COUNCIL MEMBER NELSON WILL GIVE THE INVOCATION

A G E N D A
City Council Meeting of March 12, 2013
Council Chamber---- **4:00 P. M.**

Visit our Internet Web Site @ http://www.lynchburgva.gov

4:00 p.m. – 6:00 p.m.
City Council Work Session

4:00 p.m. – 5:00 p.m.	1.	Presentation of the Proposed FY 2014 Budget for the City of Lynchburg by the City Manager
5:00 p.m. – 5:30 p.m.	2.	Presentation of the Proposed FY 2014 School Budget by the School Superintendent
5:30 p.m. – 5:45 p.m.	3.	Overview of the 2013 General Reassessment of Real Property by the City Assessor
5:45 p.m. – 5:50 p.m.	4.	Roll Call

7:30 p.m.
City Council Agenda Items

GENERAL POLICY REGARDING PUBLIC PARTICIPATION AT CITY COUNCIL MEETINGS
Each speaker shall clearly state his or her name and address for the record. If you are uncomfortable with giving your address publicly, you can state your name, whether or not you are a resident of the City of Lynchburg, and then leave your address with the Clerk of Council after you speak.
The City Council agenda is divided into three sections.
CONSENT AGENDA: This section includes routine items. All items may be approved by one vote.
PUBLIC HEARINGS: This section includes all public hearings as required by law or as Council may direct.
Procedure:

- Staff will make a presentation.
- For Zoning petitions, the applicant or his or her representative shall have ten (10) minutes to make a presentation.
- Comments will then be solicited from those in favor.
- Comments will then be solicited from those in opposition.

During the public hearing there shall be a time limit of three (3) minutes for each individual speaker. If the speaker represents a group, there shall be a time limit of five (5) minutes. A speaker representing a group shall identify that group at the beginning of his or her remarks. A group may have only one spokesperson.
After public comments have been received, for zoning petitions the applicant or the representative of the applicant, at his or her discretion, may respond with a rebuttal. There shall be a five (5) minute time limit for rebuttal.
Upon the conclusion of public comments or the applicant's rebuttal the public hearing will be closed and the matter referred to Council for deliberation.
PUBLIC PRESENTATIONS: Public presentations shall be for the purpose of allowing members of the public to present any matter, which, in their opinion, deserves the attention of the Council. They shall not serve as a forum for debate with the Council. Individuals may speak up to 3 minutes; or group spokesperson up to 5 minutes. Once Council has heard a presentation from a citizen or organization on a particular subject, the citizen or organization may not make another presentation on the same subject within three (3) months of the first presentation, except by a majority vote of the members of Council present and voting.
GENERAL BUSINESS: This section includes items of a general nature to be considered by Council.
City Council may make exceptions to these rules at its discretion.
Prior to a meeting, any questions which citizens may have regarding any item on the agenda may be addressed to City Council or the City Administration. The following numbers are provided for the convenience of the citizens:
CITY COUNCIL 455-3995 MAYOR 455-3995 CITY MANAGER 455-3990
A reasonable charge may be made for copying and other activities related to responding to long and involved inquiries.
CITIZENS OFTEN EXPRESS CONFLICTING AND DIVERSE POSITIONS REGARDING SPECIFIC ISSUES UNDER CONSIDERATION. TO ENCOURAGE CITIZEN PARTICIPATION AND TO AVOID INTIMIDATION TO PERSONS WHO MAY EXPRESS SOMETIMES UNPOPULAR OPINIONS, APPLAUSE, CHEERS, OR JEERS FROM THE AUDIENCE ARE NOT PERMITTED. WHEN APPEARING BEFORE CITY COUNCIL CITIZENS MAY NOT ENGAGE IN BEHAVIOR THAT INTIMIDATES OR INSULTS OTHERS, ENGAGE IN DISRUPTIVE BEHAVIOR, USE PROFANITY OR VULGAR LANGUAGE, PROMOTE PRIVATE BUSINESS VENTURES OR CAMPAIGN FOR PUBLIC OFFICE.

- **PREVIOUSLY DISCUSSED AND/OR CONSIDERED BY CITY COUNCIL.**

P U B L I C P R E S E N T A T I O N S / R E C O G N I T I O N S

- The Distinguished Young Women of Virginia
- Lynchburg Christian Academy State High School Wrestling Champions

C0NSENT AGENDA

#5. Consideration of approving the minutes of the February 26, 2013 meeting.

