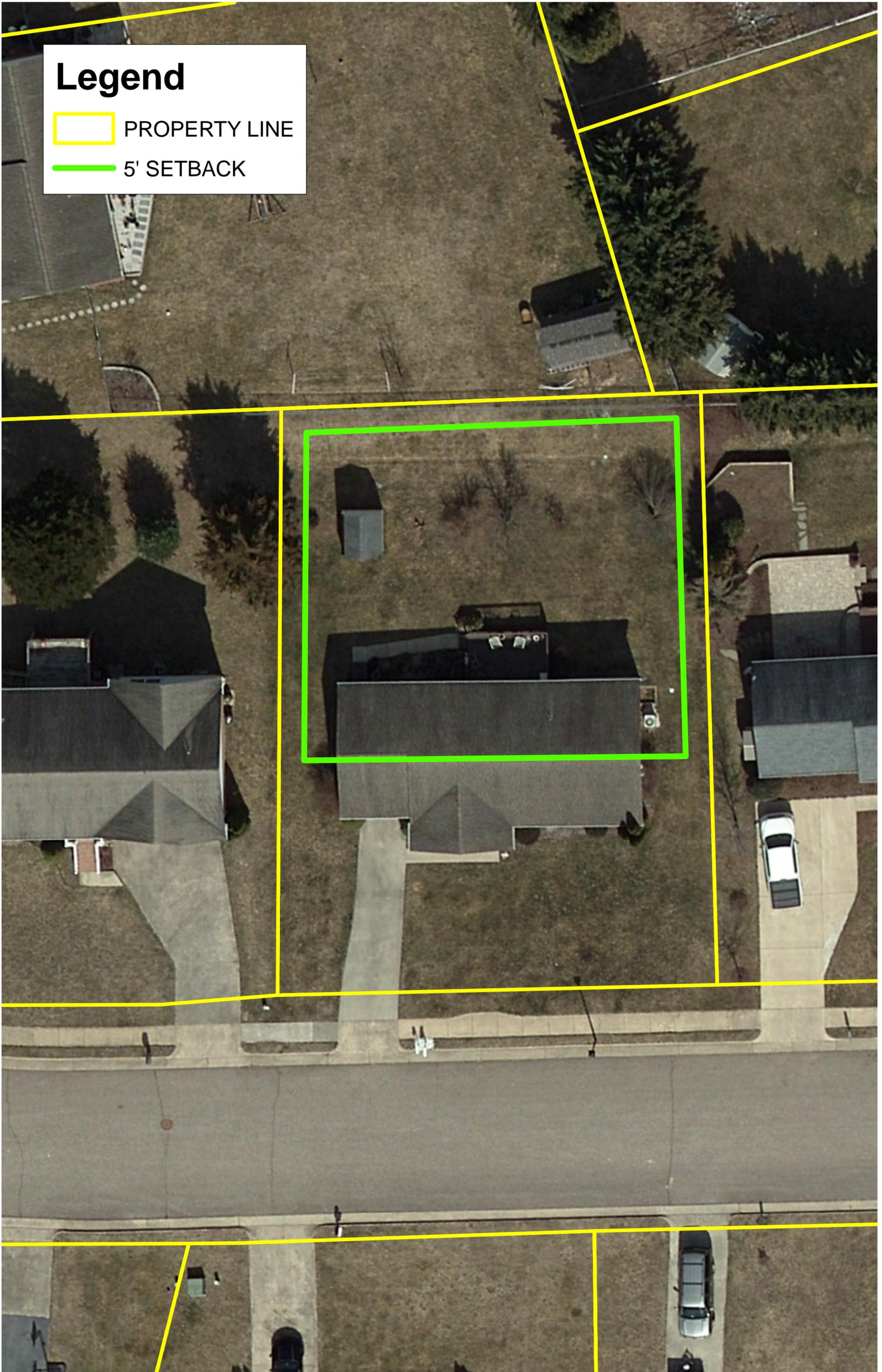
LEGEND

- STREETS
 - ▭ CITY LIMITS
 - ▭ REAL ESTATE
 - ▭ POULTRY FACILITIES
 - ▭ 500' BUFFER
- Source Data from Virginia Poultry Federation



