



# City of Harrisonburg, Virginia

## Planning Commission Meeting

November 9, 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 October 12, 2016 regular meeting.**
- 2) **Presentation to thank Judith Dilts for her service on Planning Commission**
- 3) **New Business**

*Alley Closing – Between North Liberty Street and northern property line of Georges Food, LLC*

Consider a request from George's Food, LLC to close a 2,924 +/- square feet portion of a developed public alley located between North Liberty Street and the northern property line of George's Food, LLC. The alley is 15-feet wide and is located adjacent to tax map parcels 34-A-12 and 40-V-1.

*Alley Closing – Adjacent to 211 East Washington Street*

Consider a request from Luis O. Rodriguez to close a total of 3,420 +/- square feet of two portions of undeveloped public alleys, which are located on the eastern and southern perimeters of 211 East Washington Street. The approximately 10-foot in width alleys connect to East Washington Street and Myrtle Street and are located adjacent to tax map parcels 33-B-1, 2, 5, 23, 24 & 25.

*Street Closing – Villa Drive, Pine Court, Spruce Court, Hawthorne Court, and Shank Drive (east of Park Road)*

Consider a request from Virginia Mennonite Retirement Community, Inc. to close 124,700 +/- square feet of developed public street right of way. Villa Drive, Pine Court, Spruce Court, Hawthorne Circle, and Shank Drive (east of Park Road) are contained within the Park Village area of the Virginia Mennonite Retirement Community complex and are adjacent to tax map parcels 52-D-4, 7-10 & 13.

*Special Use Permit – Virginia Mennonite Retirement Community Master Plan Amendment (Park Village) (Multiple-Family Dwellings up to 12 units per building)*

Public hearing to consider a request from Virginia Mennonite Retirement Community, Inc. for a special use permit per Section 10-3-48.4 (6) of the Zoning Ordinance to allow a multiple-family dwelling of up to 12 units per building under the conditions set forth under 10-3-48.6 (e). The 3.3 +/- acre parcel is part of the Virginia Mennonite Retirement Community master planned complex known as Park Village and is zoned R-3, Medium Density Residential District. The property is identified as tax map parcel 52-D-9 and addressed as 1610, 1612, 1614, and 1616 Park Road.

Staff will be available Tuesday December 13, 2016 at 4:30 p.m. for those interested in going on a field trip to view the sites for the December 14, 2016 agenda.

*Rezoning – Property located at northwestern corner of intersection of Wine Drive and Little Sorrell Drive (R-3C Proffer Amendment)*

Public hearing to consider a request from Robert Cook with representative Dick Blackwell to rezone a 0.85 +/- acre parcel zoned R-3C, Multiple Dwelling Residential District Conditional to R-3, Medium Density Residential District Conditional with amendments to existing proffers that were approved when the property was rezoned in 2007. The property is located on the northwestern corner of the intersection of Wine Drive and Little Sorrell Drive and is identified by tax map parcel 88-H-8.

*Rezoning– 1820 Heritage Center Way (B-2C Proffer Amendment)*

Public hearing to consider a request from Tidewater Communications, LLC with representative David C. Nahm to rezone a 2.14 +/- acre site zoned B-2C, General Business District Conditional by amending existing proffers to allow for a taller radio tower in a new location. The property is located at 1820 Heritage Center Way and is identified as tax map parcel 122-B-2.

*Special Use Permit – 1820 Heritage Center Way (Section 10-3-91 (12) to Allow Structures in Excess of Seventy-Five (75) Feet in Height)*

Public hearing to consider a request from Tidewater Communications, LLC with representative David C. Nahm for a special use permit per Section 10-3-91 (12) of the Zoning Ordinance to allow structures, except wireless telecommunications facilities, in excess of seventy-five (75) feet in height. Tidewater Communications, LLC proposes to replace an existing 40-ft radio tower with a new tower that exceeds seventy-five (75) feet in height. The 2.14 +/- acre site is zoned B-2C, General Business District Conditional, is located at 1820 Heritage Center Way, and is identified as tax map parcel 122-B-2.

*Report on Harrisonburg’s Zoning Regulations and its Application towards Limited Residential Lodging Uses*

Presentation of information regarding the 2016 Virginia General Assembly’s approved Limited Residential Lodging Act (commonly referred to as the Airbnb bill).

**4) Unfinished Business**

*None*

**5) Public Input**

**6) Report of secretary and committees**

*Proactive Zoning*

**7) Other Matters**

*Continued Discussion of the Comprehensive Plan Update*

*Upcoming Public Meetings*

- Harrisonburg Bicycle & Pedestrian Plan Public Meeting/Open House, November 16, 5pm-7pm at Keister Elementary School. <https://www.harrisonburgva.gov/bicycle-pedestrian-plan>

Staff will be available Tuesday December 13, 2016 at 4:30 p.m. for those interested in going on a field trip to view the sites for the December 14, 2016 agenda.

- Harrisonburg-Rockingham Metropolitan Planning Organization Long Range Transportation Plan (LRTP) Public Meeting, tentatively scheduled for December 7, 4pm-6pm at Rockingham County Offices. <http://www.hrvampo.org/>

## **8) Adjournment**

Staff will be available Tuesday December 13, 2016 at 4:30 p.m. for those interested in going on a field trip to view the sites for the December 14, 2016 agenda.

### **Procedure For Hearing Cases**

Cases shall be heard in the order in which they appear on the agenda, except a case may be advanced for hearing by order of the Planning Commission upon good cause shown.

At the hearing, the order shall be as follows:

1. Presentation of case and explanation and/or report by City staff.
2. Open public hearing (if necessary)
  - a. Statement of applicant or appellant
  - b. Statements of other persons in favor
  - c. Statement by those opposed
  - d. Applicant's rebuttal
3. Close public hearing (if necessary)

The Chairman may prescribe a reasonable time limit for each side to present its case. To maintain orderly procedure, each side shall proceed without interruption by the other. Cross-examination will not be permitted, but questions may be directed to the Chair who may allow limited questioning. The name and address of each person speaking shall be recorded in the minutes.

### **Public Input**

This section of the agenda is where anyone wishing to speak may speak on any matter not outlined previously on the agenda. The Chair will open the floor for any person or organization that would like to speak to the Planning Commission on any subject at the discretion of the Commission. The Chair may prescribe a reasonable time limit for anyone wishing to speak at this time

Staff will be available Tuesday December 13, 2016 at 4:30 p.m. for those interested in going on a field trip to view the sites for the December 14, 2016 agenda.

**MINUTES OF HARRISONBURG PLANNING COMMISSION**  
**October 12, 2016**

The Harrisonburg Planning Commission held its regular meeting on Wednesday, October 12, 2016 at 7:00 p.m. in the City Council Chambers, 409 South Main Street.

Members present: Richard Baugh; Gil Colman; Brent Finnegan; Mark Finks; Deb Fitzgerald, Chair; Henry Way; Kathy Whitten.

Also present: Adam Fletcher, Director of Planning and Community Development; Wesley Russ, Assistant City Attorney; Thanh Dang, City Planner; Alison Banks, Senior Planner/Secretary; and Yajaira Cruz, Administrative Assistant.

Chair Fitzgerald called the meeting to order and said there was a quorum with seven members in attendance. She then asked if there were any corrections, comments, or a motion regarding the September Planning Commission minutes.

Mr. Way moved to approve the minutes as presented.

Mrs. Whitten seconded the motion.

All members voted (with Colman, Finks and Finnegan abstaining) in favor of approving the September 14, 2016 minutes as presented (4-0).

***Special Use Permit – 2655 South Main Street (Section 10-3-91(9) to Allow Reduction in Required Side Yard Setback to Zero Feet)***

Chair Fitzgerald read the request and asked staff for comment.

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

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

Site: Vacant retail store, parking area, and undeveloped land, zoned B-2

North: Undeveloped land, automotive dealership, and commercial businesses, zoned B-2

East: Across South Main Street, Trucking industry, zoned M-1

South: Automotive dealerships, zoned B-2

West: Undeveloped land, zoned R-3C

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. The property is located along the western side of South Main Street between West Mosby Road and Pointe Drive. The site is improved with a 5,960 +/- square foot building, which is currently vacant, and its associated parking lot. If approved, the applicant desires to construct a 6,040 +/- square foot addition to the existing structure.

The existing building was constructed in 1987 and is situated approximately 4.4-feet from the southern property line. The proposed addition would be constructed along the western side of the existing building and the applicants would like to apply the established, 4 +/- foot setback along the southern property line adjacent to the addition. There are specific Building Code regulations regarding fire rating for exterior walls located within five-feet of a property line; as well, no openings are permitted if the exterior wall is less than three-feet from the property line. 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 addition.

The layout for the proposed addition, along with a new parking area, is currently going through the City's Comprehensive Site Plan (CSP) review process. (The site plan layout was included within the Planning Commission Packet.) The proposed project is located not only on the 2655 South Main Street site, but also on the adjacent parcel to the north. As part of the CSP review, staff has made the applicant aware that a shared parking agreement is required to have parking on an adjoining property to the lot where the building is located; or the property will need to be subdivided creating one parcel and meeting all requirements of the City's subdivision regulations. A parking agreement or a minor subdivision must be approved and recorded prior to the release of the CSP for construction and prior to approval of the building permit.

Staff recognizes the applicant's desire to construct the new addition using the same setback as the existing structure in order to keep the exterior southern wall uniform. Staff has no concerns with the requested SUP; however, suggests a condition that the SUP be applicable to the existing and planned addition, and be substantially similar to the submitted layout. This means any future buildings or additions must comply with required setbacks.

Staff supports the request for a SUP 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, on property located at 2655 South Main Street with the suggested condition.

Chair Fitzgerald asked if there were any questions for staff. Hearing none, she opened the public hearing and asked if anyone would like to come forward and speak at this time.

Bill Moore, Balzer and Associates, said if there are any questions, I would be happy to answer those.

Chair Fitzgerald asked if anyone had any questions. Hearing none, she closed the public hearing and asked Planning Commission for a motion.

Mrs. Whitten moved to approve the request for SUP with the condition as it is stated.

Mr. Way seconded the motion.

Chair Fitzgerald asked for further discussion on the request. Hearing none, she called for a voice vote on the motion.

All voted in favor (7-0) to recommend approval of the Special Use Permit – 2655 South Main Street (Section 10-3-91(9) to Allow Reduction in Required Side Yard Setback to Zero Feet)

Chair Fitzgerald said this will go forward to City Council on November 15, 2016.

***Public Utility Application – 1790 Harpine Highway (Rockingham County TM 94B-(5)-L 1, 2 & 3)***

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

Mr. Colman recused himself at 7:14 p.m. and left the Council Chambers.

Ms. Dang said the subject property is located at 1790 Harpine Highway and is identified by Rockingham County's tax maps as parcel 94B-(5)-L 1, 2 & 3. The property is located on the southeast corner of the intersection of Harpine Highway (Route 42) and Harmony Drive/Harman Road. The applicant desires to build and operate an automotive repair shop at this location. The City/County boundary in this area is Harpine Highway (Route 42), which is adjacent to and west of this property.

Per Section 7-2-4 (b) of the City Code, all uses, other than residential uses involving fewer than ten units, requesting to be connected to the City's water and sewer infrastructure, shall be reviewed by Planning Commission and then forwarded to City Council for final approval or rejection. As noted above, this request is for a non-residential connection; thus Planning Commission review and City Council approval is needed.

On October 4, 2016, Rockingham County's Planning Commission recommended approval of the applicant's request to rezone the subject parcels from Medium Density Residential to General Business District. The rezoning request will be heard by the County Board of Supervisors on October 26, 2016.

The City's Public Utilities Department worked with the applicant to identify several location options for connecting to the City's sanitary sewer system. The applicant decided that connecting to the sanitary sewer main at Sharon Lane, about 456 feet south of the property, was the best option. If approved, the property owner would be responsible for obtaining private easements and to extend the private lateral to Sharon Lane.

The proper application has been completed and submitted by the property owner. The Public Utilities Department has completed the preliminary review of the request and has no issues. As noted on the attached application, Public Utilities will review engineering site plans and the private pump station design, and will require an oil-water separator.

Although staff supports this application to extend sanitary sewer service for this site in Rockingham County, staff wishes to use this opportunity to acknowledge a general concern of extending future utilities into Rockingham County in areas where a proposed development may not be consistent with the City's adjacent area or Comprehensive Plan. Potential negative impacts include increased traffic, conflicting land use issues, and potential for a domino effect or pressure to develop properties in the City that are not desired or planned for in the long term. City Code Section 7-2-4 (b) requires all uses, other than residential uses involving fewer than ten units, requesting to be connected to the City's water and sewer infrastructure, be reviewed by Planning Commission so that potential negative impacts can be reviewed and considered.

Staff has no concerns and the Public Utilities Department supports this application for the extension of sanitary sewer service into Rockingham County. Staff recommends approval.

Chair Fitzgerald asked if there were any questions for staff. This is not a public hearing; however, a representative from Public Utilities is here to speak. She then asked would you like to come forward and speak regarding the request or are you good with what has been presented?

Mike Collins, Director of Public Utilities, said I am not really here to discuss this specifically. I am here on Adam's request to discuss briefly the process. This process when you look at the City Code Section 7-2-4 was revised in 1996, and in 2003 twice. I was here at that time and was

involved very significantly as the author of this ordinance. I just wanted to tell you a couple perspectives of what this is intending to do and I think there were some questions.

First, I will point out in City Code Section 7-2-4(a) it requires the applicant to get with Rockingham County and make a petition to that. The reason is because the City of Harrisonburg cannot service somebody in Rockingham County without the County's approval; that is the first step. The second step requires the Public Utilities Department to render an opinion whether or not it is acceptable from the Public Utilities perspective. When we do that we look at two different things. We look at whether the level of service will be satisfactory either by regulatory requirements or the expectation of the customer with regards to serving their needs. The second thing we do is we also take a look at whether there is any impact to existing customers or to the future planning of the city to those pieces of property that are not yet developed. When we give you our opinion for recommendation, we have taken care of all that, so you do not need to worry about any Public Utilities concern for the customer, for the existing city resident, or for future city residents.

Then there are two more steps. Why does it come to Planning Commission? When this was drafted there were other impacts to be considered; all the bottom line effects. You will see that one residential application does not come through your process; but a business does, subdivisions do and so forth. The intent at the time was for you take a look at the other things, not the utilities, the other things. Financial, you have a business, you are supporting a business that is going through Rockingham County and it is not going to be in the city. There may be some social impacts, whatever that may be, some type of development that you do not want by the city, traffic or some environmental impact. That was the intention of this step, then it goes to Council and they take into consideration the same thing. I wanted to be a little clearer about this process.

I will give you three examples. First example is just the single family home, what is going to happen, great example of that is around Route 33 West. That happens all the time; somebody builds a house, they go to the County, get their applications, one house we say no big deal. Public Utilities says we can service it, everything is good, and we serve them.

Second example, let us use the example being discussed tonight. This is a business, which is why it is coming to you. This is a business that is being developed on the outside of the city with the tax revenue going there. And without all utilities, it does not go there. So is that an issue or is it not? Whether there is going to be traffic on that road or whatever the concerns may be.

Third example may catch you off guard. Let us take something like the Altitude, which is planned student housing beside Port Republic Road. For that application, the applicant to us was Rockingham County. We have a utilities agreement with Rockingham County that says we have signed a contract with them and the agreement states that we will give them so much capacity and that we will not reasonably deny that request. In that case the applicant was Rockingham County, so if you were to find some issue that you did not want to service that particular situation, then we would be into our contract of getting involved as to whether that meets the definition for why we denied it. That will only be if the applicant is Rockingham County.

Mrs. Whitten asked when we take on a customer from Rockingham County, whether it is residential or business, are they paying the same rates?

Mike Collins said no they are paying more. There is a numeric water works association that sets a format on how to do that. You are basically recovering your assets and a return on your investment above and beyond what city customers do.

Chair Fitzgerald asked if there were any further questions. Hearing none, she asked for a motion.

Mr. Way moved to approve the request for Public Utility Application.

Mr. Finks seconded the motion.

Chair Fitzgerald asked for further discussion on the request. Hearing none, she called for a voice vote on the motion.

All voted in favor (6-0) to recommend approval of the Public Utility Application.

Mr. Colman returned to the room at 7:23 p.m.

Mr. Fletcher said Mr. Collins described it pretty well and I just want to make sure that we understood what he was saying, because for the past 10 years or more we have had a lot of these smaller requests. It seems that, and for lack of better description, most have not been that big of a deal, in some ways they are paying more money for the utility. As we continue to plan, and the bigger development is occurring on our fringe, just make sure we are thinking about it holistically. That was really the approach and the understanding on why I wanted Mr. Collins to come, because we have had these conversations internally and we really wanted to recognize it in a public format. When you go back and look, these things go through relatively easily, but they are not always going to be easy. We need to think about the ramifications; if there is a development that is proposed outside our boundaries is not necessarily cohesive and in line on how we are hoping something develops, then maybe it is inconsistent with the way our adjacent properties are planned for in the city. Think about that and think about those ramifications.

Chair Fitzgerald said this will go forward to City Council on November 15, 2016

### ***Discussion of Comprehensive Plan Update***

Chair Fitzgerald read the request and asked staff for input.

Ms. Dang said I do not have any slides, I was hoping for a discussion with you all this evening. I compiled for you all a pretty lengthy memo with notes from phone calls and interviews with several communities including Charlottesville, Richmond, Roanoke City, Rockingham County, and Waynesboro and then I received some information from Staunton, VA by email. In the memo I provided to you is a series of questions I was hoping I can lead you all through. But before we get into the questions, do you all have any general questions regarding the Comprehensive Plan Update process or any general comments?

Mr. Way said to be super clear, 2011 was a refinement of 2004, and 2004 was the more substantial one where you had external consultants, and 2011 was internal by staff.

Ms. Dang said that is correct. Any other comments or questions?

Mr. Colman said this is very helpful, thank you for putting this together.

Ms. Dang said you are welcome and as we go through this, please pause at any time so we can address any other questions you all might have.

Mr. Way asked if there were any directives from City Council on how we should embark on this or is this the first or kind of an initiative generative moment in this process.

Mr. Baugh said I think there is no particular direction. Mr. Russ can correct me if I am wrong, but with regard to the Planning Commission and the Comprehensive Plan, there is relatively little that is mandated by law. It is subject to ultimate approval by Council, it makes sense to be mindful of that. I know for the last iteration we did have a joint meeting where we talked about the process before we got going. I think I am being accurate when I say that there was some Council input that Planning Commission pretty much decided; no we think we have this. I think the Comprehensive Plan has kind of dropped in the lap of this body. Code says you have to do it; you have to review it, go do it.

Chair Fitzgerald said the question is how.

Mr. Baugh said therefore we get to decide how.

Ms. Dang said it appears you are all interested in collecting City Council members' thoughts. Perhaps after we all come up with a process, then we can share that with Council and receive their thoughts. I think we are pretty early still in the stages of figuring out our strategy. Any other questions?

Hearing none, Ms. Dang continued, I do have these series of questions that I would like to ask you all and to help guide staff in what we should do next and how we should manage this process. I am prepared also to offer a staff recommendation at least to get an idea out there for feedback and criticism, just to get you all started if that is how you wish to proceed.

The first question is related to whether we do the Comprehensive Plan in house with staff to work on it or whether there are thoughts that consultants can do some of it or all of the update. As you saw on the summary, there was a mixed bag of communities who did it in-house and other folks who had hired consultants.

Mr. Way said it depends on the scope and the extent of the question as well.

Ms. Dang said I will go out on a limb here and share staff's suggestion. I feel that regardless of whether it is in house or by a consultant it is really going to take us two years to do it. Even if we hired a consultant you have the RFP process that you have to go through. It has to be budgeted for, budget requests would need to be made and there is time added to that. As well, there is a period of time in which to bring a consultant team or an individual up to speed. My inclination is to suggest that staff could do the update and lead various committees as we talk through the other questions to lead that effort. That would be my recommendation to you all. I do not know if you have any questions, thoughts, or reactions.

Mr. Way said I have been dazzled and impressed by the quality and the instinctive brilliance of staff in the City of Harrisonburg. My thoughts are not a matter of expertise, but a matter of time, because you guys always have a lot of things on your plate and I have no doubts of the capacity or the capability. If you guys feel that you have the energy and resources to be able to do it, I have no problems with that, your expertise are great; it is just a matter of time.

Ms. Dang said my reaction to that is that my experience with consultants in the past, although they are great to supplement staff, they do take a lot of coordination with also.

Mr. Finks asked whether the general consensus on why we brought consultants in the past was to supplement staff, or was there any other reason behind it?

Mr. Fletcher said I would have to double check the historical references to know exactly why the Comprehensive Plan process chose to go with that route. I do not know if it was just because they wanted a complete rehash; I think you will find we were kind of ahead of the game, with that.

Chair Fitzgerald said I was on that committee and my recollection is there was a real kind of ramping up of the scope and quality and depth of the Comprehensive Plan at that point.

Mr. Fletcher said the 1998 Comprehensive Plan is kind of old school, I do not know how else to describe it, it really is, it is very traditional, it looked the same as it did in the 80's. The 2004 Comprehensive Plan was very forward thinking. It was visionary and people continued to like that and to realize too in 2011 "we are still here and there is still lots of work that needs to be done."

Mr. Baugh said that was his recollection too. It was a very conscious effort to upgrade or really enhance what we were doing. I was not on Planning Commission, but by the time I got involved the budgeting was already in place. I guess that is really part of the question, which we are talking about now - how much we think we benefit really from a consultant and a totally different set of eyes coming in.

Mrs. Whitten asked is there a process by which a consultant can review something once you get into the final stages, so that you have somebody else's fresh eyes looking over it and saying "this may be a big piece that your missing." We know what we know, what you always worry about is what you do not know.

Mr. Baugh said the thing is that there are a handful of rules about this, like the affordable housing, state code does not even really say what you have to say about affordable housing, but it says you have to say something; you have to address that issue. To go back with what I was saying earlier it is very much in the lap of this body to decide what direction we want to go. In terms of actual requirements, it is really up to us, we can make it as detailed or as streamlined as we want.

Mr. Way said I like the philosophy about what you are saying, maybe if it is not consultants and we have a peer network of communities, here we can share with them, "what do you think of this so far, or comparative ones"? Then you get a census of feedback from peers.

Mr. Colman said I think we would probably get a lot of input from the community, which is what I am hoping we do get. There is a lot of wisdom within the community we cannot ignore that, we should invite that kind of input. As we revisit the Comprehensive Plan, we want to revisit the goals, we want to make sure that we are still going in the direction the community wants to go and there are people that have a vested interest in all those different goals. They would want to speak to it and that is where we are going to find, not just staff and Planning Commission looking at it, but everybody else in the city that is interested in it.

Chair Fitzgerald said the newcomers to the community are going to have fresh eyes.

Mrs. Whitten asked when did we first have a Comprehensive Plan, do you know the date?

Mr. Fletcher said I think it was the 1960's.

Mrs. Whitten said I can tell you that when I moved here in 1987, it was pretty limited. You grow a lot, you change a lot, and you need more. It is like any other infrastructure. I think they have

been getting better all along, and my goal would be that they continue to get better and continue to address the needs that all the people that live here have.

Chair Fitzgerald said I agree, rather than trying to go to Council and start the whole RFP process, I think this is a good path.

Mr. Colman said I agree that staff would be perfect to do it. They are very sensitive. We work with you, we see that you are very sensitive on how the community evolves and you try to respond to those things, so you have a much better, even better than us obviously, a much better sense of what direction things are going. I trust that you guys will have very good judgment and input into it. I expect a lot of input from the community but you can certainly guide things in a way that is a more wholistic way.

Ms. Dang said the next question is, how do we want to initiate soliciting public input. There are a couple of ways to consider doing this and we can talk now and come up with our own recommendation on doing some updates to the Plan and then writing it and then soliciting input once we have some assemblance of the materials; or, is there interest in perhaps soliciting input at multiple stages in the process? There was one community that had public input, which helped develop the strategy or process. Then soliciting input again through workshops or whatever we may come up with. What are your initial thoughts or reactions?

Chair Fitzgerald said when I read over that question the one thing that concerns me, and we noted a lot of times is that we think a lot of the community members do not actually know what is in the plan. We hear “you ought to do this,” well actually that is in Chapter 7 and it is called “community strategy four” and there is a lot of that going on. The one concern I have about multiple input at multiple stages along the way, is that in one hand people have no idea what is in the Plan largely and on the other hand it would be awesome to engage people in figuring out what is in the Plan if we could get them to come.

Mrs. Whitten said I remember a lot of wheel spinning in years past, trying to educate people during the process.

Chair Fitzgerald said people do not know they have a great plan already. It definitely needs to be updated, but we have a great plan with a lot of good stuff in it.

Mrs. Whitten said but maybe there is an educational piece that is lacking. How do you put together a short and sweet synopsis, because most people are not going to go to the library or online and read it?

Chair Fitzgerald said it is hard to talk to people constructively about how to change it if they do not know what is in it in the first place.

Mrs. Whitten said if we can make it really cool and catchy on Facebook that would be the way to go.

Mr. Colman said I agree.

Mr. Way said one way is to have a public hearing or some public event, which is explicitly about what would you like to see changed in the existing one. Then, it both gets people plugged in to what the thing is and maybe it gives us more material to actually work with.

Mr. Colman said I think one of the localities defined what a Comprehensive Plan is and maybe that is what we need to do. What is a Comprehensive Plan and what subjects are being covered

and some of the major points of it to educate people in general? I think probably that is the first thing, otherwise you will have people coming and trying to change things that are already there, that they do not know are in the plan; perhaps that can that can peak their curiosity to look in to it, especially the areas that are a concern.

Mrs. Whitten said we have the Public Information Officer for the city that is her piece of the puzzle perhaps, because she knows how to do that.

Ms. Dang said I use Mary-Hope's assistance all the time.

Mr. Fletcher said I was going back through here looking how we talked about how we are going to use Twitter, Facebook, Be Heard Harrisonburg, and the City's general website; there are so many platforms that we have now, that we did not have in 2011.

Mr. Finnegan said this is something that I would be interested to work with city staff. A friend of mine, who lives in upstate New York, started a Twitter account for an organization, which he is helping. They do not have that many followers, but it is something he is experimenting with and I am a big fan of learning from other people's experiments. I feel like there could be an educational component that can be broken down into bite size pieces. That is the key, keep it short, keep it sweet, but then keep feeding information in the educational component of it. Using video, using graphics, I mean Twitter is the most bite sized information you can get and that is kind of what he is doing with that. That is something I would be interested in helping.

Ms. Dang said I like the suggestion, I think somebody had maybe a similar suggestion about the short bite sized messages. Rather than creating a separate social media account, use the City's social media account that has a lot of followers; but we need help to create the content. If Mr. Finnegan is volunteering, or others can help contribute, what is that burning question that you think people have? Then, two or three sentences that help describe that answer about the Comprehensive Plan, we can find images that can tie that together, and push that out on various platforms.

Mr. Colman said I think what would be nice to do is to highlight some of the success, some of the things that have been accomplished in the Comprehensive Plan. I am thinking about the downtown revitalization, that is one of things that was in the Plan and it has been growing, also the Bicycle and Pedestrian Plan. Those are successes we should show and I think that would get people excited and want to be part of it.

Chair Fitzgerald said along with the idea of using Twitter to create bite sized pieces, educational pieces here, wouldn't it be interesting to do a meeting where the purpose of the meeting was to learn about the Plan and create the content on the spot. That is, bring citizens in, teach pieces of the plan, and then have 20 second bits that someone would film and post directly on Twitter. I say that in part because one of the communities that I was talking about did something that I would have never thought of. They went into the schools and taught it to the kids, little bits and pieces about the plan. When you think about all the niches and the way the people in the community get information, there are so many parts of the community that you just cannot reach, but there is a part of the community that is so connected into the schools.

Chair Fitzgerald went on to say that there is WHSV and WSVA, you can use the Daily News Record, but there is a part of our community that is so connected into the schools and you are around the table and say, what did you do today? They say, "you know they did this weird thing with the map. They showed me where my school was." That is just an interesting avenue that I

had never thought about to get the word about the Comprehensive Plan update to families that might not hit any of these other places.

Mr. Finks said I think it is going to be really important to get community input; but, you are going to want to break it down, because if you just say we want community input on the Comprehensive Plan, we go back to people not knowing what is in it. You want to phrase it in a way that is going to impact people in their lives, so you may say we are specifically talking about this section of the Comprehensive Plan, like the Bicycle and Pedestrian Plan that might be something that interests this segment of the population. If we try to put it all in one big event, come talk about the Comprehensive Plan, I feel it is going to be harder to get as many people; where if we break it down to smaller little sections that just deal with certain aspects of the Plan you can get more people. It might impact their life or something they can understand or be interested in. Even in the educational function of it, you may want to have different sections where you talk about different parts of the Comprehensive Plan.

Chair Fitzgerald said it seems like we are saying that we want input at multiple parts of the process along the way.

Ms. Dang said I think that is great. As a more directed question: What is the first piece of public input? Then, we can figure out the phase two and three down the road, but what will this first piece be between now and January. What might we do now?

Mr. Colman said I think education, just presenting the plan, what we have right now and then get people interested and just let them know that we will be revisiting this plan.

Mr. Way said we did this with the chicken permit ordinance, where we had people write comments in Be Heard Harrisonburg. To be honest, and this is just my opinion, I kind of feel like you need to give things to people to respond to it in a way.

Mr. Colman said I like that idea of one piece at a time and let people that are interested in that area respond to that.

Chair Fitzgerald said looking for content; do we ask people about input about the process? That is before you start pushing out, here is the downtown section or here is the transportation section, or here is a proposed plan for trees, maybe we ask people how they want the process to work. Even here, in the January meeting, where we say there is going to be public input in the process, we are getting started with the Comprehensive Plan, how do you want to be involved, what do you want us to talk about, how do you want us to do it? Then we will take these ideas, what the public comes to us with and then go from there, input about how to go forward.

Mr. Fletcher said is the idea that staff is to then start updating the data between now and January? January is kind of the time period in which we are going to start soliciting this information, because we are coming up on November, first of all we have Halloween, then the election, then there's Thanksgiving and then the holiday season in December. I do not want to lose any momentum with folks, so January might be the time period to start doing all that stuff.

Ms. Dang said let me summarize some steps for us in terms of processes. Staff will update the data, which I agree, particularly the land use and transportation pieces, those are the really data intensive items between now and January. Between now and January we could also start thinking about those bite sized questions and answers that we can put out to the public, so by January perhaps we can begin to roll out: What is the Comprehensive Plan? In terms of Chair Fitzgerald's question about input on process, what is Planning Commission's thought?

Chair Fitzgerald said my question was is that where we start, rather than starting with content? Is the very first place to start about big picture Comprehensive Plan, here is what it is, here is what it is not, and then how do you want to talk about it?

Mr. Finks said the answer is going to be, and everyone is going to say, public input.

Mr. Colman said I think that the education part of it does not necessarily take away from that, maybe it will stir some people up to come in and say we would like the process to be done this way. In some ways we are starting the process by educating and then in terms of how we go about reviewing it, is that what you are asking?

Mr. Way said I am presuming there will be a dedicated city website, which will be about the Comprehensive Plan update, not just the existing one.

Ms. Dang said we will do a webpage on the City's website dedicated to the Comprehensive Plan update.

Mr. Finks said this might be jumping the gun but, it seems like it is one of the most important questions we want to ask at the beginning; what do you want to see updated in the plan? That may be asking too much at one time, but I feel like there are people out there that can give some input from the start and we are getting data information from them. So when we get to that point, we already have something built up of things we would like to add.

Chair Fitzgerald said so we do not need to talk with the public generally about how we want to talk about it? We want to just start talking about the plan?

Mrs. Whitten said I think if you put it out there to ask the general public without the process, they are going to need a little more guidance.

Mr. Finnegan said I think the struggle with the overall plan is size; is there a way to make a CliffsNotes version for people to just kind of review? I do not know if that is even a possibility.

Ms. Dang said like a one to two page handout that summarizes.

Mr. Fletcher said there is an executive summary in the Comprehensive Plan.

Mr. Baugh said that is the point, it is in the Plan; you have to go in the Plan to find the summary of the Plan. I think your point is well taken, I think we have something of a template that we can work on. But I agree with you, if the summary of the plan is just in the plan that is not quite getting what you are talking about.

Chair Fitzgerald said I did three presentations about this in the spring time and the only handout I gave was the goals. I talked generally about the process; but the goal is the core of it.

Mr. Colman said I think that is a way for it to be presented for people so that it is more receptive for them these days. With just words they are going to be like "I do not want to look at that," but with graphics included, make it pretty, make it attractive, something that people will say I want to look at this, compared to just words.

Mr. Way said a question about the previous 2004 and 2011 Comprehensive Plans; what were the most contentious parts that got people worked up at those stages?

Chair Fitzgerald said it was not so much contentious, it was more that there were areas that drew a great deal of interest.

Mr. Fletcher said the bicycle and pedestrian access issues and always the land use guide and transportation.