#6.* Consideration of adopting Resolution #R-13-028 amending the FY 2013 City Capital Project Fund budget and appropriating $1,212,137 with resources from the sale of property at 3901 Old Forest Road to make improvements to transportation infrastructure for two projects – Whitehall Road/Lakeside Drive Traffic Improvement ($500,000) and Greenview Drive Phase II Improvements ($712,137).
(File: Public Works – General - #1)

#7*. Consideration of adopting Resolution #R-13-031 amending the FY 2013 City Capital Projects budget and appropriating $182,250 with resources from the General Fund Reserve for Contingencies to fund repairs to the Holiday Inn Parking Deck.
(File: Public Works – General - #1)

PUBLIC HEARING

#8. Public hearing to grant a lease agreement to Mid-Atlantic Broadband Cooperative (MBC) to place fiber optic cable from Hangar Road to Wards Road on City-owned property located at the Lynchburg Regional Airport.
(File: Public Works – General - #1) #R-13-_____

#9. Public hearing to execute a license agreement with Mid-Atlantic Broadband Cooperative (MBC), to install fiber optic cable from the MBC hut located on Hangar Road on City of Lynchburg Airport property to Wards Road Route 29.
(File: Public Works – General - #1) #R-13-_____

#10. Public hearing to receive public input regarding the 2013/14 Allocation of Community Development Block Grant (CDBG) and HOME Program Funds.
(File: Community Development – CDBG - #19)

#11. Public hearing regarding the consideration of adopting 35.1-38.2, Institutional District (IN-1) and Section 35.1-38.3, Institutional District (IN-2) as part of the Zoning Ordinance and amending various sections for consistency.
(File: City Code/Community Planning – Zoning - #4) #O-13-_____

GENERAL BUSINESS

#12. Consideration of adopting a Resolution authorizing the City Manager and City Attorney to sign a subordination agreement between the City of Lynchburg, Central Virginia United Soccer, Inc., and the Bank of the James to facilitate the installation of lights at its soccer complex on Route 501 in Campbell County.
(File: City Council) #R-13-_____

LYNCHBURG CITY COUNCIL
Agenda Item Summary

MEETING DATE: **March 12, 2013** AGENDA ITEM NO.: 3

CONSENT: REGULAR: WORK SESSION: **X** CLOSED SESSION: (Confidential)

ACTION: INFORMATION: **X**

ITEM TITLE: **2013 Reassessment Summary**

RECOMMENDATION: None, information only

SUMMARY: The City Assessor's Office has completed the 2013 reassessment of real property on time and notices were mailed to 9,800 parcel owners on Friday March 1st. Notices are only mailed if the value has changed since July 2012.

Originally, the taxable value increased by 0.7% based on permits and plats. The overall change due to the reassessment was a decline of 1.2%, yielding an overall taxable value reduction of 0.5% since July 2012. The Assessor has projected a 1.0% reduction for budget projections to allow room for appeal changes and the pending court case.

The total value of Lynchburg real estate is now $6,324,400,000. Our overall taxable value is $4,944,240,000 with 78.3% of our parcels being taxable. Our exempt parcels total $1,380,215,800, or 21.7% of total value. We currently have 31,556 active parcels of which 29,933 are taxable, 1,478 are exempt and 145 are assessed by the State Corporation Commission.

Here is a breakdown of changes since July 2012 for the 29,933 taxable parcels:

Action	Parcels	% of Taxable Parcels
No Change	20,200	68%
Decrease	8,805	29%
Increase	928	3%

City Assessor Greg Daniels will provide a short presentation on the reassessment during Council's work session.

PRIOR ACTION(S): None

FISCAL IMPACT: A one percent reduction in assessed value results in a revenue reduction of approximately $500,000.

CONTACT(S): Gregory H. Daniels, CAE; 434-455-3821

ATTACHMENT(S): Memo and Power Point

REVIEWED BY: lkp

040K

The City of Lynchburg, Virginia

MEMORANDUM

TO: L. Kimball Payne, City Manager
Bonnie Svrcek, Deputy City Manager

FROM: Gregory H. Daniels, CAE, City Assessor GHD

DATE: February 25, 2013

RE: 2013 Reassessment Summary

We have completed the 2013 reassessment on time and notices will be mailed to 9,800 parcel owners on Friday March 1st. Notices are only mailed if the value has changed since July 2012.

Originally, the taxable value changed by 0.7% based on permits and plats. The overall change due to the reassessment was (1.2%), yielding an overall taxable value change of (0.5%) since July 2012. I projected a (1%) change for budget projections to allow room for appeal changes and the pending court case.

As you know, the Code of Virginia requires that we assess property at 100% fair market value. We always base our assessments on actual sales. In addition to relying on sales, we also monitor what is listed for sale on the local Multiple List Service (MLS). Reviewing current listing prices and comparing our proposed assessments to the asking prices allows us to look toward the future.

The total real estate value of Lynchburg is now $6,324,400,000. Our overall taxable value is $4,944,240,000 with 78.3% of our parcels being taxable. Our exempt parcels total $1,380,215,800. We currently have 31,556 active parcels of which 29,933 are taxable, 1,478 are exempt and 145 are assessed by the State Corporation Commission.

Here is a breakdown of changes since July 2012 for the 29,933 taxable parcels:

Action	Parcels	% of Taxable Parcels
No Change	20,200	68%
Decrease	8,805	29%
Increase	928	3%

There are three levels of appeals for property owners. The first level of appeal is informal and handled by our office. Based on City Code, property owners have 30 days from the mailing of notices to appeal (April 1, 2013). The second level of appeal is to our Board of Equalization. The Board consists of three individuals who are appointed by the Circuit Court. I have requested Richard Mosby, J.P. Vaughn and Norman Moon be reappointed. The deadline to appeal is July 1, 2013. The third level of appeal is directly to Circuit Court.