Legend

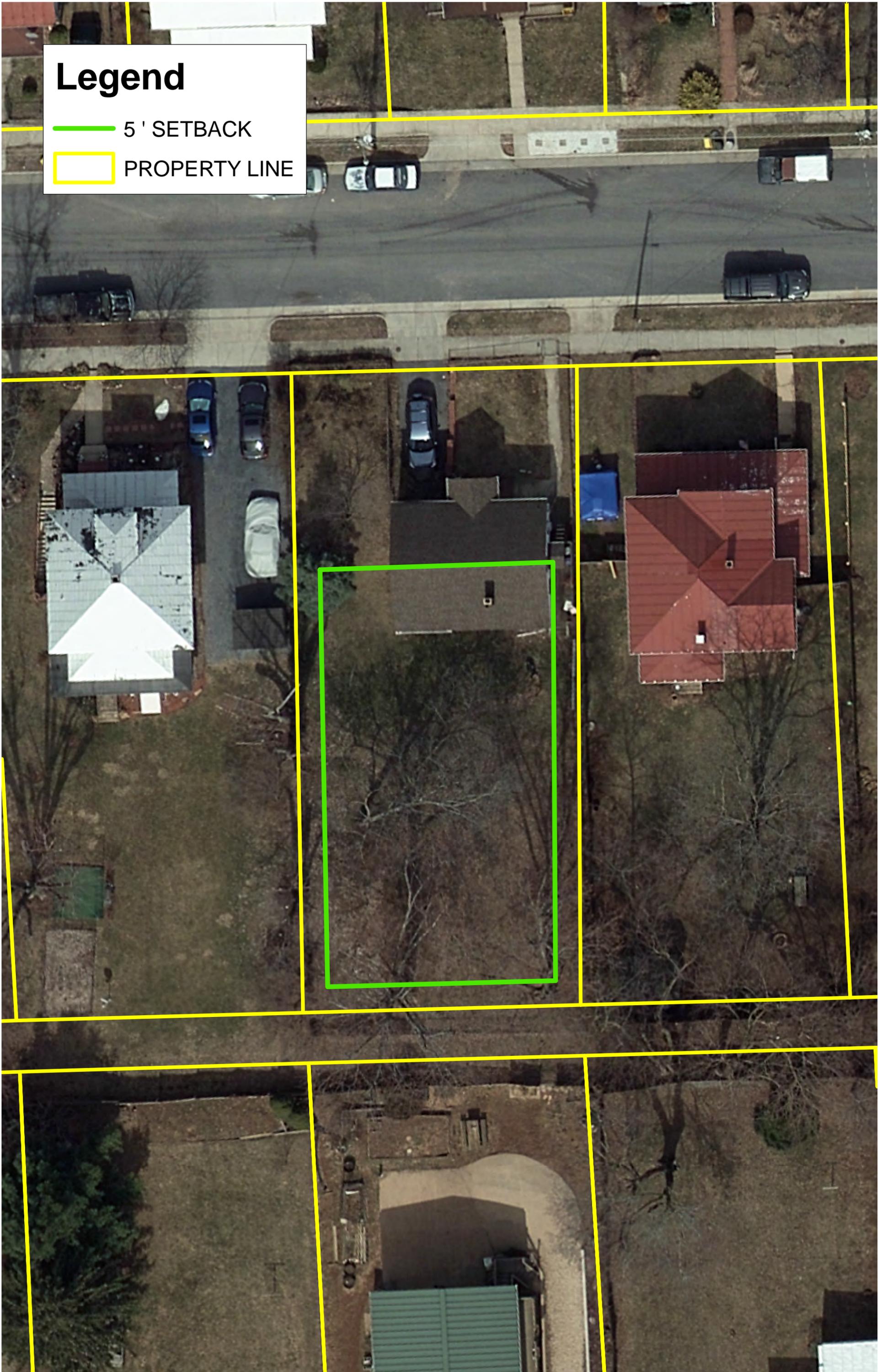
-  PROPERTY LINE
-  5' SETBACK



Legend

5' SETBACK

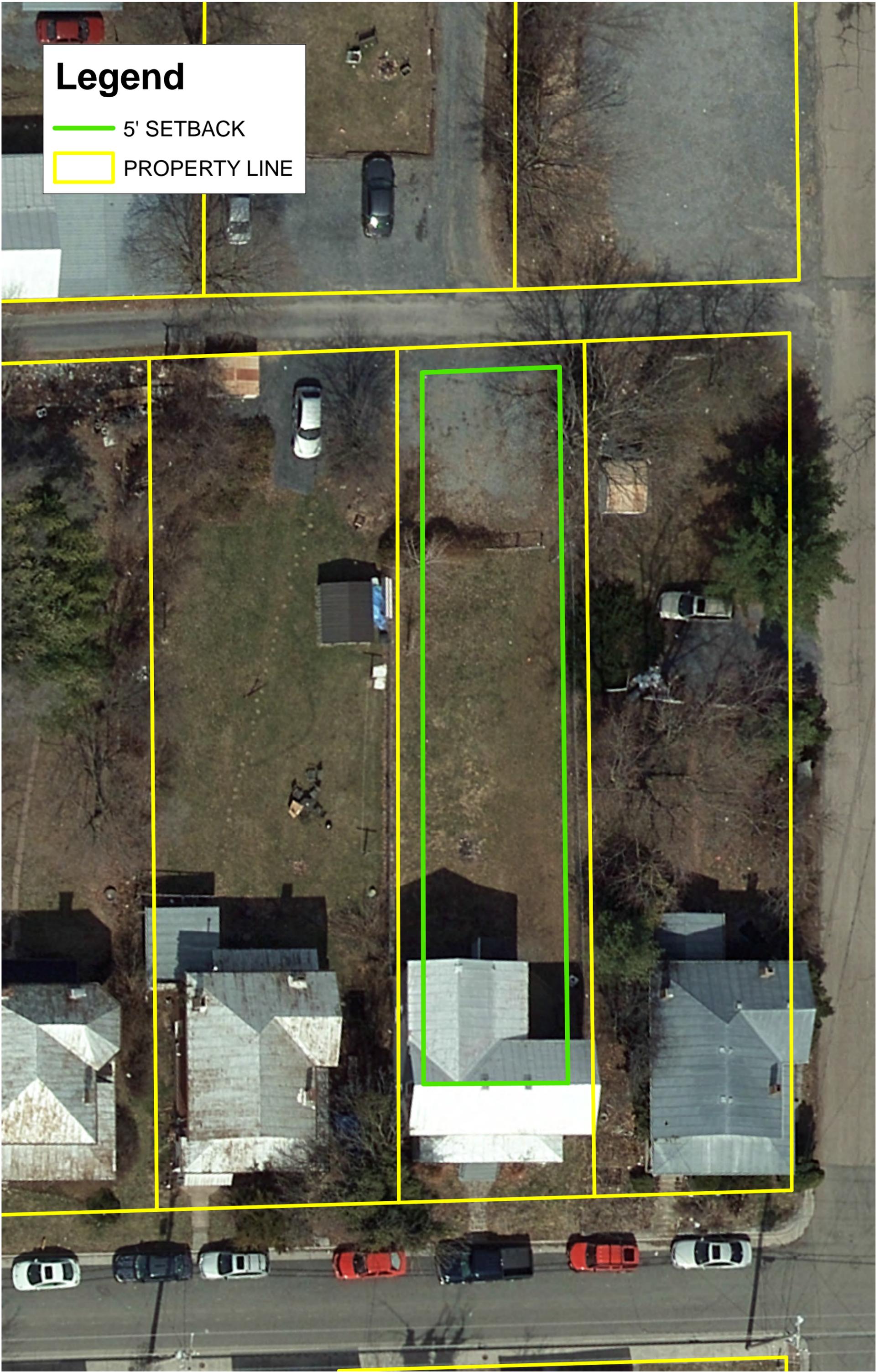
PROPERTY LINE



Legend

5' SETBACK

PROPERTY LINE



April 2016, Proactive Zoning Report

For the month of April 2016, the proactive zoning program inspected the **Forest Hills & JMU** and **Mosby & Kaylor** sections of the city. The violations related to inoperable vehicles, signs, tall grass and weeds, and junk. The proactive zoning program for May 2016, will be directed toward the **Hillandale** section of the City.

MONTH	SECTOR	5 th CYCLE VIOLATIONS	CORRECTED	2 nd CYCLE	3 rd CYCLE	4 th CYCLE
March 2015	Wyndham Woods	0	0	0	4	2
March 2015	Northfield	19	19	6	19	13
April 2015	Purcell Park	6	6	6	5	8
April 2015	Parkview	11	11	7	16	5
May 2015	Technology Park	1	1	1	0	0
May 2015	Northeast	45	45	45	63	29
June 2015	South Main	11	11	0	1	1
July 2015	Fairway Hills	2	2	0	0	2
August 2015	Smithland	3	3	4	0	2