Mr. Baugh said the 2004 version had a lot of recommendations for changes in zoning and land use, which we essentially implemented. It was not always rosy; but that essentially got done. That was a big part of the discussion in the 2004 plan, there really was an attempt to try to effectively negotiate some of these issues among stakeholders so that what got into the plan reflected a consensus of goals and ways, and then again implementation had some bumps on the road. That is what I recall, if you want to say contentious, or perhaps issues that had differing opinions. I think in 2011 the bike and pedestrian people showed up and if anything there was that dynamic of citizens' input saying you need to do this, wait a minute we have already agreed to do that, so there was a clear disconnect between the citizens not really knowing. We had not done a good job at getting the message out about what we already had in place.

Chair Fitzgerald said the big discussion I remember was about prioritization, and ways to hold the City accountable for the things that we say we want to do. How can we say that we want to do this in 10 years and we never really quite got around to it was something that persisted through all the meetings we had.

Mr. Colman said I think that is where, if we have success stories, it can point to that. I like the idea also that at some point during that input to request input from civic organizations and local organizations that have their own interest and see what they are looking for, what they want to see happening.

Ms. Dang said I like the idea of reaching out to civic organizations, I will say it is pretty time intensive. My experience doing that, which worked well was actually with the Stormwater Advisory Committee and each committee member made a list of different organizations and different people volunteered to reach out to and go out and share the load. Staff can perhaps put together a PowerPoint or a template that you could use and maybe a handout. If that is an interest, then we can spend the next couple of months just coming up with that list.

Mrs. Whitten said you can put it on the website and it would be available.

Chair Fitzgerald asked whether we have a direct emailing list too. That would be helpful. I know there have been a lot of short term projects that we have used that kind of approach for them.

Mr. Fletcher said there may be opportunities with the schools that do morning announcements via video at school. Or staff could go to the schools and do those sorts of things to spread the word that way. I know they do it at some of the County schools, I figured they did it at Harrisonburg High; I assumed that maybe the middle schools too. Those are just quick little opportunities they can see the face of the person, Ms. Dang and Mrs. Banks can go out and do these sorts of like quick morning pre-shows.

Mr. Finks said what Mr. Finnegan was talking about earlier like the CliffsNotes, not do the executive summary, but do something like a sentence that just basically in that short sentence describes exactly what a Comprehensive Plan is. I am sure there are probably plenty of people that would see that and see Comprehensive Plan meeting, and what is a Comprehensive Plan, just something short to the point that can be put in a Tweet or on a quick Instagram picture, at least gives them a quick explanation of what it is, and maybe they can say that sounds interesting let me look deeper and look at the executive summary or maybe the whole plan.

Mr. Finnegan said one quick note because I mentioned before about social media; social media is also disappearing ink so there should be a repository somewhere maybe on the website, some place where key words can be Googled. It is hard trying to find something that was posted on Facebook a year ago.

Ms. Dang asked whether they wanted a dedicated City webpage for the Comprehensive Plan update that archives? Are you thinking like a way to archive?

Mr. Finnegan said all I am saying is if we are going to educate people via social media, there should also be somewhere else it can easily be found again as opposed to being buried two years deep in Facebook somewhere.

Ms. Dang said actually I believe we covered number three also, about logo and notifications, so that is great. I am going to switch around a little bit to number five and then we will go back to number four. Number five is your initial thoughts on the structure of the Comprehensive Plan document. It appears to me, and I do not want to speak for folks, the framework, perhaps chapter topics are good. It would be interesting to hear your thoughts on that and if the chapters are good, what should we take away, what should we revisit, what should we add?

Mr. Way said a few years back we talked about having a dedicated downtown chapter.

Ms. Dang said do you think that could be within Chapter 14. You do not have to answer this question right away; but I encourage you all to look at Chapter 14 which is Revitalization and see if that is like a downtown chapter, or should it be renamed or changed.

Mr. Way said I just know that there is more to it than that in some ways and they were pulling in some bits from other chapters.

Chair Fitzgerald said so point it out, like the Edom Road Revitalization area and Neighborhood Conservation Areas were in that big Revitalization chapter. So the idea might be to separate them in to two.

Ms. Dang said it is just helping us to figure out how to proceed next as we start talking about how to tackle the work with committees, but of course we will have an opportunity again to perhaps reshuffle things depending on our findings.

Mr. Way said it explicitly calls out the neighborhood structure of the city; about this goal or objective about this neighborhood. Maybe fleshing that out a little in bit in a plan and coming with neighborhood aspiration statements within or parts within that section.

Mr. Fletcher said we have Neighborhood Conservation Plans. There is a little bit of it in Chapter 14, the Plan Framework is Chapter 4 and it talks about some of those neighborhood areas. That can get quite intensive because when you go into neighborhoods, there are different ideas about what you want to do, although it is very aspirational I think that is where you could end up spinning your wheels a lot.

Mr. Way said this is a way to direct it more, have it a bit more condensed.

Mr. Fletcher said I think the way that it was envisioned in the 2004 plan and then we took it to the 2011 plan is that we were recognizing in the Comprehensive Plan these are neighborhoods, which there should be some kind of plan. Then, after the Comprehensive Plan is done, then you plan those neighborhoods. You go into those neighborhoods and say let us focus on these

bounds of this neighborhood off Foley Road, Ridgeville Lane, over West Water Street, West Bruce Street, all those areas where there are different ideas.

Mr. Colman said I think that we do want to address the neighborhoods in some way. I agree with you, because I am afraid some neighborhoods might think, the plan is for the whole city and it does not do anything for us. We want to make sure we engage them in a way that really affects them directly and then in some way they would be more open to participate in everything else that is involved in here for the city. I have seen where they say the City goes through all this and nothing happens. I would like to see more involvement. I agree we do not want to make it too intensive or a lot of work, maybe there needs to be some type of framework for that and establish how we are going to reach out to the neighborhoods and what kind of input we want instead of leaving it open-ended.

Mrs. Whitten said maybe there is a survey process that can be utilized for the neighborhoods.

Chair Fitzgerald said I was looking at Charlottesville, they explicitly define neighborhoods. They developed a neighborhood plan for each neighborhood with a lot of help from UVA. It was not clear to me whether they went and separated the community into neighborhoods and did intensive analysis of each neighborhood and then pulled out the main points, and then brought the whole plan together, or whether they did it the other way around, they brought the whole plan and then they went deep into the neighborhoods and talked on how the plan would apply specifically to them.

Ms. Dang said I did not name the communities in the summary I provided you in an effort to protect some of the comments that I received from folks, to protect those individuals. Charlottesville was one of those communities that did this huge amount of effort and I got the sense they got exhausted from it. Again, there is no right or wrong way.

Mr. Finnegan said I will say I lived in Charlottesville for a year in Fifeville. They have very clearly defined neighborhoods and it really does make a difference. It is something that I have struggled with as a Harrisonburg resident. I will use terms like New Old Town, referring to Broad and Wolfe Streets. I am not saying we should call it that, actually I am saying we should not call it that. It is something that not only myself but other people I know struggle to say - well it is kind of the northeast, it is kind of not. Where as in Charlottesville is very clearly defined, they have carved it up like Baltimore, which has clearly defined neighborhoods, like Pigtown. That is something that I think Harrisonburg is missing, and there are distinctive neighborhoods within.

Mr. Way said maybe it is more of a neighborhood community driven thing.

Mr. Baugh said there is a lot of stuff in the plan already that affirms this and says it is something we want to do. I know that there actually was a grass roots neighborhood organization group that, I sense, it just kind of ran out of steam. One of the issues here is you look at these places, these cities that have done this successfully and it almost seems like there may be a requirement to start off by defining neighborhoods on a map. It is not clear where one ends; we are very much like this. Then, you throw in that we have had a lot of change in over 10 years, 20 years, and where you set a boundary in Harrisonburg 10 years ago may feel a little different now, or may feel like particular lines are arbitrary. But, without that, it was sort of just ad hoc; you have a Northeast Neighborhood Association, you have a history of some organization in Old Town and some in Park View and that is really about it.

We have affirmed these ideas and they are actually in the existing Comprehensive Plan, talking about how we like the idea of the city being broken down into neighborhoods with active neighborhood associations and organizations. That has been one of those pieces that has been aspirational. There was some talk about this about eight years ago, some neighborhoods in town seemed really engaged in this, others you really have to start organizing it and get people use to the idea.

Mr. Colman said that is something we should do then; try to identify and define neighborhoods perhaps, or help the citizens do that.

Mr. Baugh said or at least keep it general, just point out to the group that a lot of this stuff we are talking about in terms of general principles are already in the Plan, we have already affirmed these values. Now we have the benefit of looking back 12 years. What we have done so far has not been enough to move this beyond a list of things that we think will be a good idea, maybe as we go forward we need to think how do we change that, how do we get things going in a positive direction?

Mr. Finnegan said also the good thing about naming a neighborhood is somewhat arbitrary in that these are not voting precincts. You do not have to have a certain number of people living there; you can make them however big you would like. It could be very small or very large.

Mr. Finks said is that really our role to define the neighborhoods.

Mr. Finnegan said I was only making the observation that I struggle as a resident of Harrisonburg to explain what neighborhood something is in.

Mr. Finks said I have been living in Harrisonburg for 38 years and in the seven residences I have lived in town, there are only two of them I would say, or consider having a name for the neighborhood. The house I am currently at now does not specifically have a neighborhood name and a lot of the different apartments I have lived in since I have been here do not have names. I do not necessarily get into a neighborhood description unless it is Sunset Heights or Reherd Acres, or Park View, or Old Town.

Mrs. Whitten said my experience in Harrisonburg is of 30 years, the only reason that neighborhoods have rallied has been around a problem. It is not that they want to become stronger necessarily, it is just to unify over an issue.

Chair Fitzgerald said so we have a set of streets that really do not have a collective interest or an issue that affects them all; it is not going to be cohesive enough.

Mr. Baugh said but 18 years ago back when these things got into the Plan, these were not just things that came out of thin air. We were looking at Portland, Oregon and one of the characteristics that Portland had, which was very forward looking 12 years ago, was this idea that they had these active neighborhood associations. They were ways to really help grasp things relative to the city, whether it was concerns specifically to the neighborhood or concerns to the larger city, but they developed this mechanism that people participated in. We sort of affirmed that structure, but, for a lot reasons that we are covering here, my suspicion is if the next version of the Comprehensive Plan essentially just repeats the values that we have right now, and they will look very good and we will feel very good about them.

Mr. Colman said I like the idea of the neighborhood organizations. They have been used in terms of traffic issues and neighborhoods come together to come to the City when they have an

issue and want to resolve it. The City has been able to go and work with that group of neighbors that represents the neighborhood. That may help in our own meetings, when people come here, it is just not one person's issue, but they are representing a good section of their neighborhood. I think it will be helpful to have that, but it really depends on how people participate, if they do not want to participate then it is the end of that.

Chair Fitzgerald said are we saying that the idea of structured committees by neighborhood probably is not, at this point, in Harrisonburg very workable; although there are some cohesive neighborhoods that are easily identifiable, with respect to drawn boundaries. Many parts of the City are not in a structured, cohesive, identifiable, neighborhood or if we did say Old Town committee or the Northeast committee as part of the Comprehensive Plan process, it would be hard to get the entire city structured into neighborhoods.

Ms. Dang said I agree, I have a suggestion, and I am jumping ahead to the next question, but, one idea that I had was to have committees similar to last time. Have committees broken down similar to the topics, for those of you that were here, there were separate meetings. Maybe there is a committee that meets once every month or two months depending on what the need of varying topics are. The committee or the group of individuals working on the transportation, land use and neighborhood, because those three go together very well when we talk about them. When going to public input and at a workshop that we break those maps or discussions into at least four quadrants, if not other neighborhoods to be determined by that committee when they get there.

Chair Fitzgerald said it is a great idea, it incorporates it without the committee self defining neighborhoods.

Mrs. Whitten said attempting to invite people from different geographic areas in the city.

Chair Fitzgerald said in recognizing that, there are unique issues that are associated with some neighborhoods.

Ms. Dang said are there any other things that might jump out at you that we should consider? And of course you can come back and suggest more ideas later. Anything else?

Mr. Way said the question of design, aesthetics, architecture those kinds of things, or further down that route, the architectural review board. I am not putting it forward for a chapter suggestion, but that is just another area which sometimes people like historic preservation a little. It is kind of in the existing plan, maybe it should be defined in a different way and it would be a much more content-wise bigger discussion. One of the things that we can re-capture is where Harrisonburg is today. It is very much of a community in between in all sorts of ways: are we a college town or are we not, are we a big town or are we a small place, are we very environmentally progressive or are we not, are we a farming community, there are a whole bunch in between. I was just wondering if somewhere maybe towards the start of the plan, or part of this process, even if it is not articulated in the plan, we have a set of questions: Are we a college town, are we a city of neighborhoods, are we big, and are we small? Because these things seem kind of philosophical in their own way. If you shape the planning that we make and the decisions we make on this board, if we think of ourselves more of a Charlottesville, more of a college town kind of thing, then that is going to direct to some of our decisions or create our Land Use Guide and maybe look at things a different way. There are lots of questions I think we

should pose some way, if it is part of the process or if it is a chapter in the plan that is spelled out, discussed or addressed.

Mr. Baugh said I am going to give you a great example of that - the debate of the elementary school. Are we giving up something by building schools in a more dense, a more urban way? Or is the way that we build schools where they sit up on a hill and they have a lot of open land around them and have that kind of aesthetics? There were people arguing that to lose that approach was to lose something valuable. We also had a significant number of people saying that is another way of looking at things we are moving more and more too urban, dense is fine, but it was deadlock for a good while over just that kind of issue?

Ms. Dang said question number four, do you all feel that we need to have additional people participate in a committee and if so how should that be structured.

Chair Fitzgerald said structure committees by content areas that seem to blend and match well is the first cut at it, and you mentioned three that would work well together.

Ms. Dang said the three that I mentioned before basically follow the chapter idea I had, which was the Land Use chapter, Transportation, Neighborhoods and Housing could be one.

Chair Fitzgerald said then if I recall correctly the last time around we had two series of meetings, one where we grouped those topics and we invited people in and we talked about them and gathered input and then we went away and wrote chapters and tweaked stuff. Then, we came back and did the same series of meetings again and put out the chapters and talked about the results and then went and edited it again.

Ms. Dang said if that is what you all like, I can look back at how the old way was set up and then we can have just four committees by topic. Would that be good for you all?

Chair Fitzgerald said we need to answer the question if we wanted to add other folks to the committee as well as Commission members.

Mr. Finks said I think we should have some members from the community.

Chair Fitzgerald said should we just open it up? Do we need to decide how many folks we would like to invite?

Ms. Dang said maybe if you all would be willing to let us, staff, think about it and maybe propose to you all something at the next meeting. Then, you can react to that and then we can think about an application process.

Chair Fitzgerald said we have a lot of ways to look at in the past where we have done something like this, because it is going to be a two year commitment for some of these folks.

Mr. Colman said I think people are very interested in being part of shaping this.

Mr. Way said you can always harvest delegates from the other full standing committees like bicycle and pedestrian, tree advisory board, or school board.

Ms. Dang said that is a great suggestion encouraging other folks from other committees and boards, or maybe asking them to appoint somebody as part of the group.

Mr. Baugh said before when we did that with the School Board we actually had a School Board person that was part of the process. I think the last time it was more of a sense that we were

tweaking and we wanted input, but we wanted input from the community with respect to responding to the existing plan.

Ms. Dang said the last question I had in the memo, is more open-ended. I do not know what to expect from this question, which is associated with implementation. Like the value of the plan of course is its ability to be implemented, whether it is through policy or some other kind of action. We discussed a little about that with the neighborhoods and what the intent originally was in 2004 in looking at the neighborhoods. Any thoughts from you all about that?

Mr. Way said you know one of the most positive things that we did regarding the Comprehensive Plan was making the department heads talk about it as part of the Capital Improvement Plan (CIP). So that is an example, maybe you have to encourage committees and departments to reference the plan when they are generating things like the Bicycle and Pedestrian Plan; always trying to make sure things are tied back to it.

Mr. Fletcher said I think another opportunity would be in Chapter 16 where we have the list of strategies in which we would like to strive for in the next five years, then there could be a check in every year. What have we accomplished from this list? Some of them are a little more aspirational, but some of them were like the landscaping ordinance.

Ms. Dang said I think I have plenty to get started with and things to follow up with you all on. I really appreciate our discussion.

Mrs. Whitten said I have one other question. We talked about consultants, we talked about how that might have a cost associated with it. What kind of cost is associated with the extra hours of work that are going to be happening? You guys have full time jobs and this is going to be extra, is that something that Council should be aware that you are going to be putting in extra time.

Mr. Fletcher said I love the question, but I think everyone must understand that it is something that we have to do. It is part of our responsibility.

Mr. Colman said but we could have said we want to hire a consultant, which would make your job a lot easier, maybe and maybe not. The question is should we also ask Council for additional funds to help you guys? I do not know how we translate that.

Mr. Baugh said I think the answer to that is that it is perfectly fine for us to have that discussion with Mr. Fletcher. I think from the Council standpoint that would really come from Community Development.

Mrs. Whitten said I think that conversation should happen. I want to protect our staff.

Chair Fitzgerald said anything else about this topic? Hearing none, she asked about unfinished business.

### **Unfinished Business**

Ms. Dang said there is a one page handout. The request was for a list and group summary of planning projects that Planning Commission has directed staff to work on and the list before you is in no specific order. It is broken down into projects that are currently underway that staff is working on, which includes the Comprehensive Plan update, the Sign Ordinance Amendment, Community Gardens, and Mobile Vendors. And then, the projects that we have heard from you all are the three that are listed related to agricultural uses, accessory structures, and home occupations. Perhaps the first question is, are we missing anything?

Mr. Baugh said I think if you poll Council members they will think looking at parking would be on that list.

Mr. Fletcher said I said this at the last Council meeting and there are many different philosophies in parking, there are classes upon classes that you can take about them whether it be no parking requirements, capping parking, or minimum parking. We do a minimum, there are some that do maximum, and there are some localities that do not want maximums, because they say that it deters business. Some just want to open it up to the market and say no parking requirements, you provide what you need. There are so many different ways to do it, and you have to pick the one that you feel is going to work.

Ms. Dang said do you want us to add parking to the list here.

Mr. Baugh said if Council members were around they would be saying why is parking not on that list is. We thought it was on that list.

Planning Commission agreed that parking should be added.

Chair Fitzgerald said thank you, this is to get everyone up to speed. Any other unfinished business, is the CIP coming up?

Mr. Fletcher said yes it is in the works. We actually have finished all the departmental meetings, except one and that is with the schools. We have done all the planning and what folks do not realize is that this starts in July, people do not realize how long it takes. A lot of the initial planning work has already been put into it. The CIP committee has met with all the department heads and gone over the projects and now it is back into our world to update all the data for what was changed during those meetings. Then, it will be sent in draft form to the committee, and then hopefully we are going to be much further ahead in this schedule than last year.

Chair Fitzgerald asked if there is any other unfinished business. Hearing none, she asked if there was any public input.

### **Public Input**

None.

### **Report of Secretary and Committees**

Mrs. Banks said proactive zoning inspections visited the Ramblewood and Greendale area of the City this month where there were two violations consisting of inoperable vehicles and discarded appliances. In November, they will visit the Stone Spring Village area, Peach Grove Avenue.

Mr. Baugh said at City Council last evening they approved the recommendations for the SUP for the Water Tower.

Chair Fitzgerald said I understand there is a BZA meeting coming up.

Mr. Colman said there is a meeting coming up next month, two items.

Mrs. Banks said it actually looks like there is a December meeting as well.

Mr. Finks said I attended the Rockingham County Planning Commission meeting. They approved unanimously their new bicycle and pedestrian plan. They approved a couple of ordinance amendments, and changed the definition of memorial gardens. They decided they did not need that. Another item was they would not need a special use permit to bury

someone on a farm, unless there were two bodies buried. They also made an ordinance to replace the term of “park” to make a distinction between government owned and private owned parks. They also added that you have to have an approved stormwater manager signature. They had two rezonings and one of them was the Harpine Highway site, the other was an agricultural zone being rezoned from RR-1C to A-1 and both were approved.

### **Other Matters**

Chair Fitzgerald asked if there were any other matters.

Ms. Dang said regarding next month’s site tour, I do not have the survey in front of me but it appeared pretty split that there was not a preferred date that I can identify between Monday or Tuesday. What would you all prefer?

Mrs. Whitten said do you have any idea how many items there will be.

Mrs. Banks said there are six items.

Mr. Fletcher said it is going to be a big month.

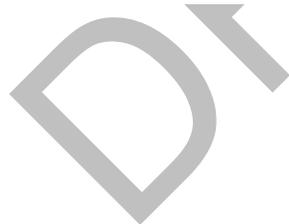
Mrs. Whitten said it probably needs to be earlier than 4:30 p.m. for sure.

Mrs. Banks said there are only four places to visit not six.

Ms. Dang said we can do Monday at 4:00 p.m.

### **Adjournment**

The Planning Commission meeting was adjourned at 8:46 p.m.





# City of Harrisonburg, Virginia

Department of Planning & Community Development  
409 South Main Street  
Harrisonburg, Virginia 22801  
[www.harrisonburgva.gov/community-development](http://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: November 9, 2016 (Regular Meeting)  
Re: Alley Closing – Adjacent to 211 East Washington Street

## **Summary:**

Consider a request from George's Food, LLC to close a 2,924 +/- square feet portion of a developed public alley located between North Liberty Street and the northern property line of George's Food, LLC. The alley is 15-feet wide and is located adjacent to tax map parcels 34-A-12 and 40-V-1.

## **Background:**

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

- Site:** A 2,924 +/- square foot portion of a developed public alley right-of-way adjacent to tax map parcels 34-A-12 and 40-V-1
- North:** Parking lot owned and operated by George's Food, LLC and single-family dwellings, zoned M-1 and R-2, respectively
- East:** Parking lots owned and operated by George's Food, LLC, zoned M-1
- South:** Industrial uses owned and operated by George's Food LLC, zoned M-1
- West:** Industrial uses owned and operated by George's Food LLC and single-family dwellings, zoned M-1 and R-2, respectively

## **Key Issues:**

The applicant, George's Food, LLC, is requesting to close a portion of developed public alley right-of-way approximately 15-feet in width and 190 +/- feet in length, totaling 2,924 +/- square feet running perpendicular to North Liberty Street and turning approximately 90 degrees north towards 3<sup>rd</sup> Street. George's Food, LLC states in their letter (attached) that the "primary purpose for purchasing this alley would be to limit access and control traffic to improve safety concerns." They are also interested in increasing the size of the current office building that is located to the south of the alley in the future.

The alley is paved and automobiles can pass through the entire length of the alley from North Liberty Street to 3<sup>rd</sup> Street. From North Liberty Street, the alley travels between two properties owned by George's Food, LLC and has the appearance of belonging to and serving only George's Food, LLC.

The remaining portion of the alley to remain public is located in the rear of seven single-family dwellings, which front on North Liberty Street and Collicello Street, and adjacent to two dwellings that have frontage along 3<sup>rd</sup> Street. At the time of this writing, city staff has not received comments from adjoining

**The City With The Planned Future**

property owners or nearby residents regarding the requested alley closure. In July 2016, Planning Commission reviewed a preliminary plat request for two parcels (TM 40-U 3 & 4). In August 2016, City Council approved the preliminary plat for these two parcels with conditions that when developed, “[b]ollards, posts, or signage shall be provided at the end of the private street to help restrict vehicular access to the public alley.” Therefore, these two parcels will not utilize the alley. Three other residences (597 and 601 North Liberty Street, and 626 Collicello Street) clearly use the alley for access to the rear of their properties.

The alley is narrow and it would be difficult for two vehicles approaching from opposing directions to pass each other. However, it is staff’s opinion that given the few number of dwellings served and the character of the alley, that two-way traffic should remain permissible along the portion of the alley to remain public and open.

This alley is not used for trash pick-up and the alley is not marked for any potential future walking or biking facilities. However, there are a number of utilities located within the alley. If the City approves closure of the alley, easements would need to be established for the following:

- a. Public Sanitary Sewer (for sanitary sewer main operated by Harrisonburg Department of Public Utilities),
- b. Utility Easement (for overhead electric facilities operated by Harrisonburg Electric Commission), and
- c. Utility Easement (for 4” gas line operated by Columbia Gas).

The applicant is aware that if City Council elects to close the alley, the applicant is responsible for having a survey prepared in order for the City Attorney to draft the ordinance for closure. The survey should show dedicated easements and that the alley will become part of the applicant’s existing parcel(s).

**Environmental Impact:**

N/A

**Fiscal Impact:**

N/A

**Prior Actions:**

N/A

**Alternatives:**

If the requested alley closure is denied, then the alley will remain open to the public.

**Community Engagement:**

The alley was posted with signage advertising the request.

**Recommendation:**

Staff recommends approval to close the alley provided that easements are reserved for the following:

- a. Public Sanitary Sewer (for sanitary sewer main operated by Harrisonburg Department of Public Utilities),
- b. Utility Easement (for overhead electric facilities operated by Harrisonburg Electric Commission), and
- c. Utility Easement (for 4” gas line operated by Columbia Gas).

**Attachments:**

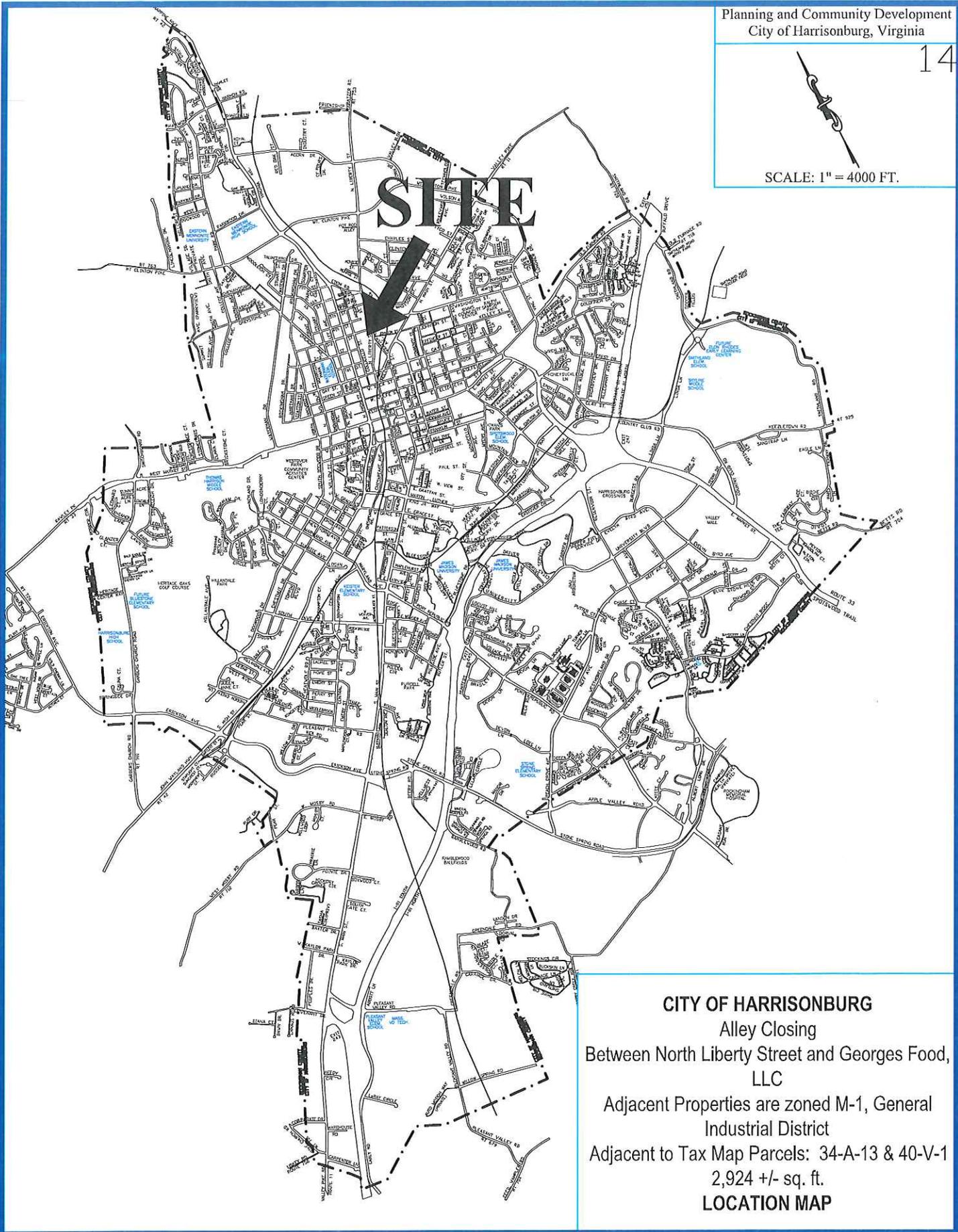
1. Site maps (2)
2. Application and applicant letter (2)
3. Location sketch of street/alley to be closed (1)

**Review:**

N/A



SCALE: 1" = 4000 FT.



**SITE**

**CITY OF HARRISONBURG**

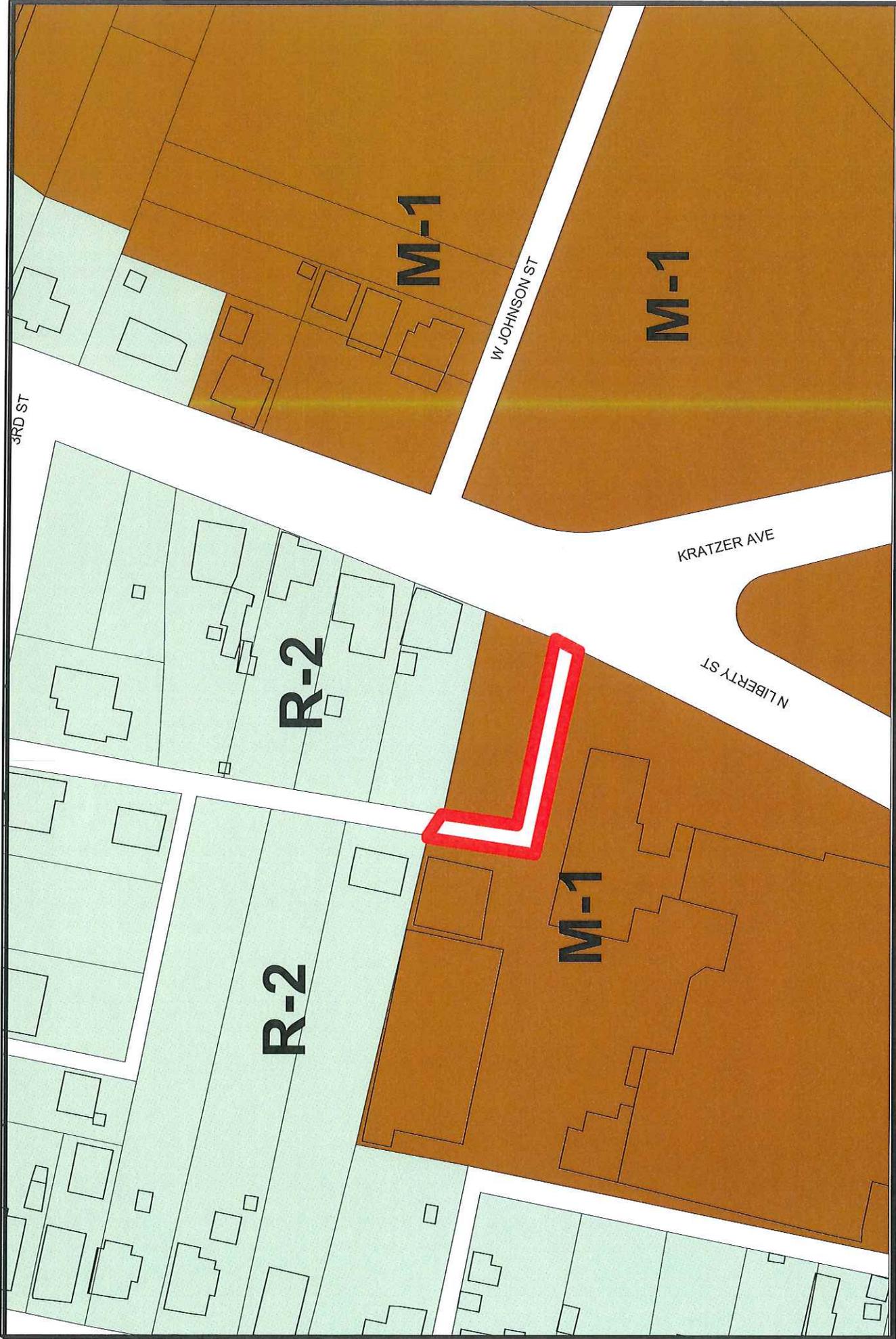
Alley Closing

Between North Liberty Street and Georges Food, LLC

Adjacent Properties are zoned M-1, General Industrial District

Adjacent to Tax Map Parcels: 34-A-13 & 40-V-1  
2,924 +/- sq. ft.

**LOCATION MAP**



# ALLEY CLOSING

## Between North Liberty Street and Georges Food, LLC

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: Georges Foods, LLC

Street Address: 501 North Liberty St. E-mail: \_\_\_\_\_

City: Harrisonburg State: Virginia Zip: 22802

Telephone: Work 540-442-2222 Fax \_\_\_\_\_ Mobile \_\_\_\_\_

Representative (if any): Richard Frazier

Street Address: 501 North Liberty St. E-mail: richard.frazier@georgesinc.com

City: Harrisonburg State: Virginia Zip: 22802

Telephone: Work 540-442-2222 Fax \_\_\_\_\_ Mobile \_\_\_\_\_

**Description of Request**

Location Portion of Alley from North Liberty St. to Northern property line of Georges Foods, LLC.

Square footage of area to be closed: 2,924

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

Please provide a detailed description of the proposed closure (  additional pages attached):  
See plat titled Street Closer Portion Of Harrisonburg Land And Improvement Company prepared by Valley Engineering.

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

North: RCLB Investments, LLC and Willam K. & Betty L. Burkett

South: Georges Foods, LLC 501 North Liberty St. Harrisonburg 22802

East: Georges Foods, LLC 501 North Liberty St. Harrisonburg 22802

West: Georges Foods, LLC 501 North Liberty St. Harrisonburg 22802

*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 checked="" 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 checked="" type="checkbox"/> Adjacent property owners   | <input type="checkbox"/> Other _____                               |
| <input checked="" 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.*

# GEORGE'S<sup>®</sup>

Georges Foods, LLC would like to purchase the portion of alley from North Liberty St. to the northern property line of Georges Foods, LLC. Currently there is very little public traffic. The alley leads into our private lot or takes a right to another alley that has vegetation growth to the point a car would struggle to get through. I believe this alley to the right is only used by a couple residents with connecting lots as a private driveway that have access from 3rd Street in the other direction. Please see picture below.



The primary purpose for purchasing this alley would be to limit access and control traffic flow to improve safety concerns. We have several trucks a day utilizing this alley to bring birds to the plant and/or take product away from the plant. Since this is such a small alley, any decrease in non essential traffic would eliminate safety risk. Although there is currently only a limited amount of public use, we currently have no control to contain this traffic if anything were to change in the future. In addition, we have future plans to increase production in this plant which would require an increase in office personell . Increasing the size of the current office building which borders this alley would be the most likely place to add office space.

Respectfully,

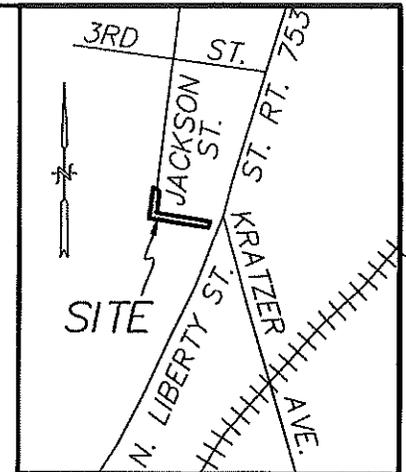
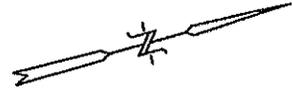
A handwritten signature in black ink, appearing to read 'Clifton Alt'.

Clifton Alt

Plant Manager

# NOTES

- 1) DATUM AS SHOWN HEREON IS ACCORDING TO RECORDED INFORMATION AND A CURRENT FIELD SURVEY.
- 2) THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT, AND DOES NOT REFLECT ALL ENCUMBRANCES.
- 3) BEARINGS ARE ROTATED TO METES AND BOUNDS DESCRIPTION RECORDED IN D.B. 538, P. 759.
- 4) THE SURVEYED PREMISES IS LOCATED WITHIN FLOOD ZONE X (AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN) ACCORDING TO THE FLOOD INSURANCE RATE MAP FOR ROCKINGHAM COUNTY, COMMUNITY-PANEL NUMBER 51165C0403D EFFECTIVE DATE FEBRUARY 6, 2008.
- 5) TOTAL AREA IN COMBINED LOT 4.069 ACRES.

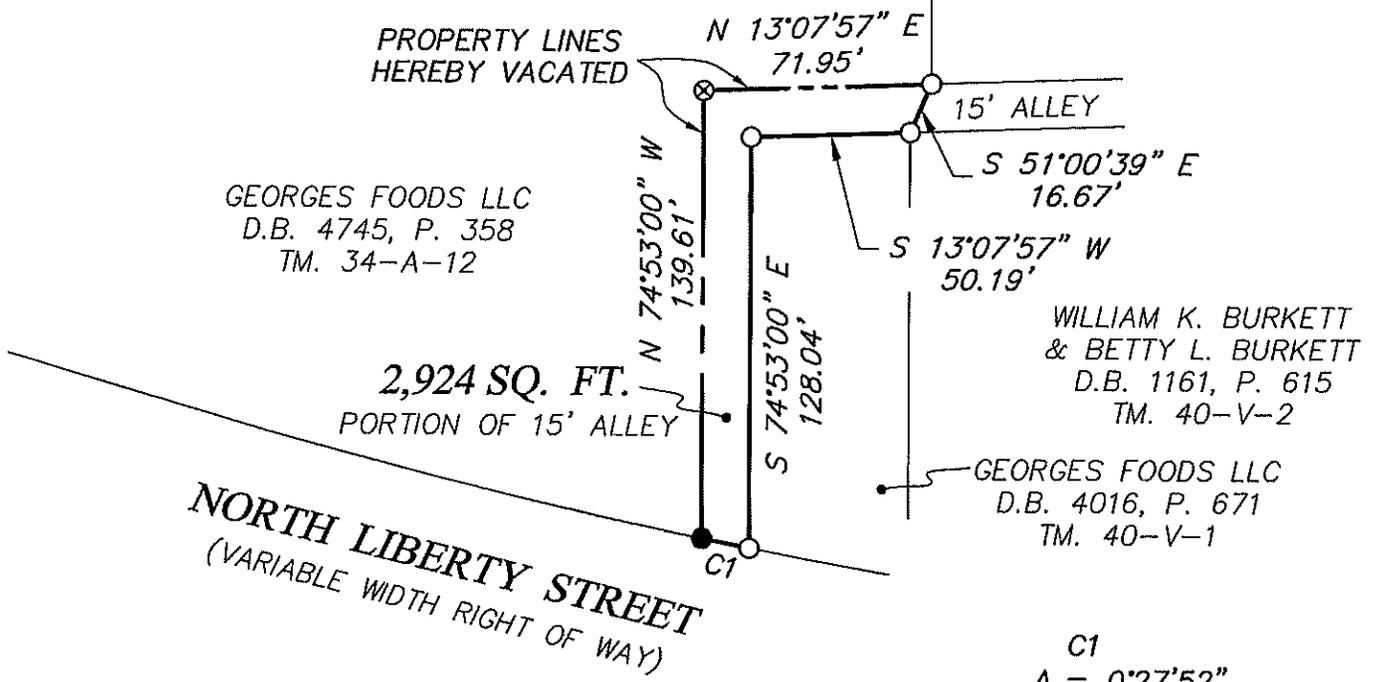


VICINITY MAP  
NOT TO SCALE

## LEGEND

- IRON PIN IN CONC. FOUND
- IRON PIN FOUND
- ⊗ PK NAIL FOUND

RCLB INVESTMENTS, LLC  
D.B. 2144, P. 343  
TM. 40-U-2



C1  
 $\Delta = 0'27'52''$   
 $R = 1884.86'$   
 $A = 15.28'$   
 $C = 15.28'$   
 $CB = S 26'09'20'' W$

**STREET CLOSER**  
**PORTION OF HARRISONBURG LAND**



# City of Harrisonburg, Virginia

Department of Planning & Community Development  
409 South Main Street  
Harrisonburg, Virginia 22801  
[www.harrisonburgva.gov/community-development](http://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: November 9, 2016 (Regular Meeting)  
Re: Alley Closing – Surrounding 211 East Washington Street

## **Summary:**

Consider a request from Luis O. Rodriguez to close a total of 3,420 +/- square feet of two portions of undeveloped public alleys, which are located on the eastern and southern perimeters of 211 East Washington Street. The approximately 10-foot in width alleys connect to East Washington Street and Myrtle Street and are located adjacent to tax map parcels 33-B-1, 2, 5, 23, 24 & 25.

## **Background:**

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

- Site:** 3,420 +/- square feet portions of two undeveloped public alley right-of-ways adjacent to tax map parcels 33-B-1, 2, 5, 23, 24 & 25, zoned M-1
- North:** Undeveloped lot with gravel parking area, and industrial and manufacturing properties zoned M-1
- East:** Continued portion of alley, the Salvation Army, and single-family dwellings, zoned M-1 and R-2
- South:** Single-family dwellings, zoned R-2
- West:** Continued portion of alley, automotive repair services and storage, and single-family dwellings, zoned M-1 and R-2

## **Key Issues:**

The applicant is requesting to close two portions of undeveloped public alley right-of-ways. Both alleys are about 10-feet in width and run along the eastern and southern perimeters of 211 East Washington Street. The eastern alley is 175 +/- feet in length and the southern alley is 155 +/- feet in length, together they total approximately 3,420 square feet. The southern alley starts and runs perpendicular to Myrtle Street. It is narrow and could be carefully driven on for about 50-feet before dense vegetation prohibits further travel through the alley. The eastern alley that is parallel to Myrtle Street and runs between East Washington Street and East Johnson Street is clear of large vegetation. From East Johnson Street, this alley has the appearance of a private driveway. From East Washington Street, the existing curb cut serves the property addressed as 211 East Washington Street, but there is no curb cut serving the alley.

The applicant owns 211 East Washington Street and 751 Myrtle Street. The applicant desires to close the alley in order to expand the property.

These portions of the alley are not used by the City for trash pick-up and are not maintained by the City. City records indicate that there are no water or sanitary sewer mains within the alley. However, the Public Utilities Department is investigating whether there are privately owned sanitary sewer laterals within the alley serving adjacent properties. Public Utilities staff has noted that if private sanitary sewer laterals are found, then private easements would need to be reserved. Additionally, if Public Utilities finds that two properties share a private sanitary sewer lateral in the alley (which has been found to occur in older portions of the city such as this area), then a public sanitary sewer easement for the City must be reserved. Generally speaking, Public Utilities is has no concerns with the request for alley closure as long as appropriate easements are reserved. The applicant has also been made aware of this situation.

The alleys are zoned M-1, General Industrial District and if the applicant is granted approval to close the requested portions of the alleys, depending upon where the new property lines are established, the required minimum building setback could be increased. This is because Section 10-3-98 of the Zoning Ordinance states that properties zoned M-1 require side and rear yard setbacks of 10 feet, "except on the side of a lot abutting a residential district, then thirty (30) feet; provided that for any structure greater than thirty-five (35) feet in height which abuts a residential district, then one (1) additional foot of setback is required for each foot above thirty-five (35) feet."

The properties on either side (east and west) of 211 East Washington Street are zoned M-1. Assuming that the property owner to the east does not want half of the alley, the side yard setback required is 10-feet. The property will gain 10-feet of buildable area by incorporating the alley. If the adjacent property owner wants to purchase half of the alley, then 211 East Washington Street will gain an additional 5-foot of buildable area.

The properties to the rear of 211 East Washington Street and 751 Myrtle Street are zoned R-2. As the properties exist today, 211 East Washington Street and 751 Myrtle Street's rear yard setback is 10-feet because the alley is zoned M-1. Assuming that no buildings over 35-feet will be constructed on 211 East Washington Street or 751 East Myrtle Street, incorporating the southern alley into the properties will increase their rear yard setbacks from 10-ft to 30-ft. However, if any adjacent R-2 property owner wishes to purchase half of the alley, then the rear yard setbacks for 211 East Washington Street and 751 East Myrtle Street will remain 10-ft., giving the properties an additional 5-foot of buildable. This is because the portion of the alley incorporated into the R-2 zoned properties will remain zoned as M-1. The applicant has been made aware of this and would still like to proceed with the request to close the alley.

In March 2013, City Council, who at the time was considering alley closures city-wide, received recommendations from the Bicycle & Pedestrian Subcommittee for the City to reserve certain alleys and to continue exploring their potential to be developed into walking and biking facilities. The Bicycle & Pedestrian Subcommittee indicated that the alley on the southern perimeter of 211 East Washington Street has potential to be developed into a pedestrian and/or biking facility. At this time, there are no plans to utilize this alley for a future biking and walking facility.

The applicant is aware that if City Council elects to close the alley, the applicant is responsible for having a survey prepared in order for the City Attorney to draft the ordinance for closure. The survey should show dedicated easements, if any, and if the alley will become part of the applicant's existing parcels, or if the alley will be divided among the adjoining parcels.

**Environmental Impact:**

N/A

**Fiscal Impact:**

N/A

**Prior Actions:**

N/A

**Alternatives:**

If the requested alley closure is denied, then the alley will remain open to the public.

**Community Engagement:**

The two portions of alleys were posted with signage advertising the request.

**Recommendation:**

Staff recommends closing the alley so long as private and/or public sanitary sewer easements are reserved as determined by the Department of Public Utilities.

**Attachments:**

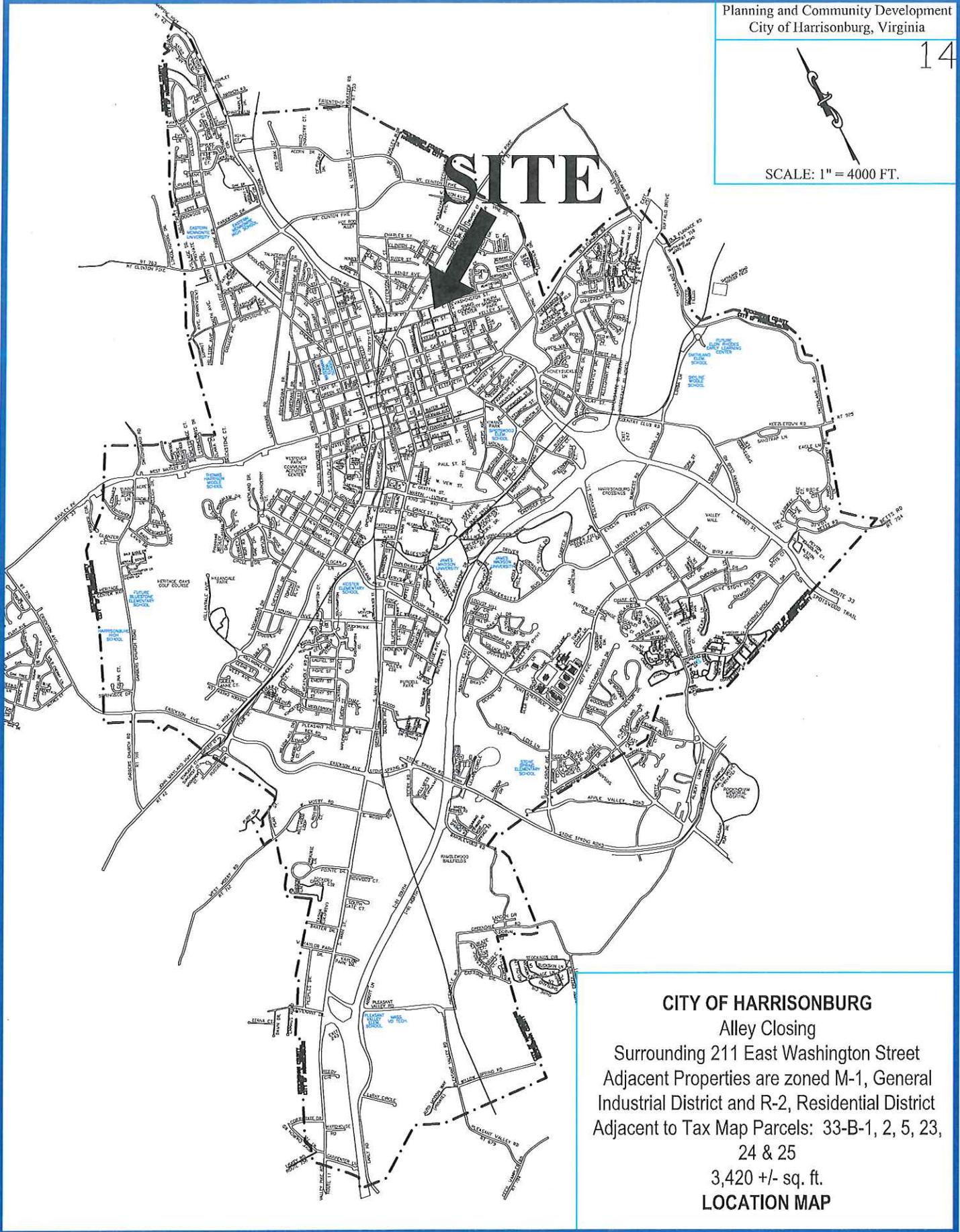
1. Site maps (2)
2. Application, applicant letter, and supporting documents (2)
3. Location sketch of street/alley to be closed (1)

**Review:**

N/A



SCALE: 1" = 4000 FT.



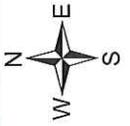
**CITY OF HARRISONBURG**

**Alley Closing**

Surrounding 211 East Washington Street  
Adjacent Properties are zoned M-1, General  
Industrial District and R-2, Residential District  
Adjacent to Tax Map Parcels: 33-B-1, 2, 5, 23,  
24 & 25

3,420 +/- sq. ft.

**LOCATION MAP**



# ALLEY CLOSING

## Surrounding 211 East Washington Street

033 B1

Date application received: 8/25/16

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

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

Applicant's Name: Luis O. Rodriguez

Street Address: 959 Drake Lane E-mail: lwig11531@yahoo.com

City: Harrisonburg State: Va Zip: 22802

Telephone: Work 540-433-7014 Fax 540-433-7018 Mobile 540-607-6465

Representative (if any): \_\_\_\_\_

Street Address: \_\_\_\_\_ E-mail: \_\_\_\_\_

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

Telephone: Work \_\_\_\_\_ Fax \_\_\_\_\_ Mobile \_\_\_\_\_

**Description of Request**

Location 211 E. Washington st.

Square footage of area to be closed: \_\_\_\_\_

Cost per square foot: \$ 4.50 Total cost: \$ \_\_\_\_\_

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

To close the alley on both sides of the property.

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

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

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

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

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

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

Signature: [Signature]  
Applicant

Date: 8-25-16.

**ITEMS REQUIRED FOR SUBMISSION**

- Completed application
- Letter described proposed use
- Adjacent property owners
- Survey & metes and bounds description (prepared by a surveyor, engineer, or other person duly authorized by the State)
- Value per square foot of cost to purchase (Estimate).
- Fees paid
- Other \_\_\_\_\_

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

August 25, 2016

To Whom It May Concern,

The reason for purchasing the alleys is to expand my property located at 211 E. Washington St.

Luis O. Rodriguez

A handwritten signature in black ink, appearing to read 'Luis O. Rodriguez', with a horizontal line extending to the right from the end of the signature.

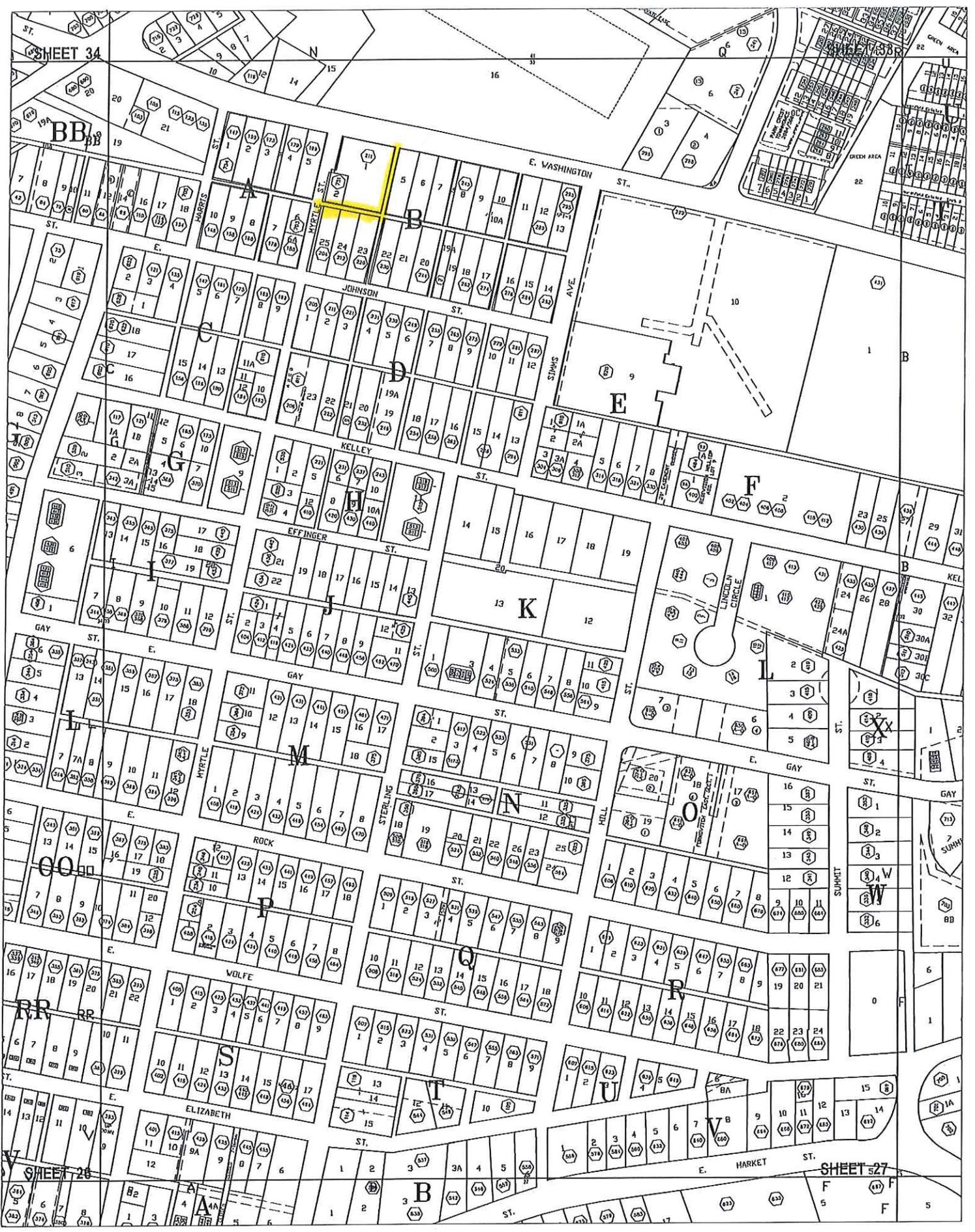
**Adjacent Properties –**

229 East Washington Street, The Salvation Army

204 East Johnson Street, Ronda Quintana Milagros

212 East Johnson Street, Nemoytin Alexander

220 East Johnson Street, De Jesus Sandra



SHEET 34

BB

SHEET 26

SHEET 27

F



# City of Harrisonburg, Virginia

Department of Planning & Community Development  
409 South Main Street  
Harrisonburg, Virginia 22801  
[www.harrisonburgva.gov/community-development](http://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: November 9, 2016 (Regular Meeting)  
Re: Street Closings and Special Use Permit – Virginia Mennonite Retirement Community, Inc.

## **Summary:**

Consider a request from Virginia Mennonite Retirement Community, Inc. to close 124,700 +/- square feet of developed public street right-of-way. Villa Drive, Pine Court, Spruce Court, Hawthorne Circle, and Shank Drive (east of Park Road) are contained within the Park Village area of the Virginia Mennonite Retirement Community complex and are adjacent to tax map parcels 52-D-4, 7-10 & 13.

Public hearing to consider a request from Virginia Mennonite Retirement Community, Inc. for a special use permit per Section 10-3-48.4 (6) of the Zoning Ordinance to allow a multiple-family dwelling of up to 12 units per building under the conditions set forth under 10-3-48.6 (e). The 3.3 +/- acre parcel is part of the Virginia Mennonite Retirement Community master planned complex known as Park Village and is zoned R-3, Medium Density Residential District. The property is identified as tax map parcel 52-D-9 and addressed as 1610, 1612, 1614, and 1616 Park Road.

## **Background:**

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

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

- Site:** Duplexes and multi-family apartment buildings associated with Virginia Mennonite Retirement Community, Inc, zoned R-3/I-1
- North:** Multi-family apartment buildings, zoned R-3
- East:** Pleasant View Home Residences and single-family dwelling, zoned R-3
- South:** Multi-family apartment buildings and facilities associated with Virginia Mennonite Retirement Community, Inc., zoned R-3/I-1
- West:** Across Park Road, Park View Mennonite Church and duplexes associated with Virginia Mennonite Retirement Community, Inc., zoned R-2

## **Key Issues:**

The applicant, Virginia Mennonite Retirement Community, Inc. (VMRC), is requesting to close multiple public streets and to obtain a special use permit (SUP) to allow for a multi-family building of up to twelve units. Both requests are within the Park Village neighborhood of the VMRC master planned complex, which is located in the north portion of the campus. If approved, VMRC plans to add the square footage

of the public streets into the complex acreage; however, they do not have immediate plans to change the function of the streets. VMRC would also demolish the existing quadplex located on the northeast corner of the intersection of Park Road and Villa Drive and construct a new, six unit multi-family building. The requests are being heard together because to meet setback and parking requirements for the proposed new construction, VMRC needs to obtain the public right-of-way and vacate the property lines accordingly.

The 124,700 +/- square feet of developed, public street right-of-way requested for closure is located entirely within the boundary of VMRC's Park Village neighborhood and includes: Villa Drive, Pine Court, Spruce Court, Hawthorne Circle, and Shank Drive (east of Park Road). VMRC is in the process of recasting its vision for the Park Village neighborhood, and intends to redevelop current residential structures and update amenities. As stated in their letter of request for street closure (attached within), "Integrating the current streets into their campus will allow VMRC to have the option in the future of reconfiguring the Park Village section, and to provide safe walkable facilities for their residents by modifying the use of the existing streets."

Staff met with the applicant on several occasions to discuss the street closures, and while staff has no objections with the request, there are multiple utilities within the right-of-way that will need to be placed within specific easements. Public Utilities will require public sanitary sewer and water easements over existing and proposed water and sanitary sewer lines; HEC will require an easement on all primary electric facilities and over what is now the street lighting circuits; and there may be other utilities in the right-of-way (cable, gas, etc.) that will require public utility easements. It will be the applicant's responsibility to ensure that all of this is surveyed and the appropriate easements are in place.

Staff also informed the applicant that there are numerous storm drains/lines within this area and it will be VMRC's responsibility to maintain this infrastructure. Placing an easement over storm lines and drains is acceptable; however, they should simply be called "Private Drainage Easements." The Fire Department requires a minimum 20-foot wide fire lane with adequate turning radii for apparatus be maintained for access to all structures and maintained through all of these streets.

If approved, the streets would transfer in "as is" condition, as Public Works currently has no maintenance planned for the streets. As well, the applicant has been made aware that the impervious area that will transfer with the change of ownership will be included in its stormwater utility fee calculation, thus they can expect a fee increase.

As noted above the applicant is requesting a SUP to allow for a multi-family dwelling with up to 12 units. The applicant desires to demolish an existing four-unit multi-family apartment building located at 1610 – 1616 Park Road and reconstruct a new six-unit building in its place.

In August 2007, the Zoning Ordinance was amended to create the R-3, Medium Density Residential District (Article J.2), which removed multi-family buildings as a use permitted by right and allowed them only by SUP. The R-3, Multiple Dwelling Residential District remained, but was amended to apply only "to multi-family buildings constructed by or with Comprehensive Site Plans approved before August 14, 2010." It also noted that "[e]ffective this date, all other construction must comply with Article J.2." The multi-family building at 1610 – 1616 Park Road was constructed prior to the effective date; however, the applicant desires to increase the number of units from four to six within the proposed new building and therefore, a SUP is required.

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

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

2. the applicant has demonstrated that adequate vehicular, transit, pedestrian and bicycle facilities currently serve the site, are planned to serve the site according to a city or state plan, will be provided by the applicant at time of development, or are not needed because of the circumstances of the proposal;
3. the applicant has demonstrated that the proposed multiple-family development's design is compatible with adjacent existing and planned single-family, duplex and townhouse development;
4. the applicant has shown that the site is environmentally suitable for multiple-family development.

The applicant has addressed each condition within their attached letter; and has provided an elevation of the proposed building. Park Village is an existing multi-family dwelling neighborhood within the VMRC Master Plan and staff believes they meet the criteria of each of the listed conditions. Approval of this SUP would allow for the redevelopment of the aforementioned unit only; any future redevelopment of existing buildings would require the applicant to go through the SUP process again.

As indicated above, the street closing request is associated to the SUP due to setback and parking requirements. The Zoning Ordinance requires that structures meet a 30-foot setback from all public streets; therefore, if Villa Drive were to remain open as public right-of-way, the new building constructed at 1610 – 1616 Park Road would need to be setback 30-feet from Villa Drive and Park Road. Currently, the structure is only 27.9 feet from Villa Drive and redevelopment of the site may place the building even closer to Villa Drive. Additionally, new parking spaces will be required for the new building and several garages are planned; however the needed total is not met.

The closure of the interior streets, such as Villa Drive, would allow for VMRC to utilize parking along the streets to meet parking requirements and still maintain the needed access for emergency vehicles. If the streets are closed and the property is added to the VMRC campus, there is no longer the need for a 30-foot setback from Villa Drive; only a 10-foot side setback from property lines would be required. This SUP request would facilitate the redevelopment of the one building only. VMRC will soon propose amending their overall master plan to allow for additional setback and parking relief in the Park Village neighborhood as they move through re-envisioning and redeveloping this area of their campus.

Because the street closings and the SUP are intertwined, staff recommends that a condition be placed upon the SUP requiring the street closures to be recorded and the additional acreage added to the VMRC campus as necessary, before approval of a building permit for the multi-family building at 1610-1616 Park Road.

**Environmental Impact:**

N/A

**Fiscal Impact:**

N/A

**Prior Actions:**

N/A

**Alternatives:**

Denial of the requests would require VMRC to re-evaluate their vision for the Park Village neighborhood in order to update and redevelop the site.

**Community Engagement:**

The property was posted with signage advertising the street closing request.

As required, the SUP 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:

***Special Use Permit – Virginia Mennonite Retirement Community Master Plan Amendment (Park Village) (Multiple-Family Dwellings up to 12 units per building)***

Public hearing to consider a request from Virginia Mennonite Retirement Community, Inc. for a special use permit per Section 10-3-48.4 (6) of the Zoning Ordinance to allow multiple-family dwellings of up to 12 units per building under the conditions set forth under 10-3-48.6 (e). The 13.35 +/- acre portion of the Virginia Mennonite Retirement Community master planned complex known as Park Village includes properties to be rezoned in a separate request to R-3, Medium Density Residential District with the I-1, Institutional Overlay and are identified as tax map parcels 52-D-4, 6-10. Properties within this section of VMRC are addressed as 1530, 1532, 1534, 1536, 1538, 1540, 1542, 1550, 1552, 1554, 1556, 1572, 1574, 1576, 1590, 1592, 1594, 1596, 1610, 1612, 1614, and 1616 Park Road; 1605, 1609, 1606, 1607, 1608, 1610, 1615, 1617, and 1619 Spruce Court; 1571, 1573, 1575, 1577, 1584, 1585, 1586, 1587, 1589, 1588, 1589, 1590, and 1591 Pine Court; and 1504, 1508, 1525, 1516, 1520, 1524, 1528, 1532, 1536, 1540, 1544, 1548, 1552, 1556, 1560, 1564, 1568, 1572, 1578, 1582, and 1586 Hawthorne Circle; and 1238, 1240, 1241, 1244, 1245, 1248, 1249, 1252, 1256, 1260, 1264, 1268, 1272, 1276, 1280, 1284, 1288, and 1292 Shank Drive.

In addition, adjoining property owners were notified of the special use permit public hearing; the property was posted with signage advertising the request; and a notice was provided on the City's website at <https://www.harrisonburgva.gov/public-hearings>.

**Recommendation:**

Staff recommends approval of the street closures of Villa Drive, Pine Court, Spruce Court, Hawthorne Circle, and Shank Drive (east of Park Road), provided that easements are reserved for:

- a. Public Sanitary Sewer and Water infrastructure
- b. Public Utility Easements for primary electric facilities and street lighting circuits (coordinated with HEC)
- c. Public Utility Easements as necessary for other utilities (cable, gas, etc.)

Staff recommends approval of the special use permit per Section 10-3-48.4 (6) of the Zoning Ordinance to allow multiple-family dwellings of up to 12 units per building with the following condition:

The requested street closing of Villa Drive, Pine Court, Spruce Court, Hawthorne Circle, and Shank Drive (east of Park Road) be recorded and the additional acreage added to the VMRC campus as necessary, before approval of a building permit for the multi-family building at 1610-1616 Park Road.