January 2016	North Main	38	30	4	4	10
January 2016	North Liberty	33	29	4	18	11
February 2016	Westover	42	20	8	17	13
February 2016	Garbers Church	3	3	2	1	9
March 2016	Spotswood Acres	4	3	4	1	8
March 2016	Jefferson	36	17	22	35	21
April 2016	Forest Hills & JMU	8		1	1	1
April 2016	Mosby & Kaylor	13		0	2	5
May 2016	Hillandale			5	17	11
June 2016	Maplehurst & JMU			5	2	0
July 2016	Hawkins			28	17	11
August 2016	Greystone			10	13	9
September 2016	Southeast Industrial			2	5	1
October 2016	Ramblewood & Greendale			8	1	11
November 2016	Stone Spring Village			10	0	2
December 2016	Sunset Heights			29	10	2
January 2017	Reherd Acres			12	9	10
February 2017	West Market			16	6	13
March 2017	Chicago			22	29	4
April 2017	Pleasant Hill			13	17	9
May 2017	Avalon Woods			26	11	36
June 2017	Waterman			61	18	15
July 2017	Keister			5	8	7
August 2017	City Hall			30	16	4
September 2017	Court Square			3	2	5
October 2017	Bluestone Hills & Valley Mall			33	31	27
November 2017	Preston Heights			3	1	7