**Attachments:**

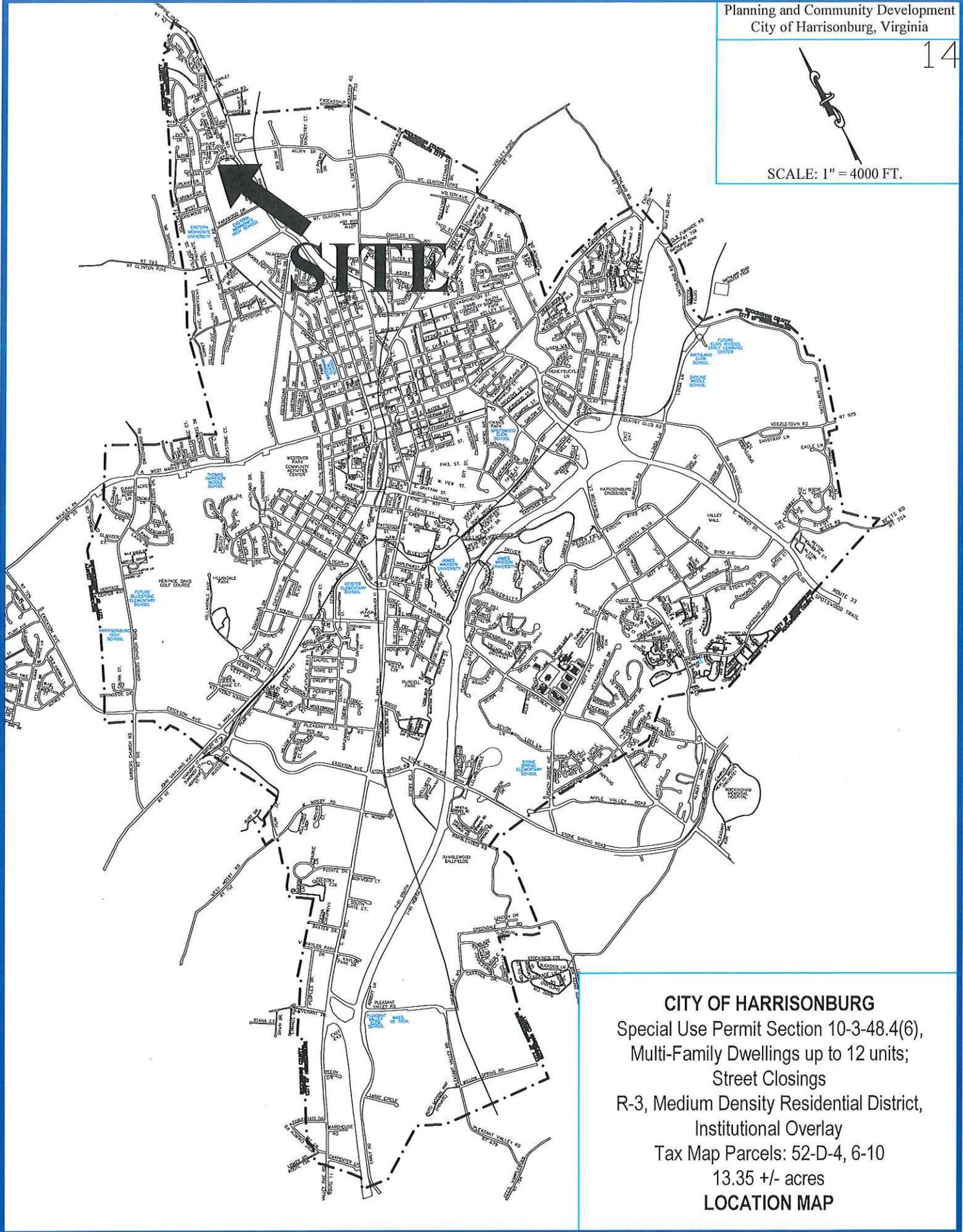
1. Site maps (2 pages)
2. Applications, applicant letters, and supporting documents (10 pages)
3. Proposed site development layout (2 pages)

**Review:**

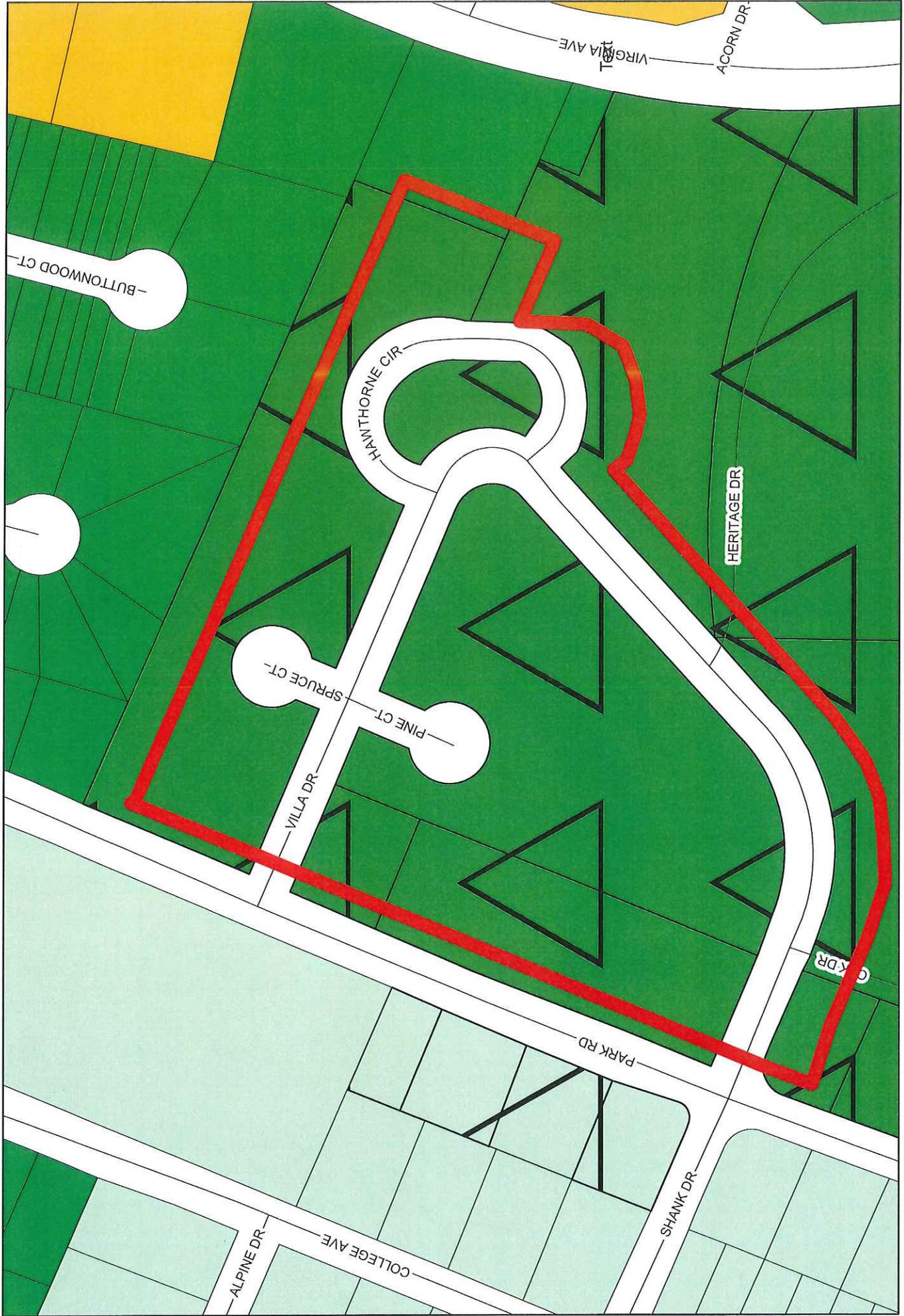
N/A



SCALE: 1" = 4000 FT.



**CITY OF HARRISONBURG**  
Special Use Permit Section 10-3-48.4(6),  
Multi-Family Dwellings up to 12 units;  
Street Closings  
R-3, Medium Density Residential District,  
Institutional Overlay  
Tax Map Parcels: 52-D-4, 6-10  
13.35 +/- acres  
**LOCATION MAP**



# VMRC Street Closing Request and Special Use Permit 10-3-48.4(6) Multi-Family Dwellings

Date application received: 10/11/16

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

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

Applicant's Name: VIRGINIA MENNONITE RETIREMENT COMMUNITY (VMRC)

Street Address: 1501 Virginia Avenue E-mail: \_\_\_\_\_

City: Harrisonburg State: Virginia Zip: 22802

Telephone: Work 540-564-3412 Fax 540-564-3700 Mobile \_\_\_\_\_

Representative (if any): Scott Kleist, MCSE, Vice President of Technology & Facilities

Street Address: 1501 Virginia Avenue E-mail: skleist@vmrc.org

City: Harrisonburg State: Virginia Zip: 22802

Telephone: Work 540-564-3412 Fax 540-564-3700 Mobile \_\_\_\_\_

**Description of Request**

Location Villa Dr., Pine Ct., Spruce Ct., Hawthorne Circle, and Shank Dr. (East of Park Rd.)

Square footage of area to be closed: 124,697.73 sf (-49,422.32 sf water main easement)

Cost per square foot: \$ 0 Total cost: \$ 0

Please provide a detailed description of the proposed closure (  additional pages attached):  
VMRC is in the process of updating their Master Plan, and would like to request closure and integration of the above mentioned city street right-of-ways into the Park Village section of their grater campus.

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

North: See attached Sheet for all adjacent property owners

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

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

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

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

Signature:  Applicant

Date: 10/11/16

**ITEMS REQUIRED FOR SUBMISSION**

- Completed application
- Letter described proposed use
- Adjacent property owners
- Survey & metes and bounds description (prepared by a surveyor, engineer, or other person duly authorized by the State)
- Value per square foot of cost to purchase
- Fees paid
- Other \_\_\_\_\_

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

# Virginia Mennonite Retirement Community

## Adjacent Property Owners

### To The North-

VINE PROPERTY LLC  
1620 PARK RD  
HARRISONBURG VA  
22802

ARIEL H FIX  
1631 S BURKWOOD CT UNIT B  
HARRISONBURG VA  
22802

ELK-AYR FARM INC  
1620 S BURKWOOD CT  
HARRISONBURG VA  
22802

METZLER INTERIORS INC  
1625 BUTTONWOOD CT  
HARRISONBURG VA  
22802

METZLER INTERIORS INC  
1624 BUTTONWOOD CT  
HARRISONBURG VA  
22802

PLEASANT VIEW INC  
1631 VIRGINIA AVE  
HARRISONBURG VA  
22802

### To The East-

JAMES & NANCY ELIZABETH FOX  
1621 VIRGINIA AVE  
HARRISONBURG VA  
22802

PUBLIC FACILITIES  
1561 VIRGINIA AVE  
HARRISONBURG VA  
22802

### To The South-

EASTERN MENNONITE UNIVERSITY  
1200 PARK RD  
HARRISONBURG VA  
22802



Virginia Mennonite  
Retirement Community

1501 Virginia Avenue  
Harrisonburg, VA 22802  
(540) 564-3400  
toll free (888) 564-8672

October 11, 2016

Kurt Hodgen  
City Manager  
409 South Main Street  
Harrisonburg, VA 22801

RE: Request for Street or Alley Closing

Mr. Hodgen,

Virginia Mennonite Retirement Community (VMRC) requests to close / vacate the existing right-of-ways for the public streets currently located within the Park Village portion of their campus. This request includes the closure of Villa Drive, Pine Court, Spruce Court, Hawthorn Circle, and Shank Drive (east of Park Road).

The attached Application for Street or Alley Closing is being submitted in association with a Proposed Master Plan Amendment to the VMRC campus, with the purpose of updating and redeveloping a portion of the Park Village section.

As described in the Master Plan narrative, VMRC is recasting its vision for the Park Village neighborhood, and intends to update or redevelop their current residential structures to be able to provide the amenities desired by current and future retirees. Integrating the current streets into their campus will allow VMRC to have the option in the future of reconfiguring the Park Village section, and to provide safe walkable facilities for their residents by modifying the use of the existing streets.

VMRC understands that the proposed closure of the above mentioned streets will also require utility easements to be reserved by the City for the existing public utilities currently located within the existing right-of-ways.

Thank you very much for your consideration. We will be happy to answer any questions you may have regarding our request.

Sincerely,

  
Scott Kleist, MCSE  
Vice President of Technology & Facilities  
VMRC

Internal Revenue Service

Department of the Treasury

Washington, DC 20224

26 DEC RECD

Virginia Mennonite Retirement  
Community, Inc.  
1301 Edom Road  
Harrisonburg, VA 22801

Person to Contact:  
Mr. C. Barrett  
Telephone Number:  
(202)566-4754  
Refer Reply to:  
E:EO:T:R:2-4  
Date: DEC 17 1980

Employer Identification Number: Applied For  
Key District: Baltimore  
Accounting Period Ends: March 31  
Foundation Status Classification: 509(a)(2)  
Advance Ruling Period Ends: March 31, 1983

Dear Applicant:

Based on information supplied, and assuming your operations will be as stated in your application for recognition of exemption, we have determined you are exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code.

Because you are a newly created organization, we are not now making a final determination of your foundation status under section 509(a) of the Code. However, we have determined that you can reasonably be expected to be a publicly supported organization described in section 509(a)(2).

Accordingly, you will be treated as a publicly supported organization, and not as a private foundation, during an advance ruling period. This advance ruling period begins on the date of your inception and ends on the date shown above.

Within 90 days after the end of your advance ruling period, you must submit to your key District Director information needed to determine whether you have met the requirements of the applicable support test during the advance ruling period. If you establish that you have been a publicly supported organization, you will be classified as a section 509(a)(1) or 509(a)(2) organization as long as you continue to meet the requirements of the applicable support test. If you do not meet the public support requirements during the advance ruling period, you will be classified as a private foundation for future periods. Also, if you are classified as a private foundation, you will be treated as a private foundation from the date of your inception for purposes of sections 507(d) and 4940.

Grantors and donors may rely on the determination that you are not a private foundation until 90 days after the end of your advance ruling period. If you submit the required information within the 90 days, grantors and donors may continue to rely on the advance determination until the Service makes a final determination of your foundation status. However, if notice that you

Virginia Mennonite Retirement Community, Inc.

will no longer be treated as a section 509(a)(2) organization is published in the Internal Revenue Bulletin, grantors and donors may not rely on this determination after the date of such publication. Also, a grantor or donor may not rely on this determination if he or she was in part responsible for, or was aware of, the act or failure to act that resulted in your loss of section 509(a)(2) status, or acquired knowledge that the Internal Revenue Service had given notice that you would be removed from classification as a section 509(a)(2) organization.

If your sources of support, or your purposes, character, or method of operation change, please let your key District Director know so that office can consider the effect on the change on your exempt status. Also, you should inform your key District Director of all changes in your name or address.

Generally, you are not liable for social security (FICA) taxes unless you file a waiver of exemption certificate as provided in the Federal Insurance Contributions Act. If you have paid FICA taxes without filing the waiver, you should contact your key District Director. You are not liable for the tax imposed under the Federal Unemployment Tax Act (FUTA).

Organizations that are not private foundations are not subject to the excise taxes under Chapter 42 of the Code. However, you are not automatically exempt from other federal excise taxes. If you have questions about excise employment, or other federal taxes, contact any Internal Revenue Service office.

Donors may deduct contributions to you as provided in section 170 of the Code. Bequests, legacies, devises, transfers, or gifts to you or for your use are deductible for federal estate and gift tax purposes if they meet the applicable provisions of sections 2055, 2106, and 2522 of the Code.

You are required to file Form 990, Return of Organization Exempt from Income Tax, only if your gross receipts each year are normally more than \$10,000. If a return is required, it must be filed by the 15th day of the fifth month after the end of your annual accounting period. The law imposes a penalty of \$10 a day, up to a maximum of \$5,000, when a return is filed late, unless there is reasonable cause for the delay.

You are not required to file federal income tax returns unless you are subject to the tax on unrelated business income under section 511 of the Code. If you are subject to this tax, you must file an income tax return on Form 990-T. In this letter, we are not determining whether any of your present or proposed activities are unrelated trade or business as defined in section 513 of the Code.

Virginia Mennonite Retirement Community, Inc.

You need an employer identification number even if you have no employees. If an employer identification number was not entered on your application, a number will be assigned to you and you will be advised of it. Please use that number on all returns you file and in all correspondence with the Internal Revenue Service.

We are informing your key District Director of this action. Because this letter could help resolve any questions about your exempt status and foundation status, you should keep it in your permanent records.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

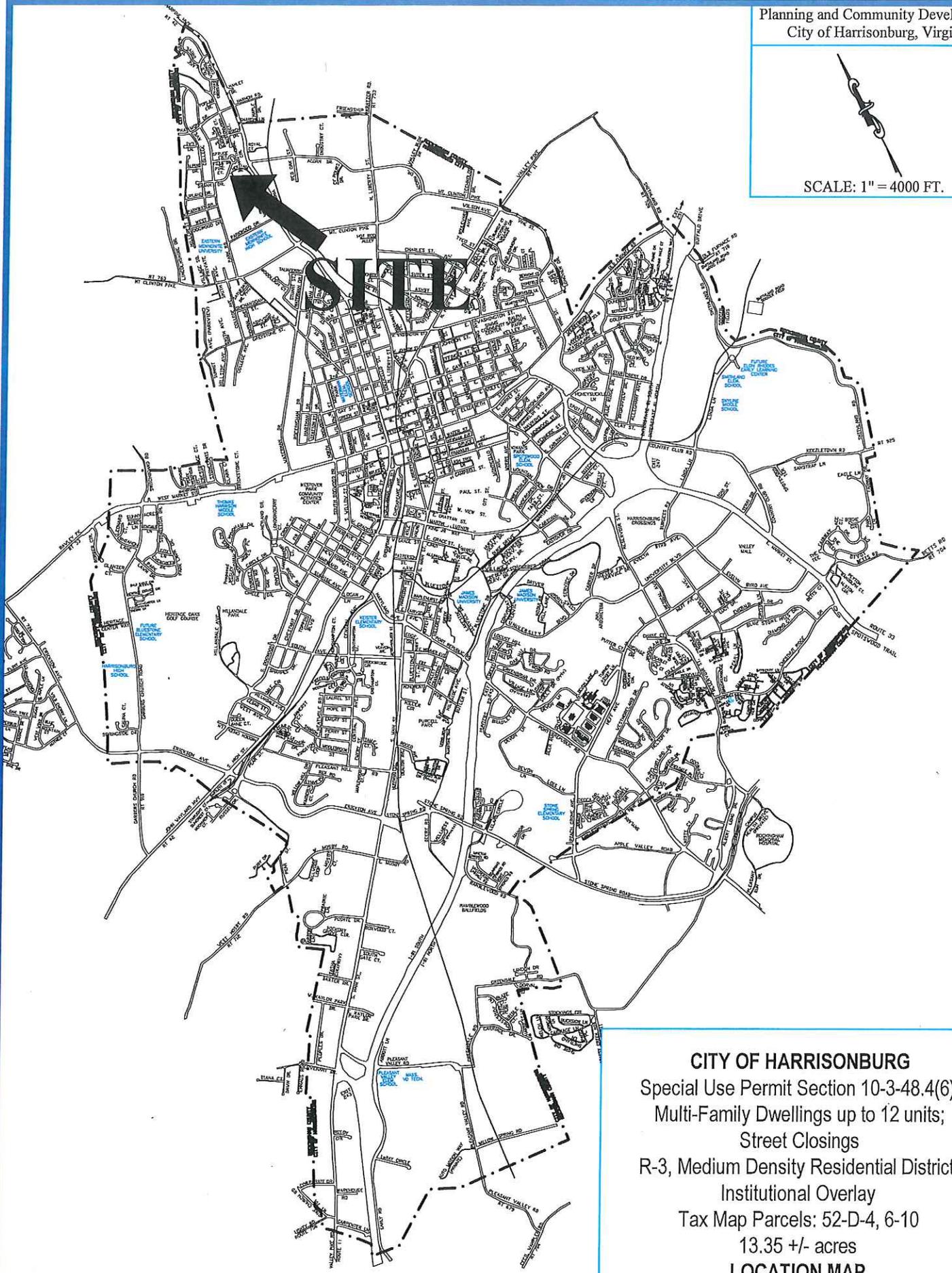
Sincerely yours,

*Peter K. Bros*

Peter K. Bros  
Chief, Rulings Section 2  
Exempt Organizations  
Technical Branch



SCALE: 1" = 4000 FT.



**CITY OF HARRISONBURG**  
Special Use Permit Section 10-3-48.4(6),  
Multi-Family Dwellings up to 12 units;  
Street Closings  
R-3, Medium Density Residential District,  
Institutional Overlay  
Tax Map Parcels: 52-D-4, 6-10  
13.35 +/- acres  
**LOCATION MAP**

Date Application Received: \_\_\_\_\_

Total Paid: \_\_\_\_\_

## Application for Special Use Permit City of Harrisonburg, Virginia

Fee: \$375.00 plus \$30.00 per acre

**NOTE: If applying for a Wireless Telecommunications Facility allowed only by SUP, then also submit a wireless telecommunications facility application.**

Property Owner's Name: Virginia Mennonite Retirement Community

Street Address: 1501 Virginia Avenue Email: \_\_\_\_\_

City: Harrisonburg State: Virginia Zip: 22802

Telephone: Work 540-564-3412 Fax 540-564-3700 Mobile \_\_\_\_\_

Owner's Representative: Scott Kleist, MCSE, Vice President of Technology & Facilities

Street Address: 1501 Virginia Avenue Email: skleist@vmrc.org

City: Harrisonburg State: Virginia Zip: 22802

Telephone: Work 540-564-3412 Fax 540-564-3700 Mobile \_\_\_\_\_

### Description of Property and Request

Location (Street Address): 1501 Virginia Avenue

Tax Map Number Sheet: 52 Block: D Lot: 9 Lot Area: 6.507

Existing Zoning Classification: R-3

Special Use being requested: To upgrade / replace existing quadplex on the corner of Park Rd. and Village Dr. with a Sixplex. Increasing the number of units from four (4) to six (6).

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

See attached description letter and exhibits

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

North: All on a separate sheet

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

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

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

**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

# Virginia Mennonite Retirement Community (VMRC) Request for Special Use Permit (SUP)

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November 2, 2016

VMRC is recasting its vision for the Park Village neighborhood, and intends to update or redevelop their current residential structures to be able to provide the amenities desired by current and future retirees. Part of these renovations may include increasing the number of dwelling units for some of the multi-family dwelling structures—changing in some cases from quad- to six-plexes, and six- to eight-plexes, etc.

VMRC is requesting a Special Use Permit to increase the number of residential units per building for the existing quad-plex located on the corner of Park Road and Village Drive, in lot 52-D-9. The proposed new multiple-family building will have six (6) residential units.

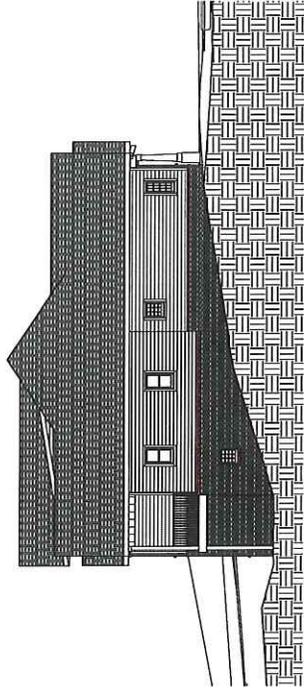
The Special Use Permit conditions are addressed below:

1. The proposed multi-family building type is consistent with existing multi-family structures within Park Village and the greater VMRC campus, as well as with the adjacent neighborhood.
2. The site has an existing street, sidewalk, and parking network currently serving the development and providing connectivity with the adjacent neighborhood and with the VMRC campus. VMRC has also requested the right-of-way closing of the current internal streets to integrate them into their larger vision for a more walkable and connected campus.
3. VMRC intends for the planned multi-family unit to maintain the character of and be compatible with the existing development within the Park Village and adjacent neighborhoods by applying residential architectural styles, appropriate site planning, and landscaping. See attached.
4. The site is environmentally suitable for multi-family development, as it is the current use. It is occupied by multi-family structures with adequate access to roads, sidewalks, and parking areas.

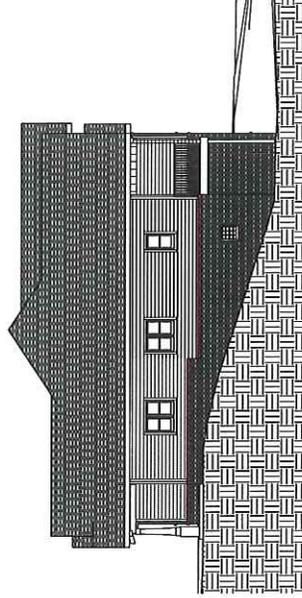


PROJ. NO. \_\_\_\_\_  
Project Number \_\_\_\_\_

Mark	Date	Description



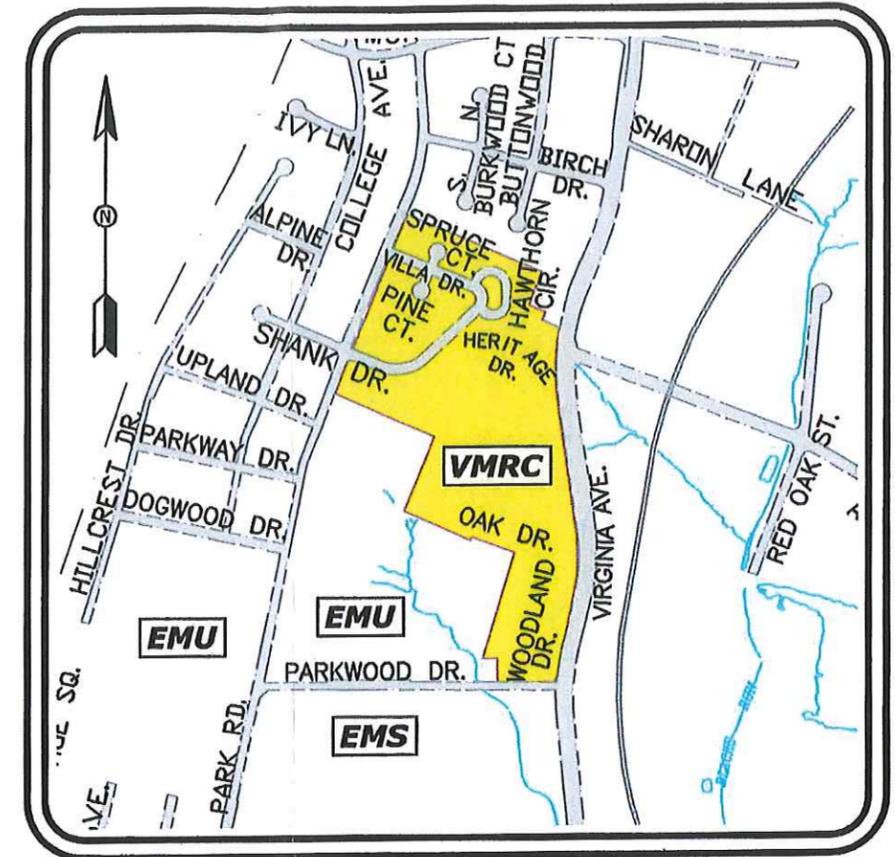
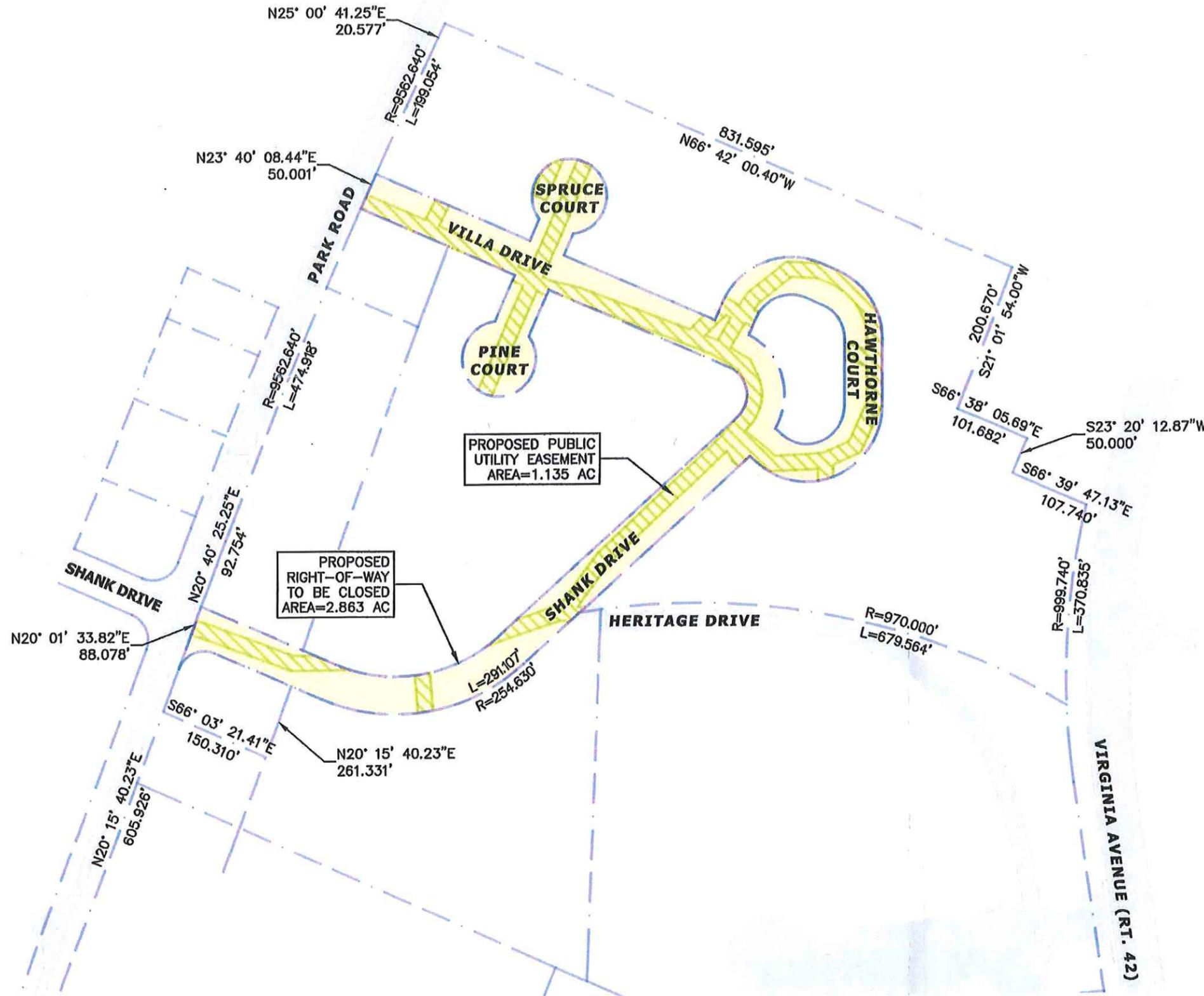
② WEST ELEVATION  
1/8" = 1'-0"



① EAST ELEVATION  
1/8" = 1'-0"

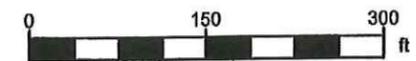
ALL DESIGN, DRAWINGS AND DATA ON THIS SET OF DRAWINGS ARE THE INTELLECTUAL PROPERTY OF BLUE RIDGE ARCHITECTS, PC AND HAVE BEEN CREATED AND DEVELOPED FOR THE SPECIFIC PROJECT. USE OF ALL DRAWINGS AND DATA ON THIS SET OF DRAWINGS IS LIMITED TO THE PROJECT AND SITE SPECIFIC CONDITIONS. ANY REUSE OF ANY PART OF THIS SET OF DRAWINGS FOR ANY OTHER PROJECT WITHOUT THE WRITTEN CONSENT OF BLUE RIDGE ARCHITECTS, PC IS STRICTLY PROHIBITED. THE CLIENT AGREES TO HOLD BLUE RIDGE ARCHITECTS, PC HARMLESS FROM THE DIMENSIONS AND CONDITIONS SHOWN IN THIS SET OF DRAWINGS IF SUCH REUSE OCCURS WITHOUT THE WRITTEN CONSENT OF BLUE RIDGE ARCHITECTS, PC. © 2018 BLUE RIDGE ARCHITECTS, PC. ALL RIGHTS RESERVED.

# Virginia Mennonite Retirement Community (VMRC) - Street Right-Of-Way Closing



**VICINITY MAP**  
1" = 1000'

RIGHT-OF-WAY CLOSING INCLUDES STREETS:  
 VILLA DRIVE, SPRUCE COURT, PINE COURT,  
 HAWTHORNE COURT, & SHANK DRIVE EAST  
 OF PARK ROAD



SCALE: 1"=150'

# MASTER PLAN AMENDMENT



## Virginia Mennonite Retirement Community (VMRC)

### PROPERTY INFORMATION:

VIRGINIA MENNONITE RETIREMENT COMMUNITY (VMRC)  
1501 VIRGINIA AVENUE  
HARRISONBURG, VA 22802

LOT TAX MAP: 52-A-1, 52-D-1, 3, 4, 6 THRU 10 AND 13,  
52-G-6 THRU 9.

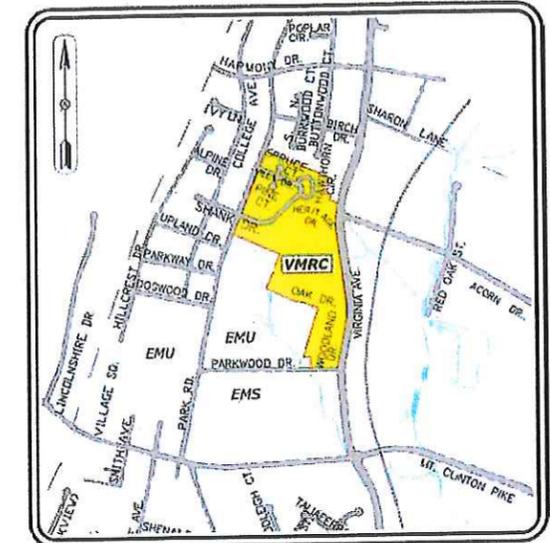
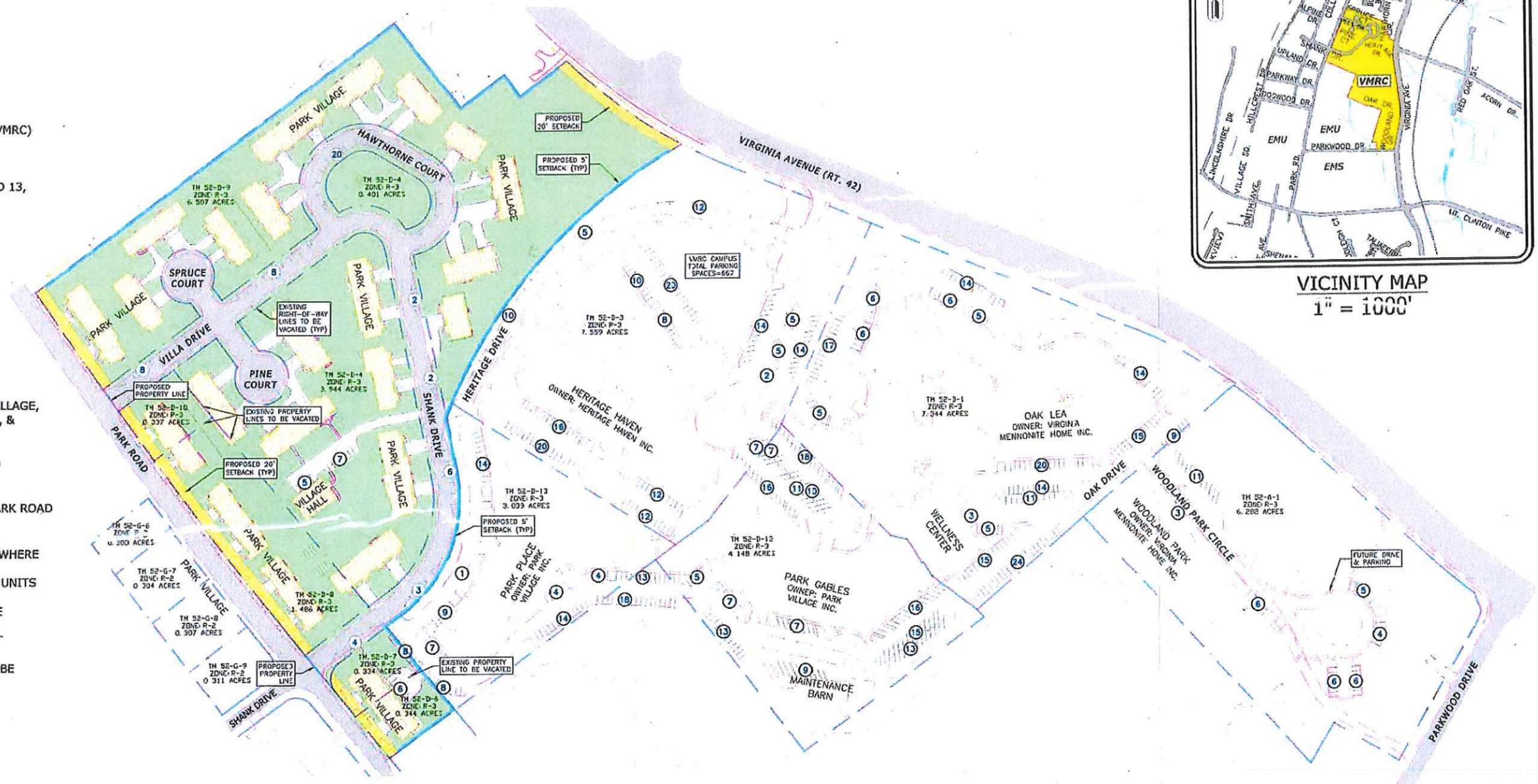
PARK VILLAGE INC.: 21.762 ACRES  
HERITAGE HAVEN, INC.: 7.559 ACRES  
VIRGINIA MENNONITE HOME, INC.: 13.626 ACRES

TOTAL AREA = 42.947 ACRES

### PROPOSED AMENDMENTS:

THESE PROPOSED AMENDMENTS APPLY TO PARK VILLAGE, INC. LOTS 52-D-4, 52-D-6, 52-D-7, 52-D-8, 52-D-9, & 52-D-10  
ZONE: R-3 (13.353 ACRES)  
PROPOSED RIGHT-OF-WAY CLOSING (2.863 ACRES)  
PROPOSED TOTAL AREA = 16.216 ACRES

- TWENTY FEET (20') FRONT SETBACKS ALONG PARK ROAD AND VIRGINIA AVENUE
- FIVE FEET (5') SIDE, AND REAR SETBACKS ELSEWHERE
- INCREASE DENSITY ON RESIDENTIAL BUILDING UNITS FROM 6 TO 7 UNITS/ACRE, AND INCLUDE UP TO TWELVEPLEXES AS AN ALLOWED BUILDING TYPE
- ONE (1) PARKING SPACE PER RESIDENTIAL UNIT
- ALLOW DRIVEWAY SPACE BEHIND GARAGES TO BE COUNTED AS PARKING SPACES

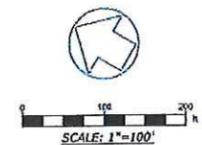


VICINITY MAP  
1" = 1000'

PARK VILLAGE CURRENT PARKING NEEDS					
DWELLING UNITS	NUMBER OF UNITS	NUMBER OF PARKING SPACES NEEDED	VILLAGE INKL		TOTAL EXISTING NUMBER OF PARKING SPACES
			AREA (SP)	RATE (SPACES PER 1,000 SP)	
1 BEDROOM	6	6	3,467	1	172
2 BEDROOM	74	90		1	
PARKING SPACES REQUIRED =			PARKING SPACES REQUIRED =	14	
			TOTAL NUMBER OF PARKING SPACES NEEDED		110

PARK VILLAGE PROPOSED PARKING	
TYPE OF PARKING	NUMBER OF PARKING SPACES PROVIDED
GARAGE	75
DRIVEWAY	79
PARKING LOT	18
PROPOSED PRIVATE STREET	53
TOTAL PARKING SPACES =	225

DWELLING UNIT DENSITY					
EXISTING NUMBER OF DWELLING UNITS	CURRENT LOT AREA (ACRES)	CURRENT UNIT DENSITY (UNITS/ACRE)	PROPOSED UNIT DENSITY (UNITS/ACRE)	PROPOSED LOT AREA (ACRES)	ALLOWABLE NUMBER OF DWELLING UNITS
80	13.353	6.00	7.00	16.216	314





# City of Harrisonburg, Virginia

Department of Planning & Community Development  
409 South Main Street  
Harrisonburg, Virginia 22801  
[www.harrisonburgva.gov/community-development](http://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: November 9, 2016 (Regular Meeting)  
Re: Rezoning - Property located at northwestern corner of intersection of Wine Drive and Little Sorrell Drive (R-3C Proffer Amendment)

## **Summary:**

Public hearing to consider a request from Robert Cook with representative Dick Blackwell to rezone a 0.85 +/- acre parcel zoned R-3C, Multiple Dwelling Residential District Conditional to R-3, Medium Density Residential District Conditional with amendments to existing proffers that were approved when the property was rezoned in 2007. The property is located on the northwestern corner of the intersection of Wine Drive and Little Sorrell Drive and is identified by tax map parcel 88-H-8.

## **Background:**

The Comprehensive Plan designates this area as Professional. This designation states that these areas are for professional service oriented uses with consideration to the character of the area. These uses are found in the residential areas along major thoroughfares and adjacent to the Central Business District. Conversion of houses in these areas to office and professional service uses is permitted with appropriate attention to maintaining compatibility with adjacent residential areas and land uses.

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

- Site: Undeveloped parcel, zoned R-3C
- North: Harrisonburg Community Health Center property zoned B-2C; a single-family dwelling, and undeveloped parcels zoned R-1
- East: Harrisonburg Community Health Center property zoned B-2C
- South: Undeveloped parcels zoned R-3C and R-1
- West: Undeveloped and developed single-family parcels zoned, R-1

## **Key Issues:**

The applicant is requesting to rezone a 0.85 +/- acre parcel zoned R-3C, Multiple Dwelling Residential District Conditional to R-3, Medium Density Residential District Conditional with amendments to existing proffers that were approved when the property was rezoned in 2007. If approved, at this time, the property owner's plan is to construct a doctor's office.

Before getting into the details of the proposed request, some history of this property should be known. Prior to 2007, this parcel was part of a larger 16.51-acre tract known as Ashby Meadows. In May 2007, City Council approved to rezone a 6.96 +/- acre area closest to Port Republic Road (which includes the subject property identified as tax map number 88-H-8) from R-1, Single-Family Residential District to R-3C, Multiple Dwelling Residential District Conditional. Three subdivisions took place in 2008, which divided the original 16.51-acre tract into 29 parcels for single-family dwellings and the remaining 6.96 +/- acres into four parcels zoned R-3C. In 2010, the parcel identified as tax map number 88-G-7 was rezoned from R-3C to B-2C; this is where the Harrisonburg Community Health Center is located today. The three remaining parcels are undeveloped and remain zoned R-3C, Multiple Dwelling Residential District Conditional.

It should also be understood that in August 2007, City Council amended the Zoning Ordinance and created Article J.2 – R-3, Medium Density Residential District (City Code Sections 10-3-48.1 through 10-3-48.6). The existing Article J – R-3, Multiple Dwelling Residential District (City Code Sections 10-3-43 through 10-3-48) remained, and is now often referred to as “old R-3,” but was amended to apply only “to multifamily buildings constructed by or with Comprehensive Site Plans approved before August 14, 2010.” It also noted that “[e]ffective this date, all other construction must comply with Article J.2.” There are only two ways in which “old R-3” is recognized; the first is if multi-family units meet the 2010 parameters as noted, and the second is if an R-3 property was conditionally zoned prior to the 2010 date – such as the case herein. Properties cannot rezone to the “old R-3.” By default, properties become recognized as “new R-3,” which is officially the R-3, Medium Density Residential District, which does have different regulations than “old R-3.” However, this has little impact to this property since both the original and proposed proffers limit uses to only medical and professional offices.

The approved and existing proffers (from the May 2007 rezoning), which currently apply to parcels identified as 88-H-8, 88-I-7, and 88-I-8 include the following (written verbatim):

1. All buildings would be used only for medical offices and professional offices.
2. Screening between residential R-1 and proposed medical or professional office R-3.
  - a. Screening on east and west side as shown on preliminary site plan would be evergreen such as Leyland Cypress or equal.
  - b. Screening in middle section between R-1 and proposed R-3 would be 6’ vinyl fence similar to attached picture (included in the packet).
3. All buildings would be one story, all brick and of colonial design similar to attached pictures. Design would have to be approved by Architectural Control Committee.
4. Islands would be landscaped by Developer and maintained by adjoining property owner. This will be a deed requirement.

The current proffers limit uses to medical and professional offices, as well as, limits buildings to one story. The applicant indicates in a letter (included with the rezoning application) that “[t]he reason for the rezoning request is to be able to have a second floor to minimize the footprint and maximize land use.” The applicant desires to amend proffer #3 to allow no more than two stories. Proffer #3 is further amended to allow buildings to be “substantially of brick material” since the gable ends for the second story are not planned to be constructed of brick material.

At staff’s recommendation, the applicant also made amendments to proffers #2 and #4 so that the proffers apply only to the subject parcel, which removes references to the other parcels included in the 2007 rezoning. The new, proposed proffer letter includes the following (written verbatim):

The subject lot containing 0.852 acres is presently zoned R-3C. I am requesting that the existing proffers be amended to the following:

1. All buildings would be used only for medical offices and professional offices.
2. Screening between properties zoned R-1 and the subject property will be a six-foot-tall vinyl fence, similar to the picture from 2007 rezoning.
3. All buildings would be no more than two story, substantially of brick material, and of colonial design similar to attached pictures. Design would have to be approved by Architectural Control Committee.
4. Islands would be landscaped by Developer and maintained by adjoining property owners. This is a deed requirement.

**Environmental Impact:**

N/A

**Fiscal Impact:**

N/A

**Prior Actions:**

N/A

**Alternatives:**

If the request is not approved, future buildings on this parcel would continue to be limited to one story.

**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:

*Rezoning – Property located at northwestern corner of intersection of Wine Drive and Little Sorrell Drive (R-3C Proffer Amendment)*

Public hearing to consider a request from Robert Cook with representative Dick Blackwell to rezone a 0.85 +/- acre parcel zoned R-3C, Multiple Dwelling Residential District Conditional to R-3, Medium Density Residential District Conditional with amendments to existing proffers that were approved when the property was rezoned in 2007. The Zoning Ordinance states that the R-3, Multiple Dwelling Residential District is intended for medium- to high-density residential development and other uses intended to respect the residential character, which are aesthetically compatible within the district by means of architectural expression, landscaping, and restrained traffic flow. The residential density ranges for R-3, Multiple Dwelling Residential District are single-family, 6,000 sq. ft. minimum; duplex, 4,000 sq. ft./unit; multi-family, 3,000 sq. ft. minimum per unit; townhouses, 2,000 sq. ft. minimum per unit; and other uses, 6,000 sq. ft. minimum. The R-3, Medium Density Residential District is intended for medium density residential development and other uses intended to respect the residential character, which are aesthetically compatible within the district by means of architectural expression, landscaping, and restrained traffic flow. The residential density ranges for R-3, Medium Density Residential District are single-family, 6,000 sq. ft. minimum; duplex, 4,000 sq. ft./unit; townhouses, 2,000 sq.

ft. minimum per unit; other uses, 6,000 sq. ft. minimum and by special use permit multi-family, 3,000 sq. ft. minimum per unit. The Comprehensive Plan designates this area as Professional. This designations states that these areas are for professional service oriented uses with consideration to the character of the area. These uses are found in the residential areas along major thoroughfares and adjacent to the Central Business District. Conversion of houses in these areas to office and professional service uses is permitted with appropriate attention to maintaining compatibility with adjacent residential areas and land uses. The property is located on the northwestern corner of the intersection of Wine Drive and Little Sorrell Drive and is identified by tax map parcel 88-H-8.

In addition, adjoining property owners were notified of the public hearing; the property was posted with signage advertising the request; and a notice was provided on the City's website at <https://www.harrisonburgva.gov/public-hearings>.

**Recommendation:**

Staff recommends approving the requested rezoning from R-3C, Multiple Dwelling Residential District Conditional to R-3C, Medium Density Residential District Conditional with amendments to existing proffers.

**Attachments:**

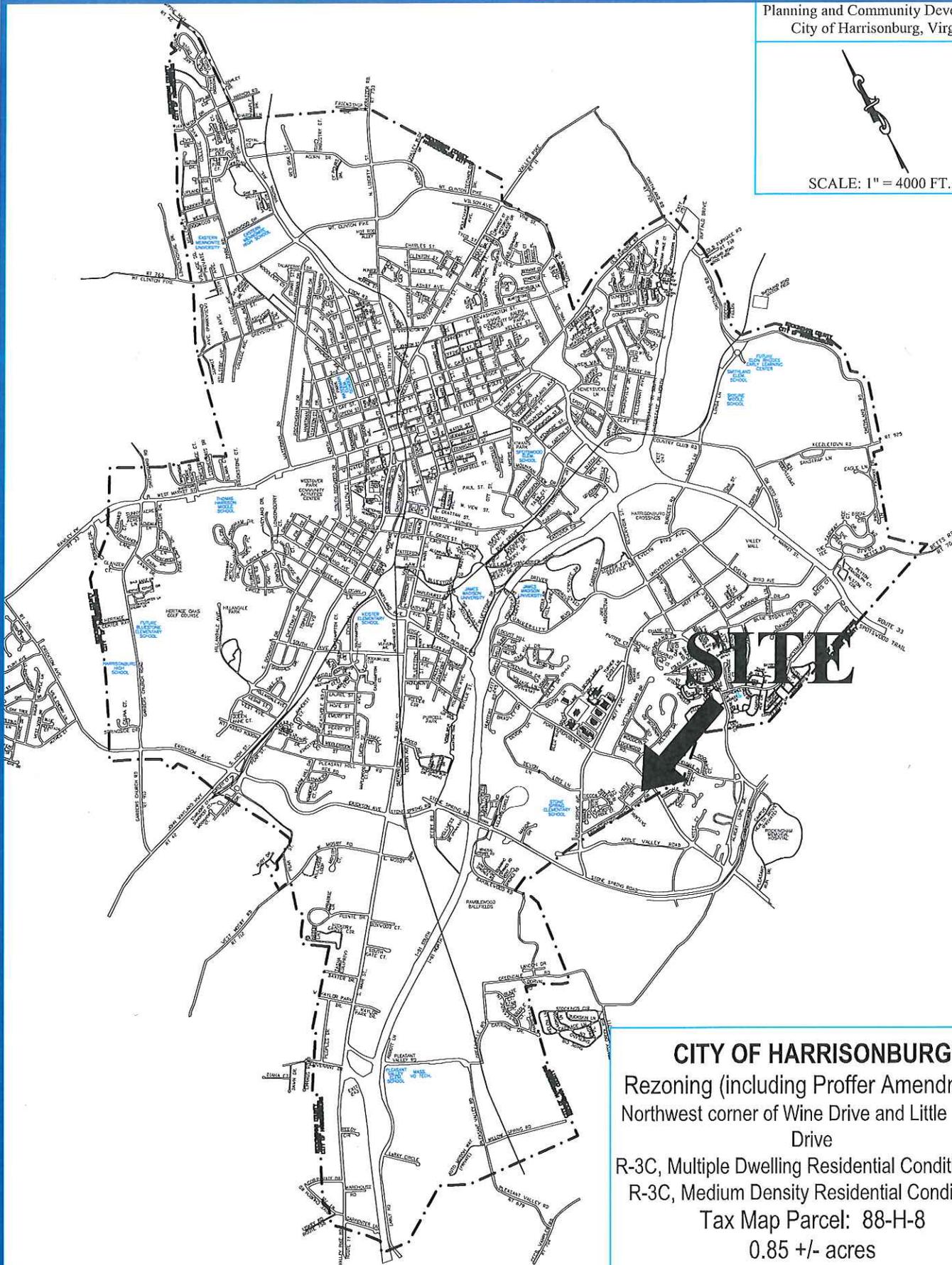
1. Site maps (2)
2. Application, applicant letter, and supporting documents (14)

**Review:**

N/A



SCALE: 1" = 4000 FT.



**CITY OF HARRISONBURG**

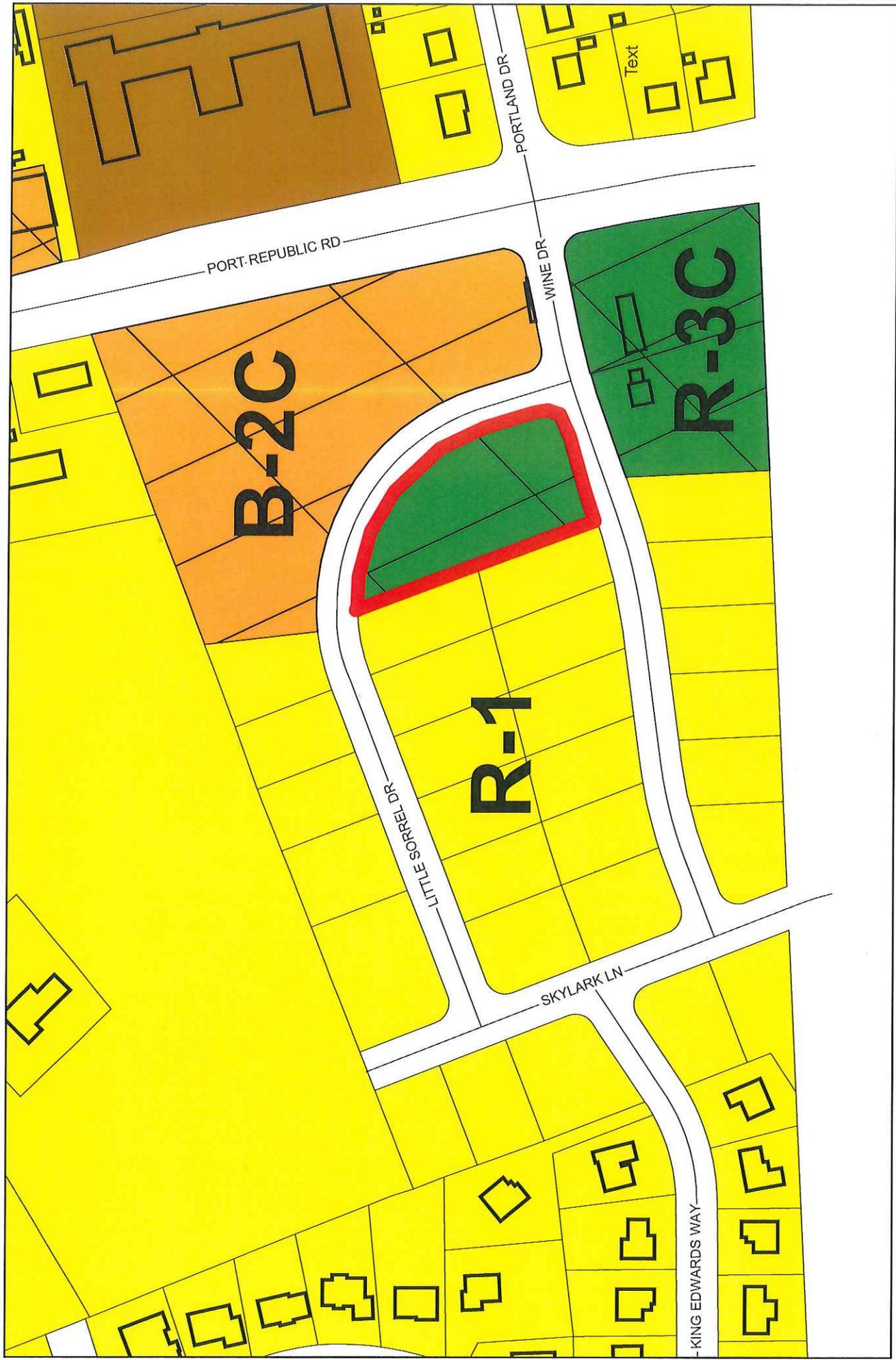
Rezoning (including Proffer Amendment)  
Northwest corner of Wine Drive and Little Sorrell Drive

R-3C, Multiple Dwelling Residential Conditional to  
R-3C, Medium Density Residential Conditional

Tax Map Parcel: 88-H-8

0.85 +/- acres

**LOCATION MAP**



# 1381 Little Sorrell Drive - Rezoning R-3C Proffer Amendment



Date Application Received: 10/13/16

Total Paid: \$405 10/17/16

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

7HD

Application Fee: \$375.00 plus \$30.00 per acre

### Section 1: Property Owner's Information

Name: Robert Cook  
Street Address: PO BOX 64 Email: cookvj@hotmail.com  
City/State/Zip: BRIDGEWATER VA 22812  
Telephone (work): 540-828-2871 (home or cellular): 540-830-2040 (fax): \_\_\_\_\_

### Section 2: Owner's Representative Information

Name: BLACKWELL ENGINEERING- DICK BLACKWELL  
Street Address: 566 EAST MARKET ST Email: dick@blackwellengineering.com  
City/State/Zip: HARRISONBURG VA 22801  
Telephone (work): 540-432-9555 (home or cellular): 540-820-2964 (fax): 540-434-7604

### Section 3: Description of Property 18' on Little Sorrell Drive

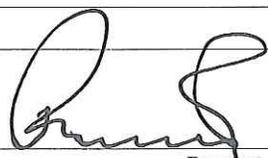
Location (street address): ~~1335 PORT REPUBLIC ROAD~~ HARRISONBURG VA 22801  
Tax Map Number: Sheet: 88 Block: H Lot: 8 Total Land Area (acres or square feet): .8522AC  
Existing Zoning District: R3C Proposed Zoning District \* : R3C with conditions see attached sheet  
Existing Comprehensive Plan Designation: \_\_\_\_\_

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

### Section 4: Names and Addresses of Adjacent Property Owners (Use separate sheet for additional names)

North: SEE ATTACHED SHEET  
East: \_\_\_\_\_  
South: \_\_\_\_\_  
West: \_\_\_\_\_

### Section 5: Certification

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

**PLEASE NOTE** – If a Traffic Impact Analysis is required, this application shall not be considered accepted until the TIA has been reviewed and TIA fees paid. More information at [www.harrisonburgva.gov/site-development](http://www.harrisonburgva.gov/site-development)

### ITEMS REQUIRED FOR SUBMISSION

- Completed Application
- Survey of Property
- Description of Proposed Use
- Adjacent Property Owners
- TIA Determination Form OR Accepted TIA Letter, signed by Public Works

- Fees Paid
- Source Deed
- Proffers (if applicable)
- \_\_\_\_\_

-END-

## Narrative for Tax Map 88-H-8

The proposed development on TM 88-H-8 would be a doctor's office with approximately three doctors with appropriate staff. The building would be constructed with mainly brick and some siding and is proposed to have approximately a total of 6,400 sf (see attached drawings).

Based on square footage (6,400 sf), twenty two (22) parking spaces would be required, however, from initial layouts it appears that up to thirty (30) spaces can be provided.

The reason for the rezoning request is to be able to have a second floor to minimize the footprint and maximize land use.

November 4, 2016

Ms. Thanh Dang  
City Planner  
City of Harrisonburg  
409 S Main St  
Harrisonburg, VA 22801

**RE: Rezone Tax Map 88-H-8**

Dear Ms. Dang:

The subject lot containing 0.852 acres is presently zoned R-3C. I am requesting that the existing proffers be amended to the following:

1. All buildings would be used only for medical offices and professional offices.
2. Screening between properties zoned R-1 and the subject property will be a six-foot-tall vinyl fence, similar to picture from 2007 rezoning.
3. All buildings would be no more than two story, substantially of brick material, and of colonial design similar to attached pictures. Design would have to be approved by Architectural Control Committee.
4. Islands would be landscaped by Developer and maintained by adjoining property owners. This is a deed requirement.

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

Sincerely,

Bobby Cook  
Property Owner

Adjacent Property Owners for 88-H-8 {Lot 1}

88-H-8	1335 Port Republic Road	R3C 3300/678	Mountain View Apartments LLC	PO Box 64	Bridgewater, VA 22812	0.8522
1 88-I-6,5,4;	1365 Wine Dr	R1 3251/631	Mountain View Apartments LLC	PO Box 64	Bridgewater, VA 22812	0.2986
2 88-I-3	1335 Wine Dr	R1 3251/631	Pat Harrold	1335 Wine Dr	Harrisonburg, VA 2280:	0.2334
3 88-I-1	1315 Wine Drive	R1 3251-631	Oleksandr Svitlana Ivanova	2280 Ramblewood Rd	Harrisonburg, VA 2280:	0.2556
4 88-H-14	1310 Wine Dr	R1 3251-631	Chasewind LLC	1473 Shipwreck Dr	New Market, VA 22844	0.2844
5 88-H-13	1320 Wine Dr	R1 3251-631	Bruce & Barbara Hoover	1320 Wine Dr	Harrisonburg, VA 2280:	0.2344
6 88-H-10	1350 Wine Dr	R1 3251-631	Leon Frances Armentrout	3031 S Main St	Harrisonburg, VA 2280:	0.2832
7 88-H-6	1361 Little Sorrel Dr	R1 3251-631	Khaleel Darwish & Beper Bafrei	76 Pleasant Hill Dr	Harrisonburg, VA 2280:	0.2911
8 88-H-5	1351 Little Sorrel Dr	R1 3251-631	Leon Frances Armentrout	3031 S Main St	Harrisonburg, VA 2280:	0.2823
9 88-H-3	1331 Little Sorrel Dr	R1 3251-631	Nasraadeen Aytia Khoshnaw	3329 Impression Ct.	Harrisonburg, VA 2280:	0.2487
10 88-H-2	1321 Little Sorrel Dr	R1 3251-631	Michael & Heather Merica	1321 Little Sorrel Dr	Harrisonburg, VA 2280:	0.2356
11 88-H-1	1311 Little Sorrel Dr	R1 3251/631	James & Tara Armentrout	4290 Lucy Long Dr.	Harrisonburg, VA 2280:	0.2852
12 88-G-1	1310 Little Sorrel Dr	R1 3282/738	JBD Properties LC	3909 Cavalry Lane	Penn Laird VA 22846	0.457
13 88-G-3	1330 Little Sorrel Dr	R1 3251/631	Mill Race Court Lc	3909 Cavalry Lane	Penn Laird VA 22846	0.2832
14 89-G-6	1360 Little Sorrel Dr	R1 3251/631	Sarwat Taban Barzanji	PO Box 802	Harrisonburg, VA 2280:	0.2652
15 88-G-7	1335 Port Republic Road	B2C 3300/678	Harrisonburg Community Health	PO Box 308	Harrisonburg, VA 2280:	3.1038
16 88-I-8	1335 Port Republic Road	R3C 3343/706	Rick Allen Stough	1934 Park Rd	Harrisonburg, VA 2280:	0.8285
17 125-(A)-L1		R5 4118/96	Breckenridge Group	Harrisonburg	Bldg E Austin TX 78746	23.758

City of Harrisonburg, VA

Determination of Need for a Traffic Impact Analysis (TIA)

Applicant Bobby Cook  
Name of Project 1335 Port Republic Rd  
Project Address or TM # 88-H-8  
Proposed Use in General Business/Professional

Breakdown of Peak Hour Trip Generation by Land Use per ITE:

Land Use 1.	Type & Code #	<u>630</u>
	Unit base (SF, # units, # empl., etc.)	<u>Doctors</u>
	Quantity	<u>3</u>
	Peak Hour Trip Generation (use greater of AM or PM and indicate which one)	<u>13 - PM</u>

Land Use 2.	Type & Code #	_____
	Unit base (SF, # units, # empl., etc.)	_____
	Quantity	_____
	Peak Hour Trip Generation (use greater of AM or PM and indicate which one)	_____

Land Use 3,4, etc. (attach additional information as necessary)

Total Project Peak Hour Trip Generation 13 - PM

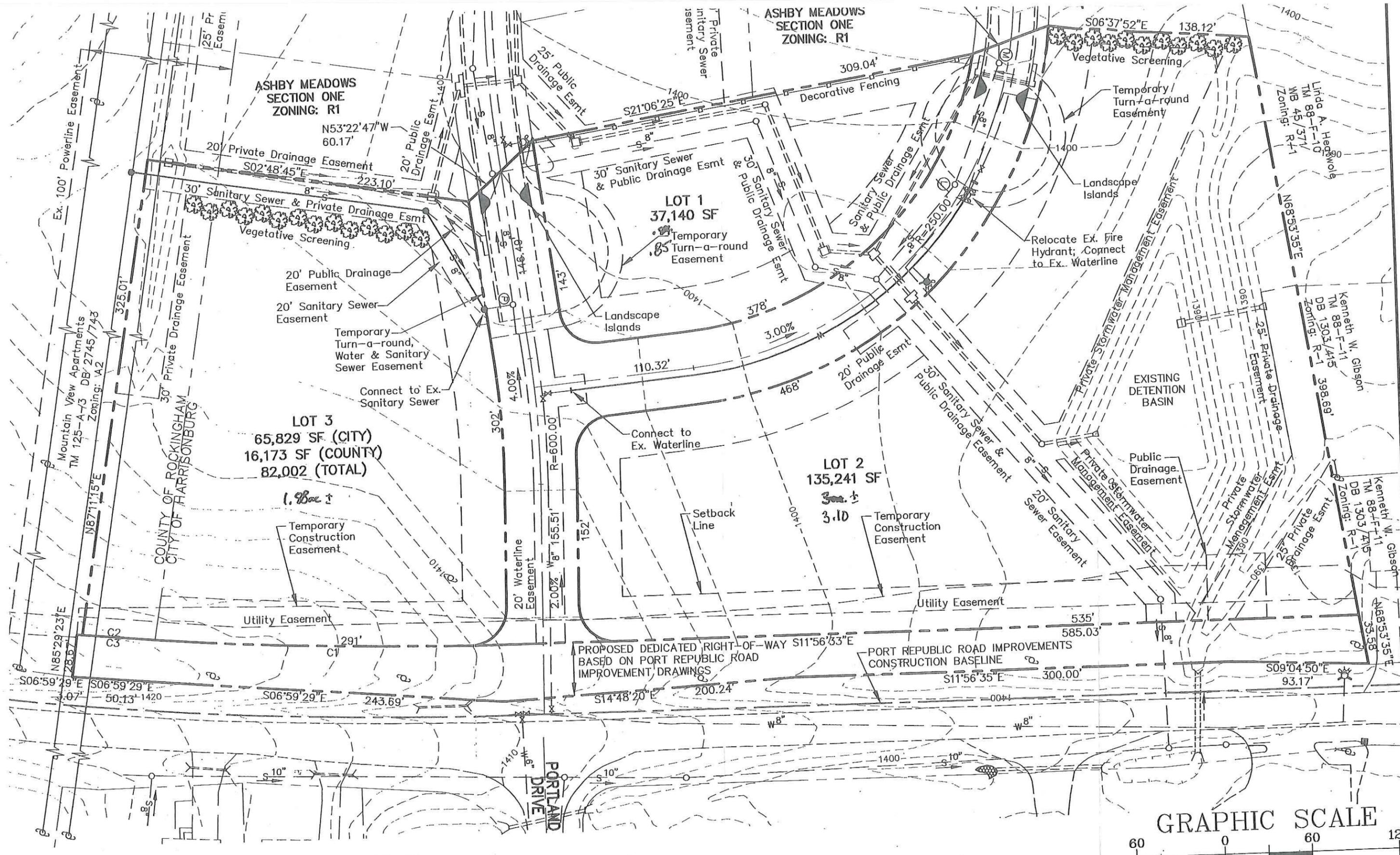
(reserved for City staff)

TIA Required? Yes \_\_\_\_\_ No

Comments:

Accepted by:   
Signature

Date: 10-13-16



CURVE DATA					
RVE	DELTA	RADIUS	LENGTH	TANGENT	CHORD
C1	04°56'04"	2801.50'	241.27'	120.71'	N09°28'31"W 241.20'
C2	01°01'29"	2801.50'	50.10'	25.05'	N06°29'45"W 50.10'
C3	01°06'17"	2801.50'	54.02'	27.01'	N06°27'20"W 54.02'



PROJECT: **ASHBY MEADOWS**

TITLE:

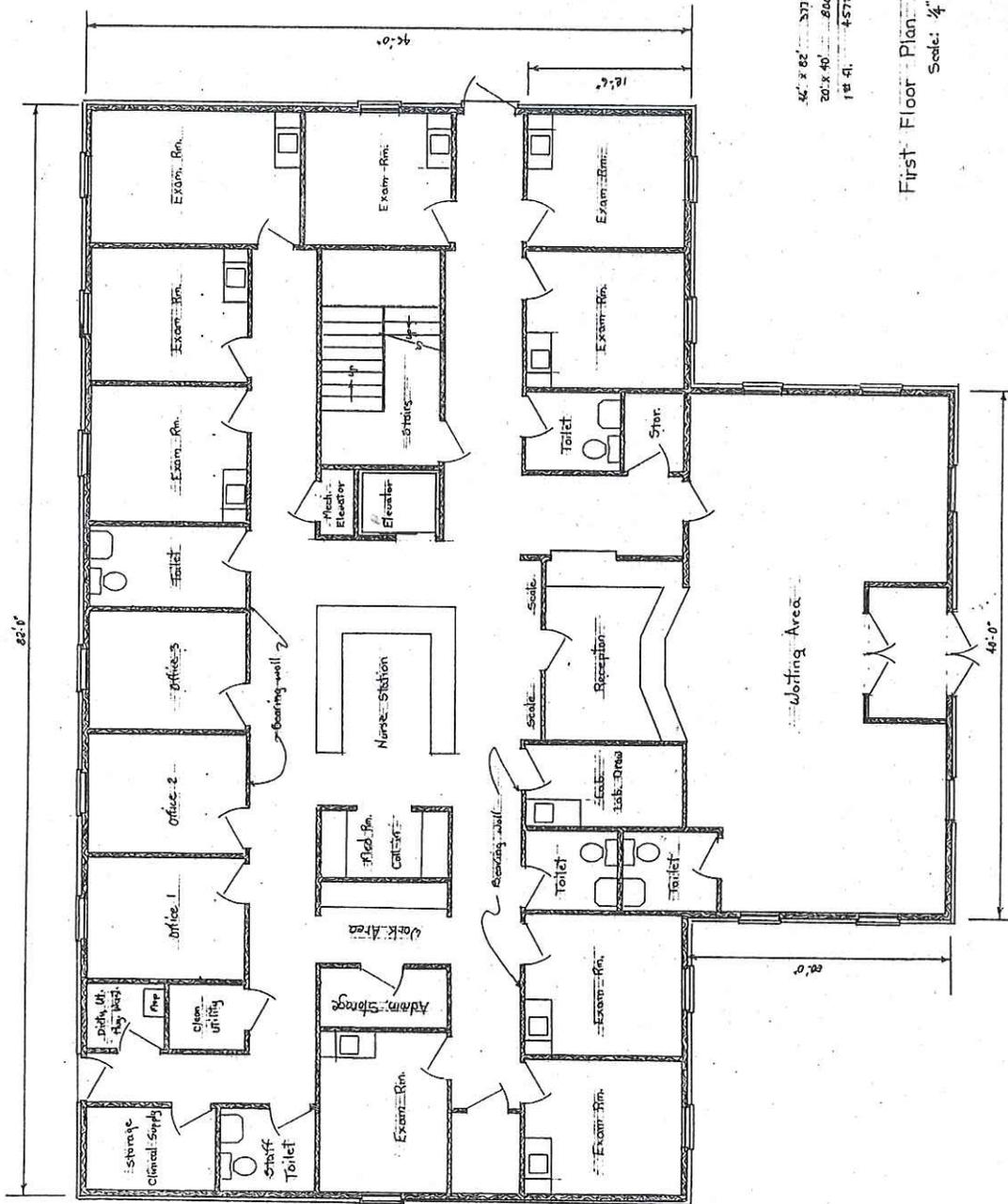
**INGRAM - HAGEN & CO., P.L.C.**

CHECKED BY: JUH  
DRAWN BY: RNM

LOT



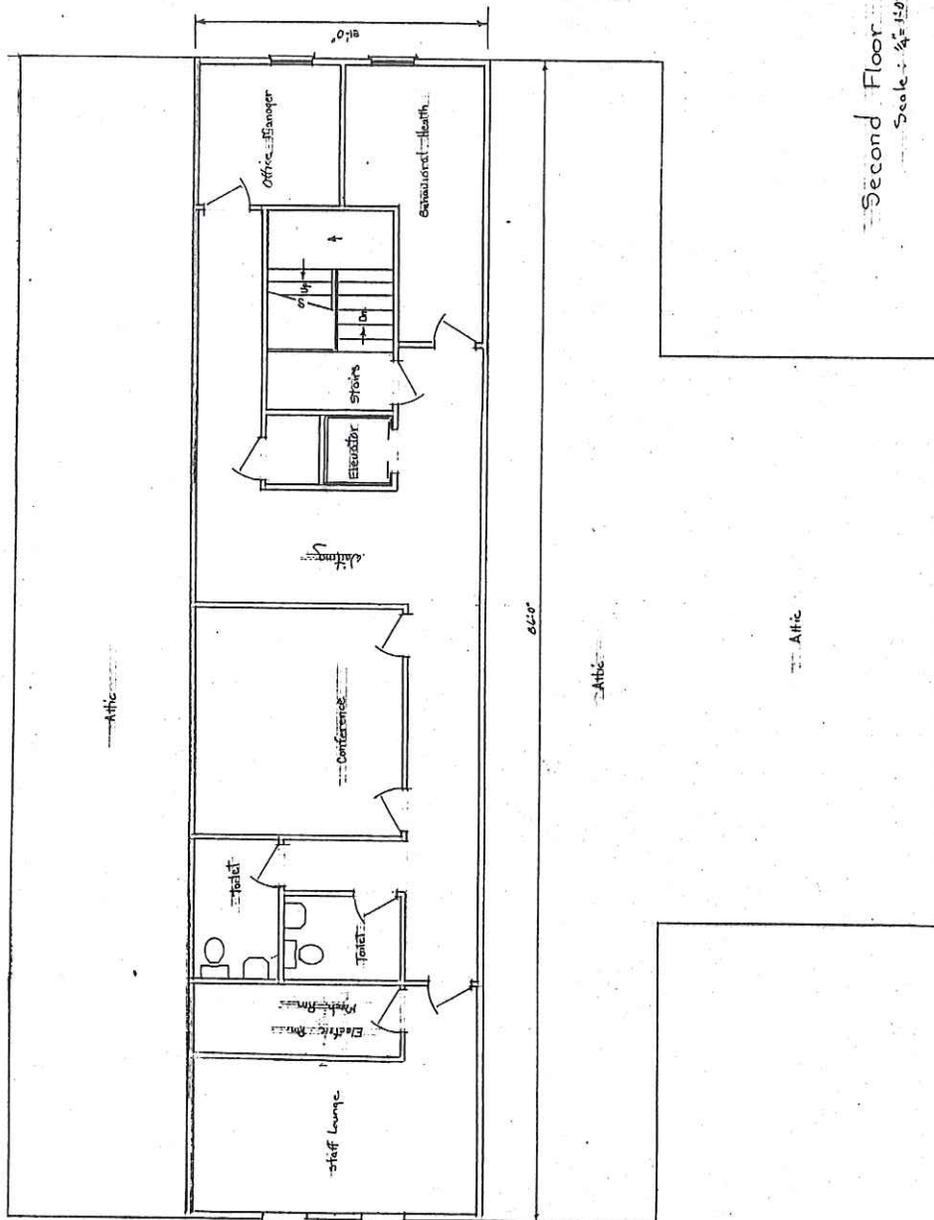
LOT 1



42' x 82' ... 3772 sq. ft.  
 20' x 40' ... 800 sq. ft.  
 1st fl. ... 4572 sq. ft.

First Floor Plan  
 Scale: 1/4" = 1'-0"

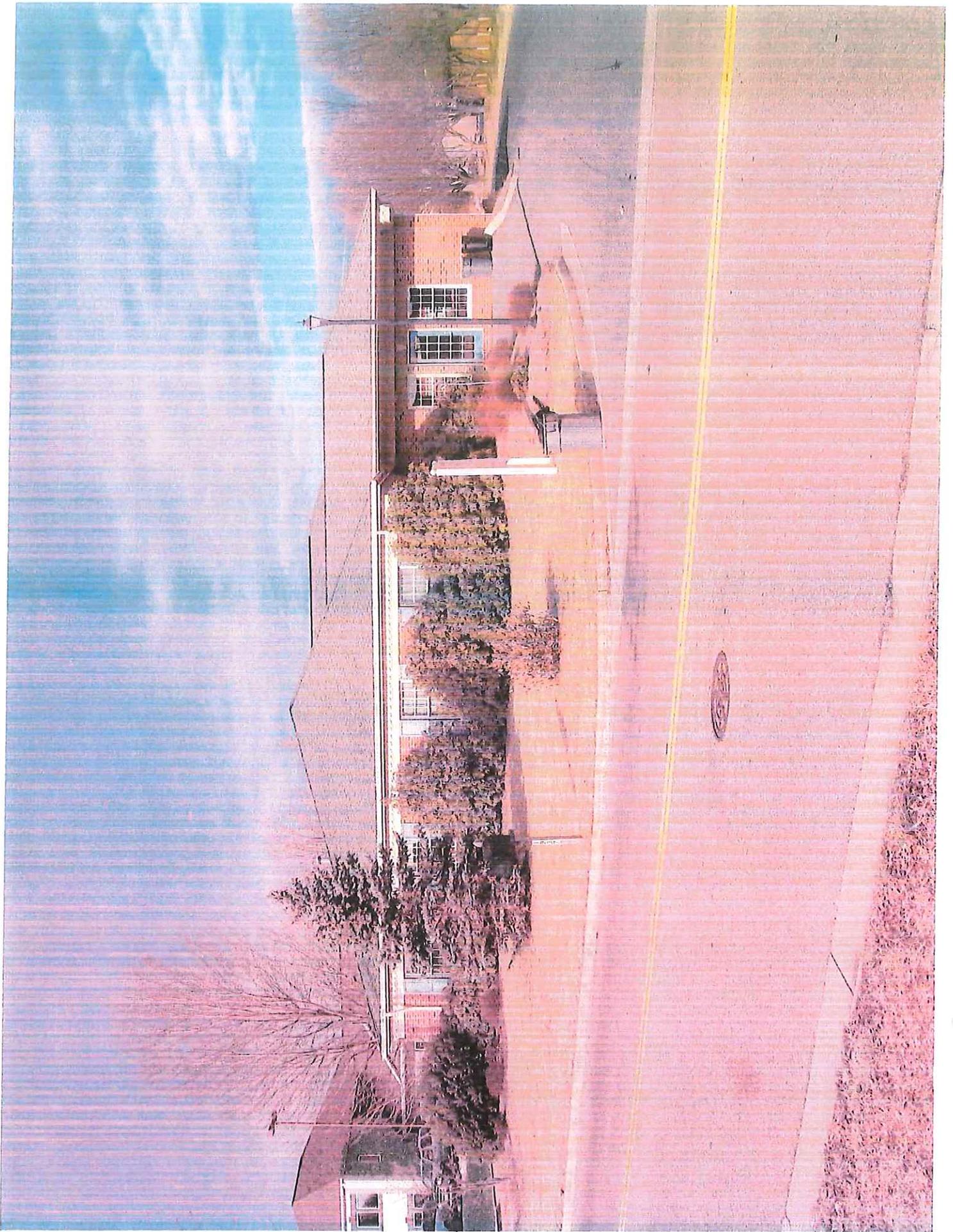
Preliminary Drawing  
 for  
 Harrisonburg Community Health  
 Center  
 Harrisonburg, Virginia

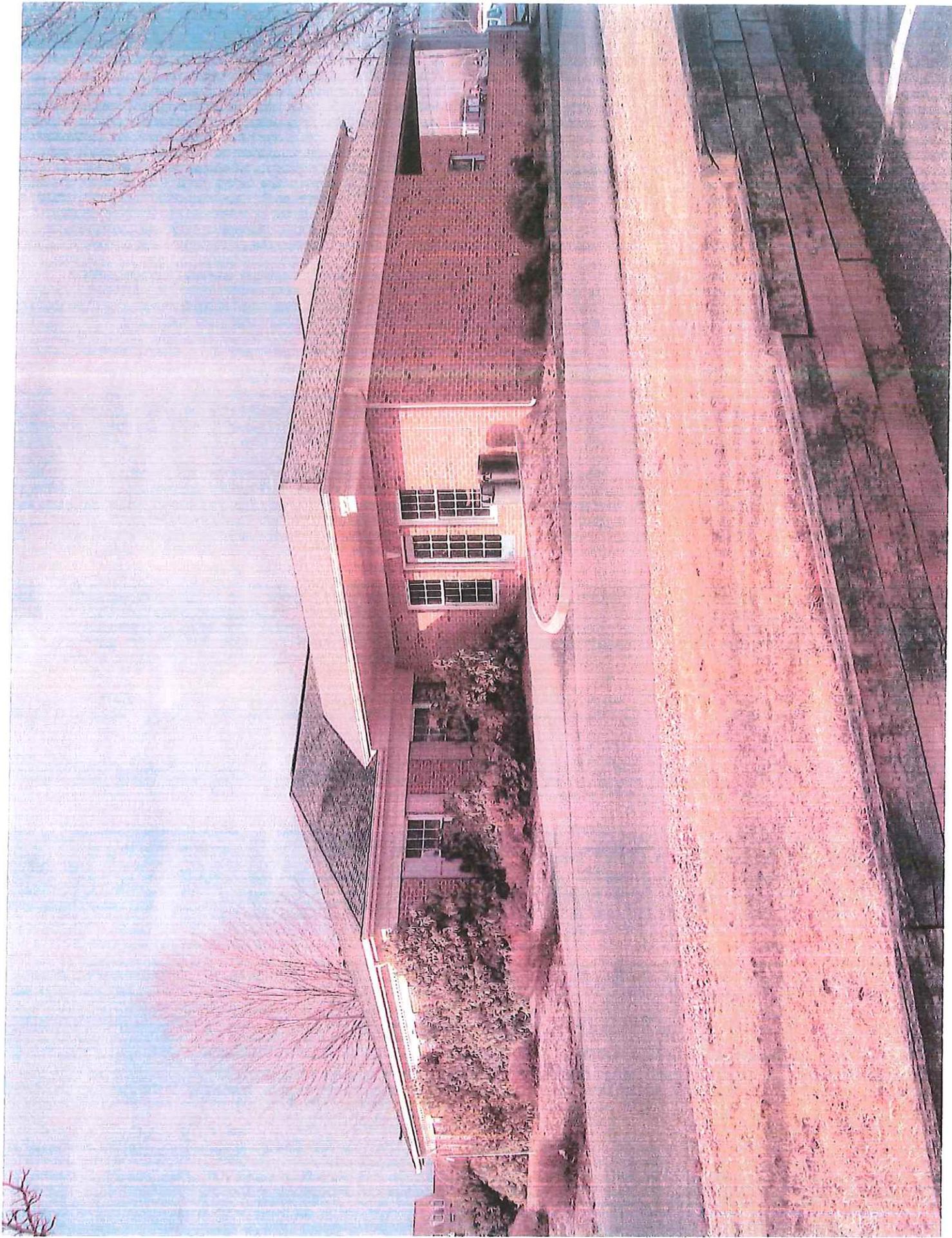


Second Floor 1800 sq ft  
 Scale: 1/4" = 1'-0"

Preliminary Drawing  
 for  
 Harrisonburg Community Health  
 Center  
 Harrisonburg Virginia













# City of Harrisonburg, Virginia

Department of Planning & Community Development  
409 South Main Street  
Harrisonburg, Virginia 22801  
[www.harrisonburgva.gov/community-development](http://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: November 9, 2016 (Regular Meeting)  
Re: Rezoning – B-2C proffer amendment and Special Use Permit 10-3-91 (12) to allow a structure in excess of seventy-five feet in height at 1820 Heritage Center Way

## **Summary:**

Public hearing to consider a request from Tidewater Communications, LLC with representative David C. Nahm to rezone a 2.14 +/- acre site zoned B-2C, General Business District Conditional by amending existing proffers to allow for a taller radio tower in a new location. The property is located at 1820 Heritage Center Way and is identified as tax map parcel 122-B-2.

Public hearing to consider a request from Tidewater Communications, LLC with representative David C. Nahm for a special use permit per Section 10-3-91 (12) of the Zoning Ordinance to allow structures, except wireless telecommunications facilities, in excess of seventy-five (75) feet in height. Tidewater Communications, LLC proposes to replace an existing 40-ft radio tower with a new tower that exceeds seventy-five (75) feet in height. The 2.14 +/- acre site is zoned B-2C, General Business District Conditional, is located at 1820 Heritage Center Way, and is identified as tax map parcel 122-B-2.

## **Background:**

The Comprehensive Plan designates this area as Low Density Mixed Residential. This designation states that these large undeveloped areas located at the edge of the City are planned for residential development containing a mix of large and small-lot single family detached dwellings and attractive green spaces. Planned “open space” (also known as “cluster”) developments are encouraged. The intent is to allow innovative residential building types and permit creative subdivision design solutions that promote neighborhood cohesiveness, walkability, connected street grids, community green spaces, and protection of environmental resources. Such innovative residential building types as zero lot-line development and patio homes will be considered as well as other new single family residential forms. The gross density of development in these areas should be in the range of 1 to 6 dwelling units per acre.

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

- Site:** Radio station and studio, zoned B-2C
- North:** Single-family dwellings, undeveloped land, zoned R-1 and radio transmitter towers, zoned M-1C
- East:** Across Garbers Church Road, Heritage Oaks Golf Course club house and parking lot, First Tee, Elementary School (under construction), zoned R-1
- South:** Across Heritage Center Way, Harrisonburg High School Complex, zoned R-1
- West:** Undeveloped land, zoned R-1

**Key Issues:**

The applicant, Tidewater Communications, LLC is requesting to rezone the B-2C portion of their property at 1820 Heritage Center Way by amending existing proffers and for a special use permit (SUP) to allow a new radio tower in excess of 75-feet in height. The property is located on the northwest corner of Garbers Church Road and Heritage Center Way (a private street).

The 2.14 +/- acre site was the subject of a February 2007 rezoning request from R-1, Single Family Residential District to B-2C, General Business District Conditional in order to construct a radio station at the location. City staff and Planning Commission recommended denial of the request because it was not in keeping with the City's long range land use plan, nor would it serve as a direct benefit to the surrounding neighborhood with regard to parking and buffering from adjacent single-family homes. The applicant refined the proffers to limit the uses to radio and television stations, recording studios, and public uses, prior to the City Council public hearing and the rezoning request was approved unanimously.

The existing B-2C proffers are as follows:

It is proffered that the 2.14± acre portion of the property rezoned as B-2C will be used only for the following uses permitted by right under section 10-3-90:

- 8) Radio and television stations and studios or recording studios.
- 18) Public uses.

It is also proffered that:

1. The basic layout as shown on the Proposed Rezoning Plan, hereto attached, is proffered.
2. Access to the site will be along a proposed driveway commencing at the existing CG-11 entrance on Garbers Church Road onto the Myers' Property (T.M. #117-B-1). The driveway will connect to the proposed site across property owned by the Valley Brethren-Mennonite Heritage Center and join the Center's existing driveway. Negotiations with the Myers family and the Heritage Center are on-going. Both parties have given approval to the concept and believe appropriate easements can be agreed to. Letters of agreement are included with this submission.
3. A landscape /tree screen and/or a six foot fence will be provided along portions of the adjoining neighbor's property line (T.M. 117-E-1) as specified by the current resident.
4. The proposed building will not exceed 35' in height and will be constructed generally of brick and drivit with an asphalt shingle roof.
5. No free standing signs greater than eight feet in height will be installed on the property.

Site lighting will be diverted downward and will meet City requirements.

In September 2016, the applicant applied for a SUP per Section 10-3-91 (12) of the Zoning Ordinance in order to construct a new radio tower on the subject property that would be in excess of 75-feet in height. The property currently has a 40-foot radio tower adjacent to the building that was constructed with the radio station; however, the proposed new tower is described as 124-feet in height and would be situated away from the building. The 40-foot tower would be removed after the new 124-foot tower is operational. After staff's initial review of the request it was determined that existing proffer number 1, which states that "[t]he basic layout as shown on the Proposed Rezoning Plan, hereto attached, is proffered," and would not allow for the construction of a new tower in a location that was not shown on the 2007 proffered plan. The applicant then submitted a request to rezone the property by amending the proffers.

Submitted with the application for rezoning, the applicant proposed the following proffer amendments:

It is proffered that the estimated 2.14 acre portion of the property zoned as B-2C will be used only for the following uses permitted by right under section 10-3-90:

- 8) Radio and television stations and studios or recording studios.
- 18) Public uses.

It is also proffered that:

1. The proffers dated February 5, 2007 are still in effect ("2007 Proffers").
2. Proffer number 1 of the 2007 Proffers will be hereby amended for the relocation of the STL radio tower as shown on the attached drawing.

The 2016 submitted proffers and site drawing are included within this packet.

The applicant noted the location for the proposed new tower was selected for several reasons. For safety issues; they desired to keep the tower away from Garbers Church Road and Heritage Center Way; there is a drainage ditch that slopes and runs along the entire back portion of the site, behind the parking lot; and the tower will be connected to the radio station building by means of an ice bridge, thus it needed to be situated in close proximity to the building. Because the site is zoned B-2C there is also an additional setback requirement for the structure from any property line abutting a residential district. The setback would be 30-feet from the property line plus an additional one-foot of setback for each foot above 35-feet in height. Therefore, if the tower is 124-feet in height, a 119-foot setback is needed. The proposed location is approximately 150-feet from the property lines adjacent to the R-1 single-family dwellings on Garbers Church Road.

Staff does not have concerns with regard to the proffer amendments to allow the proposed new tower location.

As noted above, the applicant is requesting a SUP per section 10-3-91(12) of the Zoning Ordinance to allow a radio tower that exceeds 75-feet in height. The applicant describes the proposed tower as a 120-foot tower with 4-feet of satellite dish above the top of the tower. The tower is below the Federal Communications Commission (FCC) requirement for lighting purposes and will not have any lights on or directing at the tower. The radio station is licensed and certified such that their frequencies do not interfere with any other communications in the area and the applicant has stated that they will not allow any co-locating of wireless communication on the tower.

The applicant stated the current tower is barely tall enough to send audio signals across to the old WSVA studio located at 130 Media Lane (off Route 33 West), which is necessary in order for the station to transmit. Consequently, the station has suffered from low signal levels since its construction in 2009. The applicant did consider other options such as running a fiber optic cable underground from the radio station at Heritage Center Way to the Media Lane station, or transmitting a signal over the internet; however, there were issues with each of the options and they returned to the idea of a new tower.

Staff recognizes the difficulty of the current tower situation for this property and appreciates the applicant's consideration of other alternatives. The radio station does offer a valuable service to the city and surrounding community. Staff recommends approval of the SUP with the following conditions:

1. If the radio tower ceases to be used for more than 12 months, all equipment, including the structure, shall be removed within a timeframe determined by the City at the owner's expense.
2. Placement of advertising of any kind is prohibited on the antennas and equipment.

**Environmental Impact:**

N/A

**Fiscal Impact:**

N/A

**Prior Actions:**

N/A

**Alternatives:**

Denial of the request would require the applicant to continue operating as they currently do or find a suitable alternative to the tower.

**Community Engagement:**

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

***Rezoning– 1820 Heritage Center Way (B-2C Proffer Amendment)***

Public hearing to consider a request from Tidewater Communications, LLC with representative David C. Nahm to rezone a 2.14 +/- acre parcel zoned B-2C, General Business District Conditional by amending existing proffers to allow for a taller radio tower in a new location. 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 Comprehensive Plan designates this area as Low Density Mixed Residential. This designation states that these large undeveloped areas located at the edge of the City are planned for residential development containing a mix of large and small-lot single family detached dwellings and attractive green spaces. Planned "open space" (also known as "cluster") developments are encouraged. The intent is to allow innovative residential building types and permit creative subdivision design solutions that promote neighborhood cohesiveness, walkability, connected street grids, community green spaces, and protection of environmental resources. Such innovative residential building types as zero lot-line development and patio homes will be considered as well as other new single family residential forms. The gross density of development in these areas should be in the range of 1 to 6 dwelling units per acre. The property is located at 1820 Heritage Center Way and is identified as tax map parcel 122-B-2.

***Special Use Permit – 1820 Heritage Center Way (Section 10-3-91 (12) to Allow Structures in Excess of Seventy-Five (75) Feet in Height)***

Public hearing to consider a request from Tidewater Communications, LLC with representative David C. Nahm for a special use permit per Section 10-3-91 (12) of the Zoning Ordinance to allow structures, except wireless telecommunications facilities, in excess of seventy-five (75) feet in height. Tidewater Communications, LLC proposes to replace an existing 40-ft radio tower with a new tower that exceeds seventy-five (75) feet in height. The 2.14 +/- acre property is zoned B-2C, General Business District Conditional, is located at 1820 Heritage Center Way, and is identified as tax map parcel 122-B-2.

In addition, adjoining property owners were notified of the public hearings; the property was posted with signage advertising the requests; and a notice was provided on the City's website at <https://www.harrisonburgva.gov/public-hearings>.

**Recommendation:**

Staff recommends approval of the rezoning request with the submitted proffers and recommends approval of the SUP with the following conditions:

1. If the radio tower ceases to be used for more than 12 months, all equipment, including the structure, shall be removed within a timeframe determined by the City at the owner's expense.
2. Placement of advertising of any kind is prohibited on the antennas and equipment.

**Attachments:**

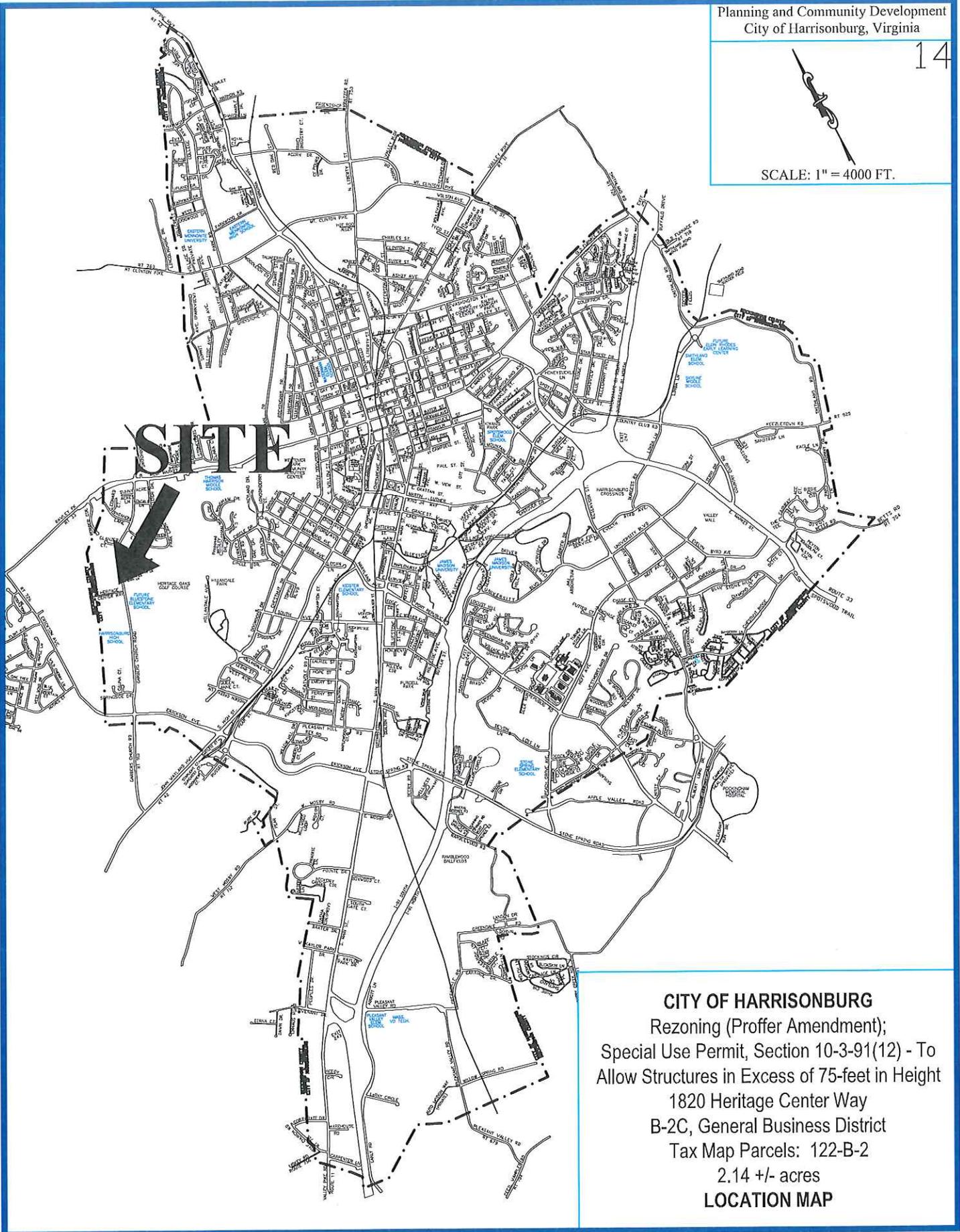
1. Site maps (2 pages)
2. Applications, applicant letters, and supporting documents (16 pages)

**Review:**

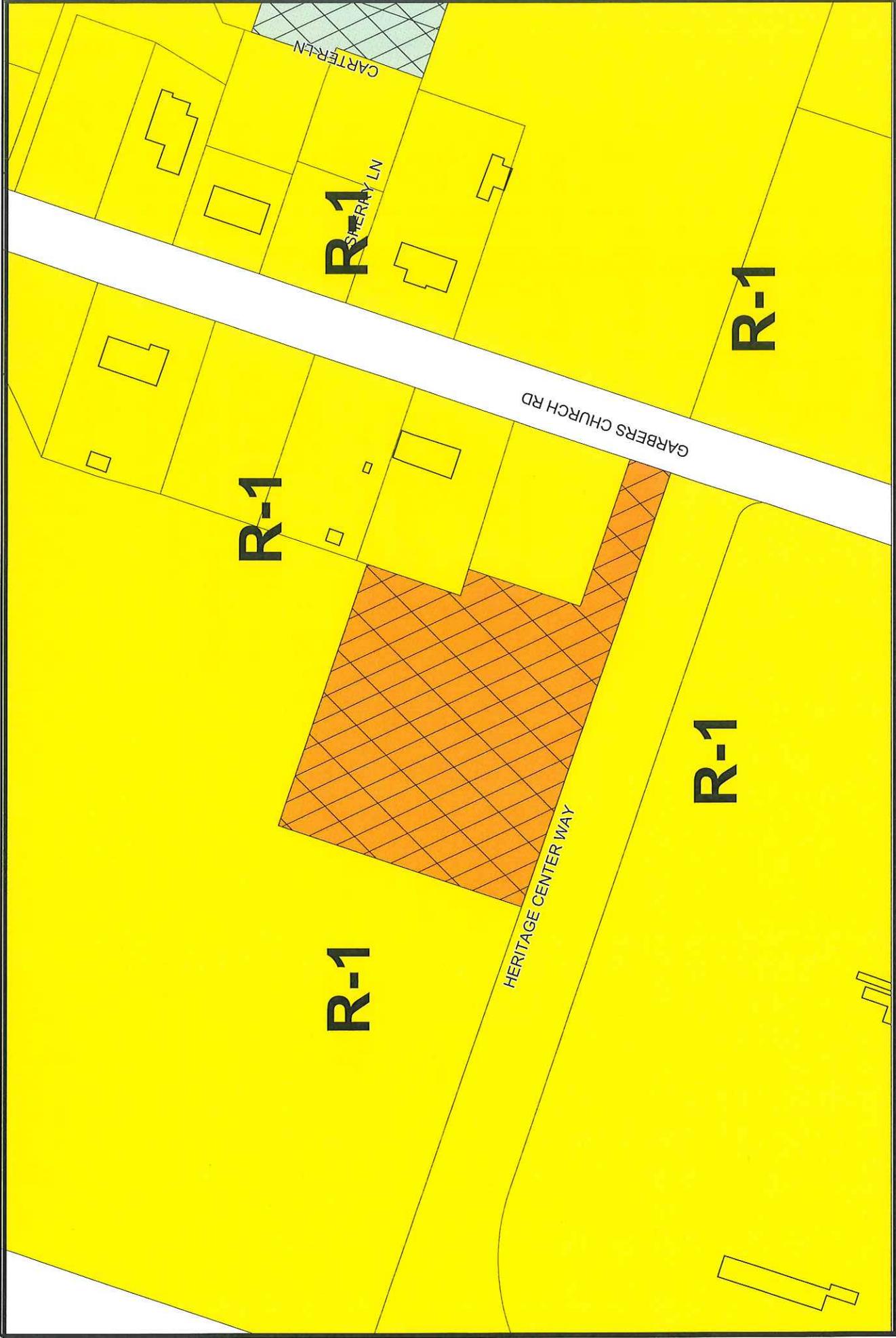
N/A



SCALE: 1" = 4000 FT.



**CITY OF HARRISONBURG**  
Rezoning (Proffer Amendment);  
Special Use Permit, Section 10-3-91(12) - To  
Allow Structures in Excess of 75-feet in Height  
1820 Heritage Center Way  
B-2C, General Business District  
Tax Map Parcels: 122-B-2  
2.14 +/- acres  
**LOCATION MAP**



**Rezoning (Proffer Amendment) and SUP Section 10-3-91(12)  
Structures in Excess of 75-foot at 1820 Heritage Center Way**

Date Application Received: 10/11/16

Total Paid: \$465.00 ~~xx~~ THD

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

Application Fee: \$375.00 plus \$30.00 per acre

### Section 1: Property Owner's Information

Name: Tidewater Communications, LLC  
Street Address: 1820 Heritage Center Way Email: \_\_\_\_\_  
City/State/Zip: Harrisonburg, VA 22801  
Telephone (work): 540-434-0331 (home or cellular): \_\_\_\_\_ (fax): 540-434-7087

### Section 2: Owner's Representative Information

Name: David C. Nahm  
Street Address: 92 N. Liberty Street Email: dcnahm@clark-bradshaw.com  
City/State/Zip: Harrisonburg, VA 22802  
Telephone (work): 540-433-2601 (home or cellular): \_\_\_\_\_ (fax): 540-433-5528

### Section 3: Description of Property

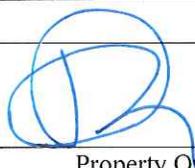
Location (street address): 1820 Heritage Center Way  
Tax Map Number: Sheet: 122 Block: B Lot: 2 Total Land Area (acres or square feet): 2.14  
Existing Zoning District: B-2C Proposed Zoning District \* : Amend Proffers  
Existing Comprehensive Plan Designation: Low Density Mixed Residential

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

### Section 4: Names and Addresses of Adjacent Property Owners (Use separate sheet for additional names)

North: see attached  
East: see attached  
South: see attached  
West: see attached

### Section 5: Certification

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

**PLEASE NOTE** – If a Traffic Impact Analysis is required, this application shall not be considered accepted until the TIA has been reviewed and TIA fees paid. More information at [www.harrisonburgva.gov/site-development](http://www.harrisonburgva.gov/site-development)

### ITEMS REQUIRED FOR SUBMISSION

- Completed Application
- Survey of Property
- Description of Proposed Use
- Adjacent Property Owners
- TIA Determination Form OR Accepted TIA Letter, signed by Public Works

- Fees Paid
- Source Deed
- Proffers (if applicable)
- \_\_\_\_\_

M. STEVEN WEAVER  
MARK B. CALLAHAN  
TODD C. RHEA  
MATTHEW C. SUNDERLIN  
BRADLEY J. MOYERS  
DAVID C. NAHM  
QUINTON B. CALLAHAN

CLARK & BRADSHAW, P. C.  
ATTORNEYS AT LAW  
92 NORTH LIBERTY STREET  
P. O. BOX 71  
HARRISONBURG, VIRGINIA 22803-0071  
TELEPHONE (540) 433-2601  
FACSIMILE (540) 433-5528  
WWW.CLARK-BRADSHAW.COM

HENRY C. CLARK  
1924-2013  
V. STEPHEN BRADSHAW  
RETIRED  
ELLEN H. BRODERSEN, C.P.A.  
AMY L. RUSH, C.P.A.  
(NOT ATTORNEYS)

October 6, 2016

Ms. Debra Fitzgerald, Chair  
City of Harrisonburg Planning Commission  
City Hall  
409 South Main Street  
Harrisonburg, VA 22801

**RE: Proposed STL tower on Heritage Center Way**

Dear Ms. Fitzgerald:

I represent Tidewater Communications, LLC, and Harrisonburg Radio Group (collectively "HRG") with regard to the Application for Change of Zoning District. Concurrent with this Application, my client has also filed an Application for a Special Use Permit. My client seeks to replace the forty foot (40') radio tower currently in use on its property with a one hundred and twenty foot (120') tower for the following reasons.

HRG is a local radio broadcast company which broadcasts a seven FM and AM channels throughout the area, including WSVA 92.1fm/550am (new/talk), WMQR 96.1fm (adult contemporary, WSIG 96.9 (country), WQPO 101fm (contemporary hits) and WHBG 101.3fm/1360am (sports radio).

Due to the low elevation of the radio station in relation to the surrounding landscape, since its construction in 2009, HRG has suffered from low signal levels. HRG is currently using a 40' self-supporting tower to send out audio signals across the adjacent field to the old WSVA studio location which was originally built in the 1950's.

The current tower is barley tall enough for the station signals to cross the hill crest, causing signals to be unreliable during storms. Additionally, the signal drops when the grass is cut in the adjacent pasture due to the metal of mower. Metal is a reflective surface that interferes with radio waves and since the signal is already weak, when the tractor drives in front of the signal path, HRG loses audio on all 7 stations simultaneously. The taller 120' self-supporting tower would resolve these issues by raising the signal height.

In addition to issues with transmitting the signal, HRG also has problems with reception. WQPO is the primary local station ("LP1") for receiving emergency broadcasts for this area. Being the LP1 station for the emergency broadcast system, HRG must monitor WWV, a radio station out of Charlottesville, Virginia. Due to height restrictions, that signal is very weak. This

affects the quality of the emergency alerts being sent out, including Amber alerts, flash flood alerts, tornado watches and warnings and periodic tests of the National Emergency Alert System.

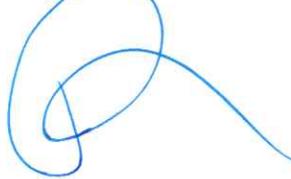
As above, raising the height of the tower would resolve the reception issues encountered and would provide for the more reliable reception and transmission of emergency information and notices.

The 120' tower will not have any advertisements on it, nor will it be used for cellular phone transmitters. This tower will be specifically dedicated the purpose of supporting HRG's radio station signals and HRG's ongoing mission to serve this city and the surrounding counties. Whether it's a storm system moving into the area or another blizzard like in 2015, HRG wishes to provide this area with reliable radio signals. HRG wants to ensure that they continue to go above and beyond when it comes to the safety of the community. They feel the increase in the tower height will allow them to better serve the surrounding community.

The property was rezoned in 2007 to B-2C and at that time the owned made certain proffers. The proffers state that "[t]he basic layout as shown on the Proposed Rezoning Plan...is proffered." On the layout proffered, the 40' radio tower is shown. Because the new tower will be in a slightly different location, as shown on the drawings submitted herewith, we respectfully request that the proffers be amended to reflect the current tower location.

Thank you for your attention to this matter. I look forward to answering any questions the Planning Commission may have.

Regards,

A handwritten signature in blue ink, consisting of a large, stylized 'D' followed by a horizontal line that curves upwards and then downwards.

David C. Nahm

DCN/lcs

M. STEVEN WEAVER  
MARK B. CALLAHAN  
TODD C. RHEA  
MATTHEW C. SUNDERLIN  
BRADLEY J. MOYERS  
DAVID C. NAHM  
QUINTON B. CALLAHAN

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HENRY C. CLARK  
1924-2013  
V. STEPHEN BRADSHAW  
RETIRED  
ELLEN H. BRODERSEN, C.P.A.  
AMY L. RUSH, C.P.A.  
(NOT ATTORNEYS)

October 7, 2016

Allison Banks  
City of Harrisonburg  
406 South Main Street  
Harrisonburg, VA 22801

**RE: Rezoning of TM Parcel 122-B-2**

Dear Ms. Banks:

This letter is submitted with the Application for Zoning Amendment for the property currently zoned B-2C, designated TM# 122-B-2

It is proffered that the estimated 2.14 acre portion of the property zoned as B-2C will be used only for the following uses permitted by right under section 10-3-90:

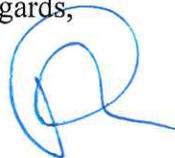
- 8) Radio and television stations and studios or recording studios.
- 18) Public uses.

It is also proffered that:

1. The proffers dated February 5, 2007 are still in effect ("2007 Proffers").
2. Proffer number 1 of the 2007 Proffers will be hereby amended for the relocation of the STL radio tower as shown on the attached drawing.

Thank you for your attention to this matter.

Regards,



David C. Nahm

DCN/lcs

2007 Proffers

February 5, 2007

Adam Fletcher  
City of Harrisonburg  
409 South Main Street  
Harrisonburg, VA 22801

**RE: Rezoning of TM Parcel 122-B-2**

**BE: 1725**

Dear Mr. Markel:

This letter is submitted with the Application for Zoning Amendment for the property currently zoned R-1, designated TM# 122-B-2.

It is proffered that the 2.14± acre portion of the property rezoned as B-2C will be used only for the following uses permitted by right under section 10-3-90:

- 8) Radio and television stations and studios or recording studios.
- 18) Public uses.

It is also proffered that:

1. The basic layout as shown on the Proposed Rezoning Plan, hereto attached, is proffered.
2. Access to the site will be along a proposed driveway commencing at the existing CG-11 entrance on Garbers Church Road onto the Myers' Property (T.M. #117-B-1). The driveway will connect to the proposed site across property owned by the Valley Brethren-Mennonite Heritage Center and join the Center's existing driveway. Negotiations with the Myers family and the Heritage Center are on-going. Both parties have given tacit approval to the concept and believe appropriate easements can be agreed to. Letters of agreement are included with this submission.
3. A landscape /tree screen and/or a six foot fence will be provided along portions of the adjoining neighbor's property line (T.M. 117-E-1) as specified by the current resident.
4. The proposed building will not exceed 35' in height and will be constructed generally of brick and drivit with an asphalt shingle roof.
5. No free standing signs greater than eight feet in height will be installed on the property.
6. Site lighting will be diverted downward and will meet City requirements.

Your time and consideration is appreciated.

Sincerely,



Susanne Myers  
General Manager

City of Harrisonburg, VA

**Determination of Need for a Traffic Impact Analysis (TIA)**

Applicant Tidewater Communications, LLC  
Name of Project \_\_\_\_\_  
Project Address or TM # 122-B-2  
Proposed Use in General Radio Tower

**Breakdown of Peak Hour Trip Generation by Land Use per ITE:**

Land Use 1.	Type & Code #	<u>General Office Building (730)</u>
	Unit base (SF, # units, # empl., etc.)	<u>SF</u>
	Quantity	<u>0 added</u>
	Peak Hour Trip Generation (use greater of AM or PM and indicate which one)	<u>0 - PM</u>

Land Use 2.	Type & Code #	_____
	Unit base (SF, # units, # empl., etc.)	_____
	Quantity	_____
	Peak Hour Trip Generation (use greater of AM or PM and indicate which one)	_____

Land Use 3,4, etc. (attach additional information as necessary)

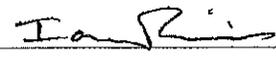
**Total Project Peak Hour Trip Generation** 0 - PM

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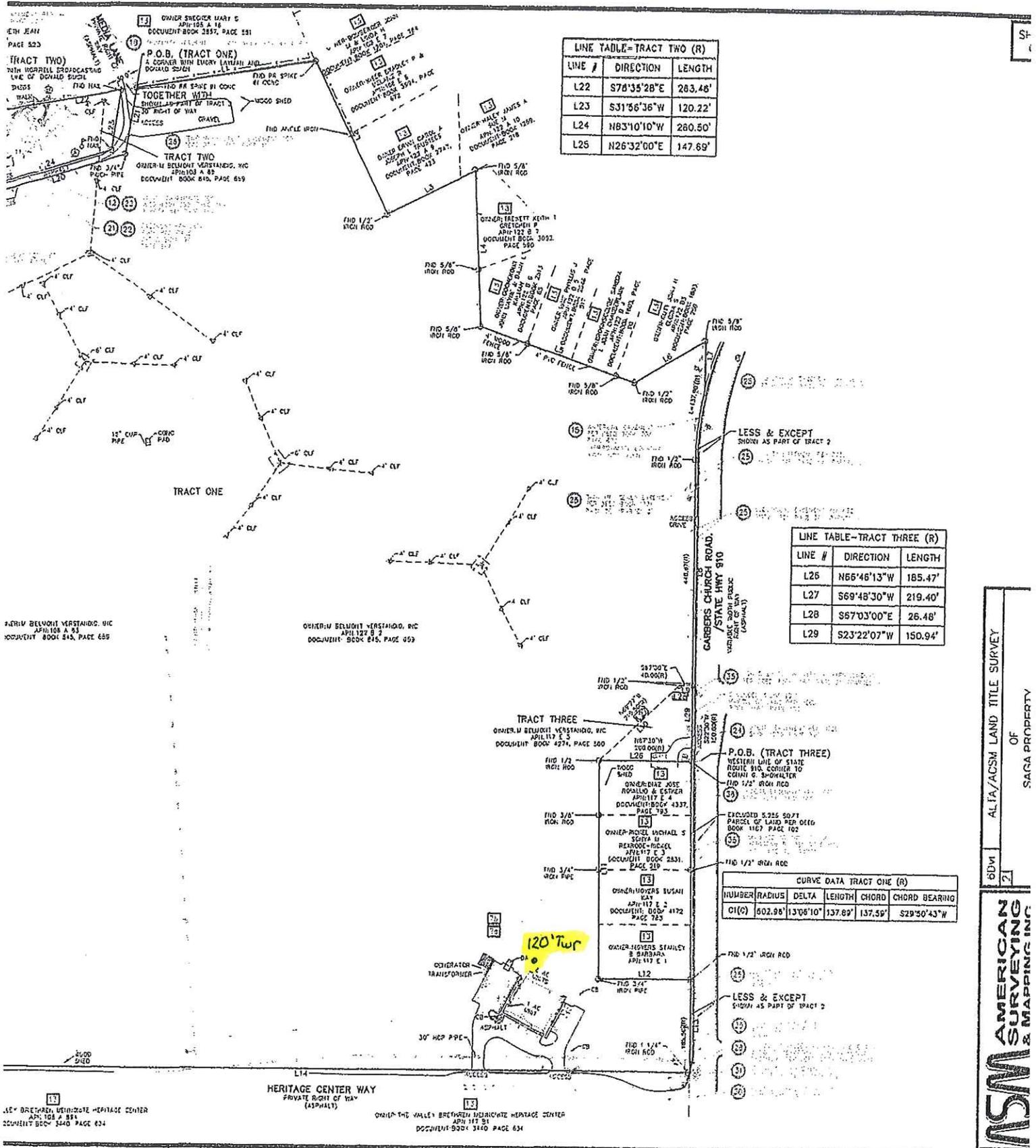
(reserved for City staff)

TIA Required? Yes \_\_\_\_\_ No X

Comments:

Accepted by:   
Signature

Date: 10-12-16



LINE TABLE-TRACT TWO (R)

LINE #	DIRECTION	LENGTH
L22	S78°35'28"E	283.48'
L23	S31°56'36"W	120.22'
L24	NB3°10'10"W	260.50'
L25	N26°32'00"E	147.69'

LINE TABLE-TRACT THREE (R)

LINE #	DIRECTION	LENGTH
L26	N66°46'13"W	185.47'
L27	S69°48'30"W	219.40'
L28	S87°03'00"E	26.48'
L29	S23°22'07"W	150.94'

CURVE DATA TRACT ONE (R)

NUMBER	RADIUS	DELTA	LENGTH	CHORD	CHORD BEARING
01(0)	602.98'	13°08'10"	137.89'	137.59'	S29°50'43"W

ALTA/ACSM LAND TITLE SURVEY  
 OF  
 SAGA PROPERTY  
 21  
**NSM AMERICAN SURVEYING & MAPPING INC**

TRACT TWO  
 WITH HERRILL BROADCASTING  
 LIVE OF DONALD RUDOLPH  
 TRACT TWO  
 WITH HERRILL BROADCASTING  
 LIVE OF DONALD RUDOLPH  
 TRACT TWO  
 WITH HERRILL BROADCASTING  
 LIVE OF DONALD RUDOLPH  
 TRACT TWO  
 WITH HERRILL BROADCASTING  
 LIVE OF DONALD RUDOLPH

HERRILL BELMONT VERSTANDIG, INC  
 APRIL 10 A 83  
 DOCUMENT BOOK 615, PAGE 659

HERRILL BELMONT VERSTANDIG, INC  
 APRIL 127 B 3  
 DOCUMENT BOOK 615, PAGE 659

TRACT THREE  
 HERRILL BELMONT VERSTANDIG, INC  
 APRIL 117 E 3  
 DOCUMENT BOOK 4274, PAGE 500

HERRILL BELMONT VERSTANDIG, INC  
 APRIL 117 E 4  
 DOCUMENT BOOK 4337, PAGE 783

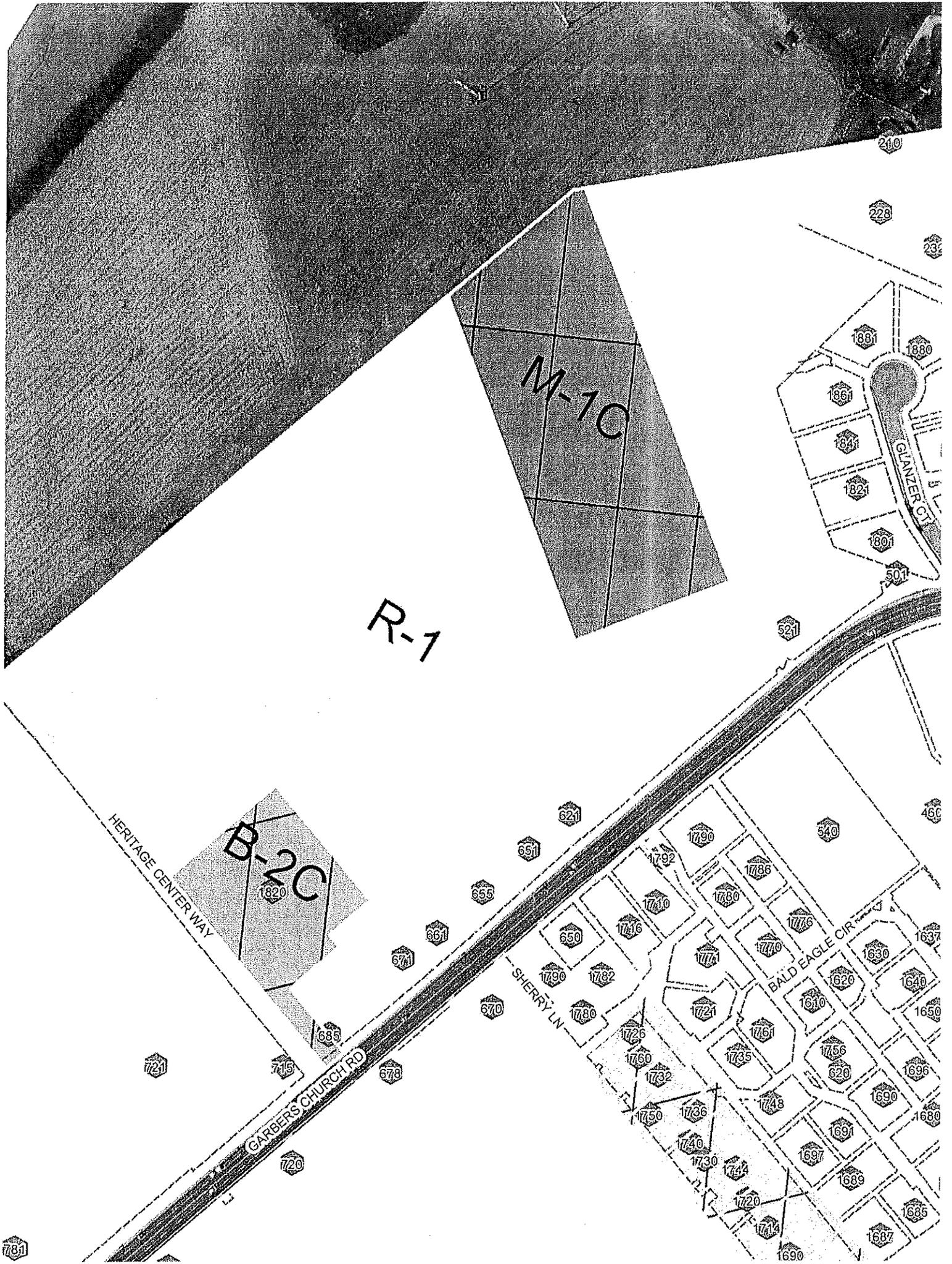
HERRILL BELMONT VERSTANDIG, INC  
 APRIL 117 E 3  
 DOCUMENT BOOK 2831, PAGE 219

HERRILL BELMONT VERSTANDIG, INC  
 APRIL 117 E 2  
 DOCUMENT BOOK 4172, PAGE 783

HERRILL BELMONT VERSTANDIG, INC  
 APRIL 117 E 1  
 DOCUMENT BOOK 4112, PAGE 783

HERRILL BELMONT VERSTANDIG, INC  
 APRIL 108 A 83  
 DOCUMENT BOOK 3440, PAGE 634

HERRILL BELMONT VERSTANDIG, INC  
 APRIL 117 B 1  
 DOCUMENT BOOK 3140, PAGE 634



Tax Map	Owner	Address
117 B 1 (Harrisonburg) 108(A)89A1 (Rockingham)	The Valley Brethren Mennonite Heritage Center	P.O. Box 1563 Harrisonburg VA 22803
117 E 1 (Harrisonburg)	Karen Lee Moyers	671 Garbers Church Rd. Harrisonburg VA 22801
117 E 2 (Harrisonburg)	Susan Kay Moyers	671 Garbers Church Rd. Harrisonburg VA 22801
117 E 3 (Harrisonburg)	Michael S. Rickel & Sonya M. Rexrode-Ricklel	655 Garbers Church Rd. Harrisonburg VA 22801
117 E 4 (Harrisonburg)	Jose Romillio Diaz & Marcela Esther Espinoza Martinez	651 Garbers Church Rd. Harrisonburg VA 22801
117 E 5 (Harrisonburg)	Tidewater Communications, LLC	
117 D 2 (Harrisonburg) 117 F 4 (Harrisonburg)	City of Harrisonburg	345 S. Main St. Harrisonburg VA 22801
116 C 1 (Harrisonburg)	Heritage Estates	245 Newman Ave. Harrisonburg VA 22801
123 H 5 (Harrisonburg)	Khalif & Barbara Rashid	540 Garbers Church Rd. Harrisonburg VA 22801
123 H 4 (Harrisonburg)	Darrell L. & Emily K. Gelser	460 Garbers Church Rd. Harrisonburg VA 22801
123-H-1 (Harrisonburg)	Norman H. & Dorothy L. Kreider	470 Garbers Church Rd. Harrisonburg VA 22801
122 B 3 (Harrisonburg)	John H. & Gloria S. Rutt	1801 Glanzer Ct. Harrisonburg VA 22801
122 B 4 (Harrisonburg)	Sandra L. Brownscombe & Joan Chamberlain	1821 Glanzer Ct. Harrisonburg VA 22801
122 B 5 (Harrisonburg)	Phyllis J. Wine	1841 Glanzer Ct. Harrisonburg VA 22801
122 B 6 (Harrisonburg)	John Wayne Gochenour and Dawn L. Kalman	1861 Glanzer Ct. Harrisonburg VA 22801
122 B 7 (Harrisonburg)	Keith T. & Gretchen P. Trevvett	1881 Glanzer Ct. Harrisonburg VA 22801
122 A 10 (Harrisonburg)	James A. & Sue M. Haley	232 Rorrer Circle Harrisonburg VA 22801
122 A 9 (Harrisonburg)	Carol A. & Joseph L. Ervin, Trustees of The Carol A. Ervin Trust Agreement dated 2/22/90	228 Rorrer Circle Harrisonburg VA 22801
108E(1)8 (Rockingham) 122 A 8 (Harrisonburg)	Bradley P. & Melanie R. Kiser	210 Rorrer Circle Rockingham VA 22801
108(A)67 (Rockingham) 108(A)67A (Rockingham)	J. Robert, Jr. & Keri Sue Brunk	2509 Rawley Pike Rockingham VA 22801
108(A)13 (Rockingham)	Weavers Mennonite Church c/o Pastor/Trustees	2501 Rawley Pike Rockingham VA 22801
108(A)66 (Rockingham)	James E. & Lavonne E. Rusmiser	225 Media Ln Rockingham VA 22801
108(A)15 (Rockingham)	Rodney J. Burkholder	406 Sugar Maple Ln Harrisonburg VA 22801
108(A)16 (Rockingham)	Mary S. Swecker	2275 Rawley Pike Rockingham VA 22801
108E(1)7 (Rockingham)	John M. & Linda H. Bomberger	174 Rorrer Circle Rockingham VA 22801

Date Application Received: 9/12/16 THD

Total Paid: \$ 465 THD

*received  
9/12/16*

### Application for Special Use Permit City of Harrisonburg, Virginia

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

Property Owner's Name: Tidewater Communications, LLC

Street Address: 1820 Heritage Center Way Email: \_\_\_\_\_

City: Harrisonburg State: Virginia Zip: 22801

Telephone: Work 540-434-0331 Fax 540-434-7087 Mobile \_\_\_\_\_

Owner's Representative: David C. Nahm

Street Address: 92 N. Liberty Street Email: dcnahm@clark-bradshaw.com

City: Harrisonburg State: Virginia Zip: 22802

Telephone: Work 540-433-2601 Fax 540-433-5528 Mobile \_\_\_\_\_

#### Description of Property and Request

Location (Street Address): 1820 Heritage Center Way

Tax Map Number Sheet: 122 Block: B Lot: 2 Lot Area: 2.14

Existing Zoning Classification: B-2C

Special Use being requested: Replace existing radio tower with radio tower in excess of 75' (120') - Sec. 10-3-91 (12)

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

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

North: see attached

South: see attached

East: see attached

West: see attached

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

Signature: \_\_\_\_\_  
*Property Owner Representative*

#### ITEMS REQUIRED FOR SUBMISSION

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

Fees Paid

M. STEVEN WEAVER  
MARK B. CALLAHAN  
TODD C. RHEA  
MATTHEW C. SUNDERLIN  
BRADLEY J. MOYERS  
DAVID C. NAHM  
QUINTON B. CALLAHAN

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HENRY C. CLARK  
1924-2013  
V. STEPHEN BRADSHAW  
RETIRED  
ELLEN H. BRODERSEN, C.P.A.  
AMY L. RUSH, C.P.A.  
(NOT ATTORNEYS)

November 2, 2016

Ms. Alison Banks, Zoning Administrator/Senior Planner  
City of Harrisonburg  
City Hall  
409 South Main Street  
Harrisonburg, VA 22801

**RE: Proposed STL tower on Heritage Center Way: Alternatives Considered**

Dear Ms. Banks:

Thank you for taking the time to discuss my client's Applications for a Special Use Permit and Rezoning yesterday. We appreciated the chance to go over everything with you and Ms. Dang. One of the items that we discussed concerned the alternatives to the new STL tower that my client considered.

My client did consider other options to the new STL tower. As detailed in the letter attached to the Applications, due to the topography, the current tower encounters interruptions in its signal fairly regularly. The primary alternative that my client considered was running a fiber optic cable under the ground from the radio station on Heritage Way to the transmitter building on 130 Media Lane (which is located in Rockingham County).

Unfortunately there were several problems with this method. Between the Heritage Way and Media Lane buildings stand several radio towers, each of which has a series of metal wires radiating out 350', like the spokes of a wheel. There are also copper coaxial cables under the ground which have been there since the 1950s. Running the fiber optic cable across this land without running across the radio tower wires or the coaxial wires would be nearly impossible. Additionally, the distance would require a power booster box in the middle of the property which would be attractive to lightning and which, due to the proximity to the other underground wires and metal, could cause extensive damage to the radio towers and surrounding property.

One other option considered was transmitting the signal over the internet to the transmitter building. However, this would cause the radio signal to be lost anytime there was an interruption in internet service. In fact, while my client was working on drafting a letter for you, the internet went out at the radio station due to a break in the line.

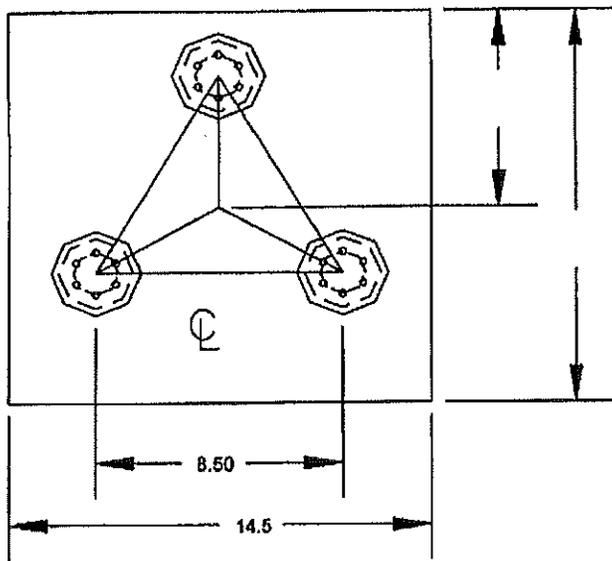
Thank you again for your time. Please let me know if you have any other questions or concerns.

Regards,

A handwritten signature in blue ink, consisting of a large, stylized 'D' followed by a vertical line and a horizontal line, resembling the initials 'DCN'.

David C. Nahm

DCN/lcs



12.93CU. YDS.  
CONCRETE REQUIRED

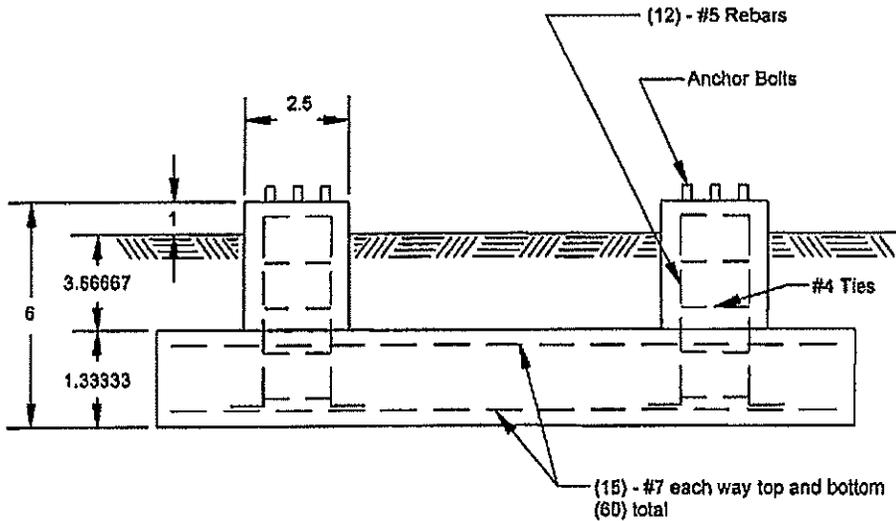
7.25

14.5

8.50

14.5

PRELIMINARY DESIGN NOT FOR CONSTRUCTION



**GENERAL NOTES**

1. CONCRETE TO HAVE 4000 PSI MIN. COMPRESSIVE STRENGTH AFTER 28 DAYS.
2. REINFORCEMENT STEEL IS DEFORMED AND MEETS THE REQUIREMENTS OF ASTM A615 GRADE 60.
3. EMBEDDED STEEL TO HAVE 3" MIN. CONCRETE COVER.
4. DESIGN BASED ON NORMAL SOILS

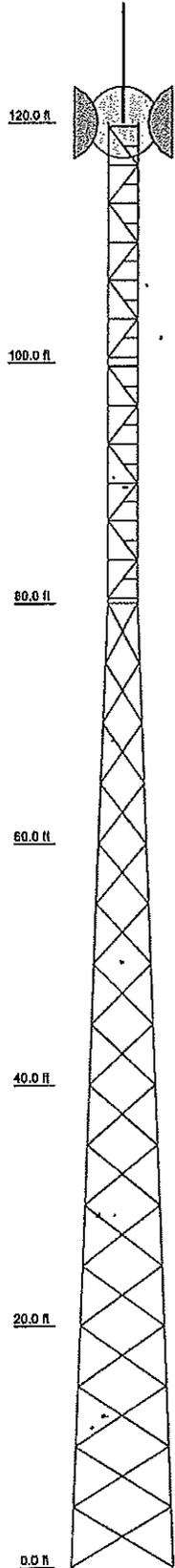
TITLE: K1506-014 R1



**WORLD TOWER  
COMPANY, INC.**

SCALE	DRN.	CKD.	DATE
FILE	DRAWING NO.		

Section	T8	T5	T4	T3	T2	T1
Legs	P3.5x226		P3x216		SR 2	SR 1 1/2
Diagonals		L1 3/4x1 3/4x1/8	A572-50		SR 7/8	
Diagonal Grade			A36			
Top Girts		N.A.		L1 3/4x1 3/4x1/8	SR 7/8	
Bottom Girts			N.A.		SR 3/4	
Horizontals			N.A.		SR 3/4	
Sec. Horizontals			N.A.		SR 3/4	
Face Width (ft)	8.5	7	5.5	4		2.5
# Panels @ (ft)		16 @ 5				12 @ 3.20833
Weight (K)	5.0					0.5



**DESIGNED APPURTENANCE LOADING**

TYPE	ELEVATION	TYPE	ELEVATION
Lightning Rod	120	6 FT DISH	120
6 FT DISH	120	6 FT DISH	120

**MATERIAL STRENGTH**

GRADE	Fy	Fu	GRADE	Fy	Fu
A572-50	50 ksi	65 ksi	A36	36 ksi	58 ksi

**TOWER DESIGN NOTES**

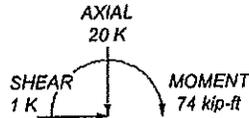
1. Tower is located in Rockingham County, Virginia.
2. Tower designed for Exposure C to the TIA-222-G Standard.
3. Tower designed for a 90.00 mph basic wind in accordance with the TIA-222-G Standard.
4. Tower is also designed for a 30.00 mph basic wind with 0.75 in ice. Ice is considered to increase in thickness with height.
5. Tower Structure Class II.
6. Topographic Category 1 with Crest Height of 0.00 ft
7. TOWER RATING: 95.4%

ALL REACTIONS ARE FACTORED

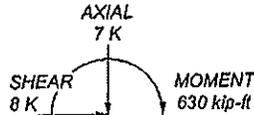
MAX. CORNER REACTIONS AT BASE:

DOWN: 88 K  
SHEAR: 6 K

UPLIFT: -77 K  
SHEAR: 5 K



TORQUE 0 kip-ft  
30.00 mph WIND - 0.75 in ICE



TORQUE 0 kip-ft  
REACTIONS - 90.00 mph WIND

<b>World Tower Company</b>		Job: 120' WSSTP / K1506-014 R1	
1213 Compressor Drive		Project: Harrisonburg, VA	
Mayfield, Kentucky 42066		Client:	Drawn by: kirk
Phone: (270) 247-3642		Code: TIA-222-G	Date: 06/12/15
FAX: www.worldtower.com		Path:	Scale: N
		Dwg No. E	



Tax Map	Owner	Address
117 B 1 (Harrisonburg) 108(A)89A1 (Rockingham)	The Valley Brethren Mennonite Heritage Center	P.O. Box 1563 Harrisonburg VA 22803
117 E 1 (Harrisonburg)	Karen Lee Moyers	671 Garbers Church Rd. Harrisonburg VA 22801
117 E 2 (Harrisonburg)	Susan Kay Moyers	671 Garbers Church Rd. Harrisonburg VA 22801
117 E 3 (Harrisonburg)	Michael S. Rickel & Sonya M. Rexrode-Ricklel	655 Garbers Church Rd. Harrisonburg VA 22801
117 E 4 (Harrisonburg)	Jose Romillio Diaz & Marcela Esther Espinoza Martinez	651 Garbers Church Rd. Harrisonburg VA 22801
117 E 5 (Harrisonburg)	Tidewater Communications, LLC	
117 D 2 (Harrisonburg) 117 F 4 (Harrisonburg)	City of Harrisonburg	345 S. Main St. Harrisonburg VA 22801
116 C 1 (Harrisonburg)	Heritage Estates	245 Newman Ave. Harrisonburg VA 22801
123 H 5 (Harrisonburg)	Khalif & Barbara Rashid	540 Garbers Church Rd. Harrisonburg VA 22801
123 H 4 (Harrisonburg)	Darrell L. & Emily K. Gelser	460 Garbers Church Rd. Harrisonburg VA 22801
123-H-1 (Harrisonburg)	Norman H. & Dorothy L. Kreider	470 Garbers Church Rd. Harrisonburg VA 22801
122 B 3 (Harrisonburg)	John H. & Gloria S. Rutt	1801 Glanzer Ct. Harrisonburg VA 22801
122 B 4 (Harrisonburg)	Sandra L. Brownscombe & Joan Chamberlain	1821 Glanzer Ct. Harrisonburg VA 22801
122 B 5 (Harrisonburg)	Phyllis J. Wine	1841 Glanzer Ct. Harrisonburg VA 22801
122 B 6 (Harrisonburg)	John Wayne Gochenour and Dawn L. Kalman	1861 Glanzer Ct. Harrisonburg VA 22801
122 B 7 (Harrisonburg)	Keith T. & Gretchen P. Trevvett	1881 Glanzer Ct. Harrisonburg VA 22801
122 A 10 (Harrisonburg)	James A. & Sue M. Haley	232 Rorrer Circle Harrisonburg VA 22801
122 A 9 (Harrisonburg)	Carol A. & Joseph L. Ervin, Trustees of The Carol A. Ervin Trust Agreement dated 2/22/90	228 Rorrer Circle Harrisonburg VA 22801
108E(1)8 (Rockingham) 122 A 8 (Harrisonburg)	Bradley P. & Melanie R. Kiser	210 Rorrer Circle Rockingham VA 22801
108(A)67 (Rockingham) 108(A)67A (Rockingham)	J. Robert, Jr. & Keri Sue Brunk	2509 Rawley Pike Rockingham VA 22801
108(A)13 (Rockingham)	Weavers Mennonite Church c/o Pastor/Trustees	2501 Rawley Pike Rockingham VA 22801
108(A)66 (Rockingham)	James E. & Lavonne E. Rusmisel	225 Media Ln Rockingham VA 22801
108(A)15 (Rockingham)	Rodney J. Burkholder	406 Sugar Maple Ln Harrisonburg VA 22801
108(A)16 (Rockingham)	Mary S. Swecker	2275 Rawley Pike Rockingham VA 22801
108E(1)7 (Rockingham)	John M. & Linda H. Bomberger	174 Rorrer Circle Rockingham VA 22801



# City of Harrisonburg, Virginia

Department of Planning & Community Development  
409 South Main Street  
Harrisonburg, Virginia 22801  
[www.harrisonburgva.gov/community-development](http://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: November 9, 2016 (Regular Meeting)  
Re: Harrisonburg's Zoning Regulations and its Application toward Limited Residential Lodging Uses

## **Summary:**

The following information is regarding the 2016 Virginia General Assembly's approved Limited Residential Lodging Act (commonly referred to as the Airbnb bill) and describes, from a land use perspective, how the City currently allows and regulates such residential short-term rental uses. This information was compiled to report on the legislation and to explain how the City must allow these uses if the legislation is reenacted by the 2017 Session of the General Assembly and implemented the way it was approved. At this time, no action is requested.

## **Background:**

Earlier this year, the Virginia General Assembly considered SB 416 and HB 812, referred to as the Limited Residential Lodging Act (the Act), which, as summarized by the Virginia General Assembly's online Legislative Information System, "allows persons to rent out their primary residences or portions thereof for charge for periods of less than 30 consecutive days or do so through a hosting platform. Localities are preempted from adopting ordinances or zoning restriction prohibiting such short-term rentals, but [are] authorized to adopt ordinances requiring persons renting their primary residences to have a minimum of \$500,000 of liability insurance, prohibiting persons from renting their primary residences if they fail to pay applicable taxes, and requiring persons renting their primary residences to register with the locality. A hosting platform must register with the Department of Taxation to collect and remit all applicable taxes on behalf of the property owner using the hosting platform. The bill defines 'limited residential lodging,' 'booking transaction,' and 'hosting platform' and provides for penalties for violations of the Act. The bill contain[ed] a reenactment clause and direct[ed] the Virginia Housing Commission to convene a work group to further study the issues presented in the bill and [to] make recommendations for consideration by the 2017 Session of the General Assembly." (For reference, the entire three-page legislation is attached hereto.)

Before getting into the key issues, from a land use perspective, there are a few specific components of the legislation that should be known. First, the following two definitions should be understood:

- "Limited Residential Lodging" means the accessory or secondary use of a residential dwelling unit or a portion thereof by a limited residential lodging operator to provide room or space that is suitable or intended for occupancy for dwelling, sleeping, or lodging purposes, for a period of fewer than 30 consecutive days, in exchange for a charge for the occupancy, provided only that (i) the primary use of the residential dwelling unit shall remain residential, (ii) any applicable taxes required to be collected and remitted by state and local law for each booking transaction are collected and remitted by a registered hosting platform pursuant to the provisions of this chapter or

directly by the limited residential lodging operator, and (iii) such accessory or secondary use does not regularly include simultaneous occupancy by more than one party under separate contracts.”

- “‘Hosting platform’ means any person or entity that is not an operator and that facilitates reservations or collects payments for any booking transaction on behalf of an operator through an online digital platform.

Examples of hosting platforms include but are not limited to online services such as Airbnb, HomeAway, VRBO, FlipKey, and others.

As briefly noted in the summary above, the legislation also required for the Virginia Housing Commission “to convene a work group with representation from the hotel industry, hosting platform providers, local government, state and local tax officials, property owners, and other interested parties to explore issues related to expansion of the framework set forth in [the] Act related to registration, land use, tax, and other issues of public interest associated with the short-term rental of dwelling[s] and other units.” The work group is also to consider existing governing activities of bed and breakfast operations, vacation rentals, and other transient occupancy uses. The work group must finish developing recommendations by December 2016 for the 2017 Session of the General Assembly.

### **Key Issues:**

Currently, limited residential lodging, also known as short-term rentals, is not permitted in the City’s residential zoning districts. Property owners cannot rent dwelling units on a daily, weekend, or for weekly time periods because such a practice is considered **transient** occupancy. Transient dwelling units, or transient occupancy, is not permitted within any residential district unless the dwelling is considered a bed and breakfast and meets the requirements for being such a use. The Zoning Ordinance (ZO) defines a bed and breakfast as:

“[a] single-family dwelling (including the principal residence and related buildings), occupied by the owner or proprietor, in which accommodations limited to ten (10) or less guest rooms are rented for periods not exceeding ten (10) consecutive days per guest.”

To become a bed a breakfast, a property owner must first obtain a special use permit (SUP) per zoning requirements. Like all SUP requests, public hearings are required to be held by both Planning Commission and City Council. Prior to both public hearings, signage regarding the SUP request is posted on the subject site, the request is published twice in the local newspaper, and adjoining property owners receive notifications via mail; all of which give notice to the public hearings that are held in City Council Chambers. If the SUP is approved, depending upon the specifics of the buildings in which the use is to operate, the property owner could be required to apply for appropriate building permits (and other sub-trade permits) to make physical changes to the buildings so that Building Code requirements are met.

Unfortunately, to the lay person, understanding whether limited residential lodging is currently allowed is not obvious in the ZO without a strong understanding of the difference between **transient** and **non-transient** housing as they are applied in the code.

Within the ZO Section 10-3-24 Definitions, a “dwelling unit” is defined as the following:

“One (1) or more rooms located within a building and forming a singular unit with facilities which are used or intended to be used for living, sleeping and dining purposes. A dwelling unit shall have customary kitchen facilities. An efficiency apartment unit is defined as a dwelling unit. Dwelling units which will be occupied for predetermined periods of time of more than one (1) month in succession shall be termed **nontransient** dwelling units” (emphasis added).

Because the ZO is a “permissible” zoning code, meaning it states what uses are permitted rather than those prohibited, and because our residential districts state that single family detached dwellings, duplexes, multi-family units (apartments), and townhouses are all considered “dwelling units,” such units cannot be used as **transient** dwellings.

The simplest way to explain the above information is to state that when renting a dwelling unit in a residential district, the ZO does not permit the rental of a dwelling unit for any less time than on a monthly basis. If there is transient occupancy occurring, then it is illegal.

If the Act becomes effective as it is currently written, the City would be preempted from adopting zoning regulations that would prohibit or regulate in any way, via the ZO, short-term rentals within any dwelling unit. As specified within the Act, among other stipulations, Sections 55-248.54 A 1 and 2 and D 1 state:

“A. Notwithstanding any other law, general or special, and except as expressly provided in this chapter, no local ordinance or other law shall:

1. Prohibit or restrict any residential unit from being used for limited residential lodging. Any such limited residential lodging shall (i) be deemed to be consistent with residential use; (ii) be authorized in any zoning district established pursuant to Article 7 (§ 15.2-2280 et seq.) of Chapter 22 of Title 15.2 allowing residential use; and (iii) not require the residential dwelling unit or the owner or primary resident of the residential dwelling unit to adhere to any zoning or licensing requirements applicable to hotels, motels, bed and breakfast inns, lodging houses, or other commercial enterprises.
2. Impose or purport to impose any additional regulation or obligation on a limited residential lodging operator based on the use of such operator’s residential dwelling unit for limited residential lodging purposes;...”

“D. Nothing in this section shall be construed to prohibit a locality from:

1. Adopting and enforcing ordinances and regulations generally applicable to residential use and zoning including those related to noise, health and safety, the quiet enjoyment of property, parking, litter, yard signs, and other related issues, so long as such ordinances shall not be drawn or applied in such a manner as to create burdens or restrictions on limited residential lodging not placed on other authorized uses of residential property;...”

In other words, the City shall allow short-term rentals by right within any residential district and within any dwelling unit because limited residential lodging would be considered as an accessory use to any dwelling unit.

With regard to permissible **transient** uses in the City, currently, the ZO states that hotels, motels and similar transient housing is primarily for transient or temporary occupancy. Such uses are permitted by right in the B-1, Central Business District, the B-2, General Business District, and the M-1, General Industrial District. As noted above, bed and breakfast operations are also considered transient occupancy uses and are only permitted by SUP within the City’s residential districts (except R-4 and R-5) and within the MX-U, Mixed Use Planned Community District. (Note that no property in the City is currently zoned MX-U. This district was added to the ZO in 2009.)

Per today’s regulations, the only zoning district where someone can legally operate a short-term rental use, without a SUP, is within the B-1 district. This is because the B-1 district allows hotels, motels, and buildings used for dwelling units by right. The ZO also differentiates that dwelling units in the B-1 district are different than dwelling units in all other districts that allow residential uses by defining the following:

“[d]welling units, CBD: [o]ne (1) or more dwelling units of nontransient occupancy within the Central Business District (CBD) that are designed to promote the most desirable uses and rehabilitation of the district.”

Furthermore, the B-1 district also allows for dwelling units to be occupied by a family or not more than four persons.

What this means is that buildings or any portions thereof in the B-1 district used for residential dwelling units (or nontransient occupancy) are permitted by right and can be occupied by a family or four persons. Hotels, motels, and bed and breakfast operations (or transient occupancy) are also permitted by right in the B-1 district. Therefore, property owners that desire to operate short term rentals, and whether they want to use hosting platforms or not, may do so by right. It should be understood, however, that from a Building Code perspective, dwelling spaces of a nontransient nature will likely be classified as a different use group than dwelling spaces of a transient nature, and therefore, must meet different Building Code requirements. In short, the ZO allows both kinds of occupancy uses in the B-1 district—they just have to be built according to the correct use group of the building code per the desired use.

Although it is not exactly clear at this time, it appears that if the Act is reenacted as it is currently written, regardless of a property’s zoning classification or the type of residential dwelling that the short-term rental occurs within, the Building Code will likely not require any additional improvements beyond those applicable to the residential use because the Building Code may have to treat the use as accessory to a residential dwelling. Staff will continue to monitor how this particular component of the matter should be handled.

Regarding potential violations, like all land use code matters, the longstanding policy of enforcement occurs via three separate approaches: 1) during the pro-active enforcement program; 2) when complaints are received (which may be submitted anonymously), properly investigated, and founded; and 3) when properties are under scrutiny for any kind of project or development proposal (i.e. subdivision, rezoning, special use permit, street closing, etc.).

For those unaware of the pro-active enforcement program, in 2003, Planning Commission directed staff to undertake an active approach to rectifying land use violations. Typically, the matters most documented are when properties have the collection of trash/debris, inoperable vehicles, tall grass and weeds, and sign violations. Other land use matters are also documented when they are easily identifiable, such as operating uses not permitted in particular zoning districts, construction without proper permitting, and others. Part of this program also includes ensuring noticeable proffers of conditionally zoned sites are in conformance as well as ensuring that noticeable conditions of special use permits are being followed. Implementation of this program occurs by targeting one “sector” of the City each month, where the City is organized into 36 sectors, and thus, the entire City is pro-actively enforced once every three years. At the end of each cycle, the order of the sectors is re-organized so that sectors are enforced at different times of the year.

A common complaint that our office receives is regarding illegal occupancy. This violation is usually not obvious to the casual observer or to staff during the monthly pro-active enforcement program. Illegal occupancy can take the shape of more individuals residing in a dwelling than the zoning district permits or through, the issue at hand, limited residential lodging. Unless someone complains about a particular property, staff usually is not aware of over-occupancy issues. The same is also true for short term rental spaces.

Specifically regarding potential violations of limited residential lodging uses, one might question why staff does not utilize online hosting platforms as an investigatory tool to seek out violators of the code. Although this approach could be taken if advised to do so, this approach will not always be successful because the location of lodging facilities are not always obvious due to the way the operator advertises on the site and/or does not make the physical location known until reservations are paid by the requestor. To

use staff time and resources most efficiently, we have relied on the longstanding policy of allowing neighborhoods to self-regulate; when concerns are had, they can call our office and we will investigate.

In closing, if the General Assembly implements the legislation as is written, the City must allow short-term rentals by right within any residential district and within any dwelling unit. Allowing this operation by right could be detrimental to the framework of how our ZO protects neighborhoods from undesirable uses and activities not planned for in residential areas.

**Environmental Impact:**

N/A

**Fiscal Impact:**

N/A

**Prior Actions:**

On October 25, 2016, this report was presented to City Council, but no action was taken.

**Alternatives:**

N/A

**Community Engagement:**

N/A

**Recommendation:**

N/A

**Attachments:**

1. A copy of the approved Limited Residential Lodging Act Legislation (3 pages).

**Review:**

N/A

# VIRGINIA ACTS OF ASSEMBLY -- 2016 SESSION

## CHAPTER 674

*An Act to amend the Code of Virginia by adding in Title 55 a chapter numbered 13.4, consisting of sections numbered 55-248.53 through 55-248.56, relating to establishing the Limited Residential Lodging Act; penalty.*

[S 416]

Approved April 1, 2016

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding in Title 55 a chapter numbered 13.4, consisting of sections numbered 55-248.53 through 55-248.56, as follows:**

### CHAPTER 13.4.

#### LIMITED RESIDENTIAL LODGING ACT.

##### § 55-248.53. Definitions.

*As used in this chapter, unless the context requires a different meaning:*

*"Applicable taxes" means any state or local tax imposed on a booking transaction pursuant to § 15.2-1104, Chapter 6 (§ 58.1-600 et seq.) of Title 58.1, § 58.1-1742, Article 6 (§ 58.1-3819 et seq.) of Chapter 38 of Title 58.1, § 58.1-3840, or any other transaction tax imposed by a city or town charter.*

*"Booking transaction" means any transaction in which there is a charge to an occupant by an operator for the occupancy of any dwelling, sleeping, or lodging accommodations.*

*"Department" means the Department of Taxation.*

*"Hosting platform" means any person or entity that is not an operator and that facilitates reservations or collects payments for any booking transaction on behalf of an operator through an online digital platform.*

*"Limited lodger" means a person who occupies a residential dwelling unit for the purpose of limited residential lodging.*

*"Limited residential lodging" means the accessory or secondary use of a residential dwelling unit or a portion thereof by a limited residential lodging operator to provide room or space that is suitable or intended for occupancy for dwelling, sleeping, or lodging purposes, for a period of fewer than 30 consecutive days, in exchange for a charge for the occupancy, provided only that (i) the primary use of the residential dwelling unit shall remain residential, (ii) any applicable taxes required to be collected and remitted by state and local law for each booking transaction are collected and remitted by a registered hosting platform pursuant to the provisions of this chapter or directly by the limited residential lodging operator, and (iii) such accessory or secondary use does not regularly include simultaneous occupancy by more than one party under separate contracts.*

*"Limited residential lodging operator" means an operator who is the primary resident of a residential dwelling unit offered for limited residential lodging purposes.*

*"Operator" means the proprietor of any dwelling, lodging, or sleeping accommodations offered for a charge to occupants, whether in the capacity of owner, lessee, sublessee, mortgagee in possession, licensee, or any other possessory capacity, and includes a limited residential lodging operator.*

*"Primary resident" means either (i) the owner of the residential dwelling unit who occupies the dwelling unit as his principal place of residence and domicile or (ii) a tenant who has lived in the residential dwelling unit for at least 60 days and who treats the residential dwelling unit as his principal place of residence and domicile.*

*"Registered hosting platform" means a hosting platform that has registered with the Department for the collection and remittance of applicable taxes pursuant to this chapter.*

*"Residential dwelling unit" means a residence where one or more persons maintain a household, including a manufactured home. "Residential dwelling unit" does not include:*

- 1. Residence at a public or private institution, if incidental to detention or the provisions of medical, geriatric, educational, counseling, religious, or similar services;*
- 2. Occupancy by a member of a fraternal or social organization in the portion of a structure operated for the benefit of the organization;*
- 3. Occupancy in a hotel, motel, extended stay facility, vacation residential facility, boardinghouse, or similar lodging where the occupant does not reside in such lodging as a primary resident;*
- 4. Occupancy under a rental agreement covering premises used by the occupancy primarily in connection with business, commercial, or agricultural purposes; or*
- 5. Occupancy in a campground as defined in § 35.1-1.*

##### § 55-248.54. Preemption of certain laws; authorized local ordinances.

*A. Notwithstanding any other law, general or special, and except as expressly provided in this chapter, no local ordinance or other law shall:*

1. Prohibit or restrict any residential dwelling unit from being used for limited residential lodging. Any such limited residential lodging shall (i) be deemed to be consistent with residential use; (ii) be authorized in any zoning district established pursuant to Article 7 (§ 15.2-2280 et seq.) of Chapter 22 of Title 15.2 allowing residential use; and (iii) not require the residential dwelling unit or the owner or primary resident of the residential dwelling unit to adhere to any zoning or licensing requirements applicable to hotels, motels, bed and breakfast inns, lodging houses, or other commercial enterprises;

2. Impose or purport to impose any additional regulation or obligation on a limited residential lodging operator based on the use of such operator's residential dwelling unit for limited residential lodging purposes; or

3. Prohibit, impose additional regulations or obligations on, or otherwise restrict the operation of a hosting platform that collects and remits any taxes pursuant to this chapter.

B. Any local tax or fee authorized by law to be imposed upon (i) operators or (ii) occupants of any dwelling, lodging, or sleeping accommodations offered for a charge shall be applied in a uniform manner upon all operators, including a limited residential lodging operator, or occupants, including a limited lodger.

C. For purposes of the imposition of any local tax imposed pursuant to the provisions of Chapter 37 (§ 58.1-3700 et seq.) of Title 58.1, neither the conduct of limited residential lodging by a limited residential lodging operator for fewer than 45 days in a calendar year, nor the conduct of a hosting platform pursuant to this chapter, shall constitute a business or be subject to taxes or fees pursuant to Chapter 37 of Title 58.1.

D. Nothing in this section shall be construed to prohibit a locality from:

1. Adopting and enforcing ordinances and regulations generally applicable to residential use and zoning including those related to noise, health and safety, the quiet enjoyment of property, parking, litter, yard signs, and other related issues, so long as such ordinances shall not be drawn or applied in such a manner as to create burdens or restrictions on limited residential lodging not placed on other authorized uses of residential property; or

2. Adopting and enforcing an ordinance requiring that any limited residential lodging operator maintain a minimum of \$500,000 of liability insurance specifically covering the limited residential lodging use of property held out for such use. Such requirement by an ordinance shall be deemed to have been met by an operator that conducts the limited residential lodging through a hosting platform that provides a minimum of \$500,000 of liability insurance for such use. The penalty for the violation of such ordinance shall not exceed \$200 per violation; or

3. Adopting and enforcing an ordinance that (i) prohibits or restricts any residential dwelling unit from being used for limited residential lodging due to a failure to make timely payment of applicable taxes by either a registered hosting platform or directly by the limited residential lodging operator, (ii) provides that any limited residential lodging operator not utilizing a registered hosting platform may be subject to audit by the commissioner of the revenue, director of finance, or other similar local tax official to demonstrate the payment of any applicable taxes, or (iii) requires any limited residential lodging operator operating within the locality to register his name and address through an online portal maintained by the locality.

**§ 55-248.55. Inapplicability of chapter to contracts.**

Nothing in this chapter shall be construed to supersede or limit contracts or agreements between or among individuals or private entities related to the use of real property, including recorded declarations and covenants, the provisions of condominium instruments of a condominium created pursuant to the Condominium Act (§ 55-79.39 et seq.), the declaration of a common interest community as defined in § 55-528, the cooperative instruments of a cooperative created pursuant to the Virginia Real Estate Cooperative Act (§ 55-424 et seq.), or any declaration of a property owners' association created pursuant to the Virginia Property Owners' Association Act (§ 55-508 et seq.).

**§ 55-248.56. Registration of hosting platform; collection and remittance of certain taxes; audit.**

A. A hosting platform shall register with the Department for the collection and remission of applicable taxes on any booking transactions facilitated by the hosting platform on behalf of operators within any one or more localities within the Commonwealth, and shall enter into any agreement with the Department related to such collection and remission. Such agreement shall not constitute confidential tax information pursuant to § 58.1-3 and shall be subject to disclosure pursuant to the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

B. A registered hosting platform shall, with respect to each booking transaction facilitated by the hosting platform on behalf of an operator within any locality for which such hosting platform has registered to collect and remit applicable taxes, collect any applicable taxes and remit the total amount so collected to the Department on a monthly basis along with a schedule, on an aggregate basis, listing the total amounts owed to the Commonwealth and to each applicable locality for the relevant period. After the direct costs of administering this section are recovered by the Department, the remaining revenues shall be distributed by the Tax Commissioner in the same manner as the applicable taxes are distributed pursuant to Chapter 6 (§ 58.1-600 et seq.) of Title 58.1, § 58.1-1742, and Articles 6 (§ 58.1-3819 et seq.) and 8 (§ 58.1-3840 et seq.) of Chapter 38 of Title 58.1, *mutatis mutandis*.

C. Any registered hosting platform shall provide notice to any operator utilizing the hosting platform of such registration and advising the operator that such operator should review any applicable state and local laws prior to listing a limited residential lodging unit for occupancy.

D. No operator utilizing a registered hosting platform shall be responsible for collecting or remitting any applicable taxes on any booking transaction when it has received notice pursuant to subsection C that such hosting platform will be collecting and remitting such applicable taxes. Any such notice shall itself be proof sufficient regarding the absence of any operator liability for such applicable taxes for the time period covered by the notice, and the hosting platform shall be liable for any such taxes.

E. Information provided to or obtained by the Department by a registered hosting platform shall be confidential pursuant to § 58.1-3. However, notwithstanding any provisions of § 58.1-3 to the contrary, such information shall not be provided to any other agency of the Commonwealth or political subdivision or officer thereof.

F. Applicable taxes payable by a registered hosting platform in accordance with this section shall be subject to audit only by the Department or its authorized agent. Any such audit shall be conducted on the basis of returns and supporting documents filed by the registered hosting platform with the Department and shall not be conducted directly or indirectly on any individual operator or occupant to whom rooms, lodgings, dwellings, or accommodations were furnished in exchange for a charge for occupancy. Audits of a registered hosting platform for applicable taxes shall be conducted on an anonymous numbered account basis and shall not require the production of any personally identifiable information relating to any booking transaction or individual operator or occupant. No commissioner of the revenue, director of finance, or other similar local tax official may conduct any audit of applicable taxes paid by a registered hosting platform.

G. Notwithstanding any other provision of law, general or special, any registered hosting platform that fails to file a required return or pay the full amount of the applicable taxes due shall be subject to:

1. A penalty in the amount of \$500 for failure to file a return within one month of the due date, with an additional penalty of \$1,000 for each additional month, or fraction thereof; thereafter during the period in which the failure continues, a penalty not to exceed the lesser of five percent of the taxes due on such return or \$10,000 in the aggregate. Such penalty shall apply whether or not any tax is due for the period for which such return was required. If such failure is due to providential or other good cause shown to the satisfaction of the Department, such return with or without remittance may be accepted exclusive of penalties;

2. A penalty in the amount of three percent of the underpayment if the failure to pay the full amount of applicable tax due is for not more than one month, with an additional three percent of the underpayment for each additional month, or fraction thereof, during which the failure continues, not to exceed 15 percent of the underpayment in the aggregate; and

3. In the case of a false or fraudulent return where willful intent exists to defraud the Commonwealth of any applicable tax due pursuant to this section, or in the case of a willful failure to file a return with the intent to defraud the Commonwealth of any such tax, a specific penalty of 50 percent of the difference between the amount reported and the amount of the tax actually due.

H. All penalties and interest imposed by this section shall be payable by the hosting platform and collectible and distributable by the Department in the same manner as if they were part of the tax imposed. Interest at a rate determined in accordance with § 58.1-15 shall accrue on the tax until the same is paid.

I. The Department shall develop regulations for the implementation of this chapter. Initial regulations shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.), but any updates or amendments to the regulations shall be subject thereto.

2. That nothing in this act shall be construed to subject any taxpayer to any additional taxes not currently imposed by law, nor shall this act be construed to relieve any taxpayer from any tax liability except as expressly set forth therein.

3. That the provisions of the first and second enactment clause of this act shall not become effective unless reenacted by the 2017 Session of the General Assembly.

4. That the Housing Commission shall convene a work group with representation from the hotel industry, hosting platform providers, local government, state and local tax officials, property owners, and other interested parties to explore issues related to expansion of the framework set forth in this act related to the registration, land use, tax, and other issues of public interest associated with the short-term rental of dwelling and other units. The work group shall take into consideration existing structures governing the activities of bed and breakfast inns, vacation rentals, and other transient occupancy venues. The work group shall complete its work by December 1, 2016, with the goal of developing recommendations and draft legislation for consideration by the 2017 Session of the General Assembly.

## November 2016, Proactive Zoning Report

For the month of November 2016, the proactive zoning program inspected the **Stone Spring Village** section of the city. The violations related to signage and discarded furniture. The proactive zoning program for December 2016, will be directed toward the **Sunset Heights** section of the City.

MONTH	SECTOR	5 <sup>th</sup> CYCLE VIOLATIONS	CORRECTED	2 <sup>nd</sup> CYCLE	3 <sup>rd</sup> CYCLE	4 <sup>th</sup> 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	38	4	4	10
January 2016	North Liberty	33	32	4	18	11
February 2016	Westover	42	31	8	17	13
February 2016	Garbers Church	3	3	2	1	9
March 2016	Spotswood Acres	4	4	4	1	8
March 2016	Jefferson	36	34	22	35	21
April 2016	Forest Hills & JMU	8	8	1	1	1
April 2016	Mosby & Kaylor	13	12	0	2	5
May 2016	Hillandale	18	16	5	17	11
June 2016	Maplehurst & JMU	1	1	5	2	0
July 2016	Hawkins	21	19	28	17	11
August 2016	Greystone	28	24	10	13	9
September 2016	Southeast Industrial	4	3	2	5	1
October 2016	Ramblewood & Greendale	2	1	8	1	11
November 2016	Stone Spring Village	7		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