Please let me know if I can answer any questions or if you would like me to give an overview to City Council.

2013 Reassessment Summary

Greg Daniels, CAE
City Assessor

March 12, 2013

Code of Virginia § 58.1-3201

- All real estate, except that exempted by law, shall be subject to such annual taxation as may be prescribed by law.

- All general reassessments shall be made at 100 % of fair market value.

What is Market Value?

"…the most probable price expressed in terms of money that a property would bring if exposed for sale in the open market in an arm's-length transaction between a willing seller and a willing buyer, both of whom are knowledgeable concerning all the uses to which it is adapted and for which it is capable of being used." (*Property Assessment Valuation*, Chicago: International Association of Assessing Officers, 1977, pg. 21)

July 1, 2013 Reassessment Summary

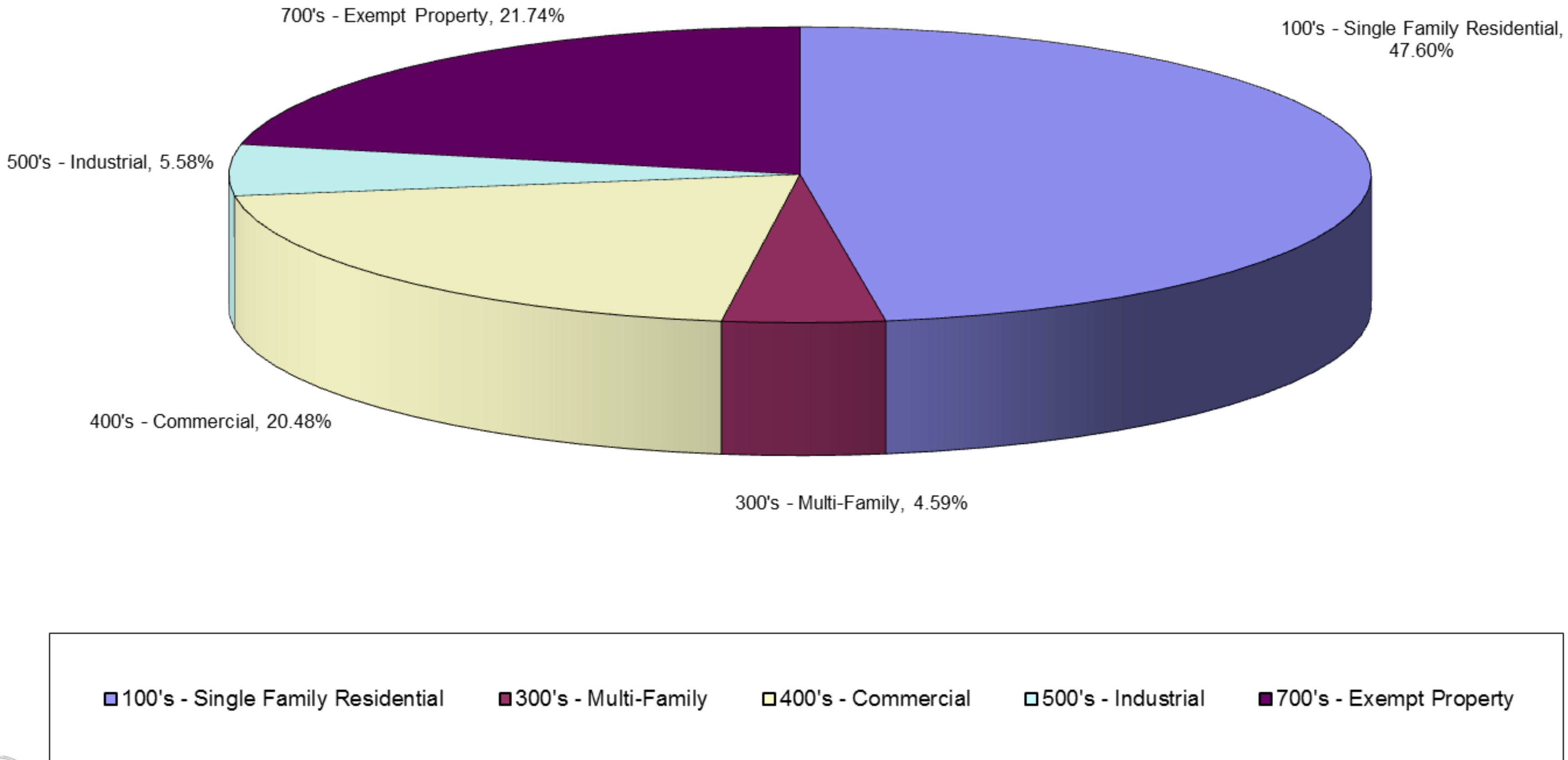
- Increased taxable value by 0.7% due to permits, plats, rezoning, etc.
- Reassessment changes resulted in -1.2% change in taxable values
- Overall change to taxable value is -0.5%.
- Changes to taxable values since July 2012

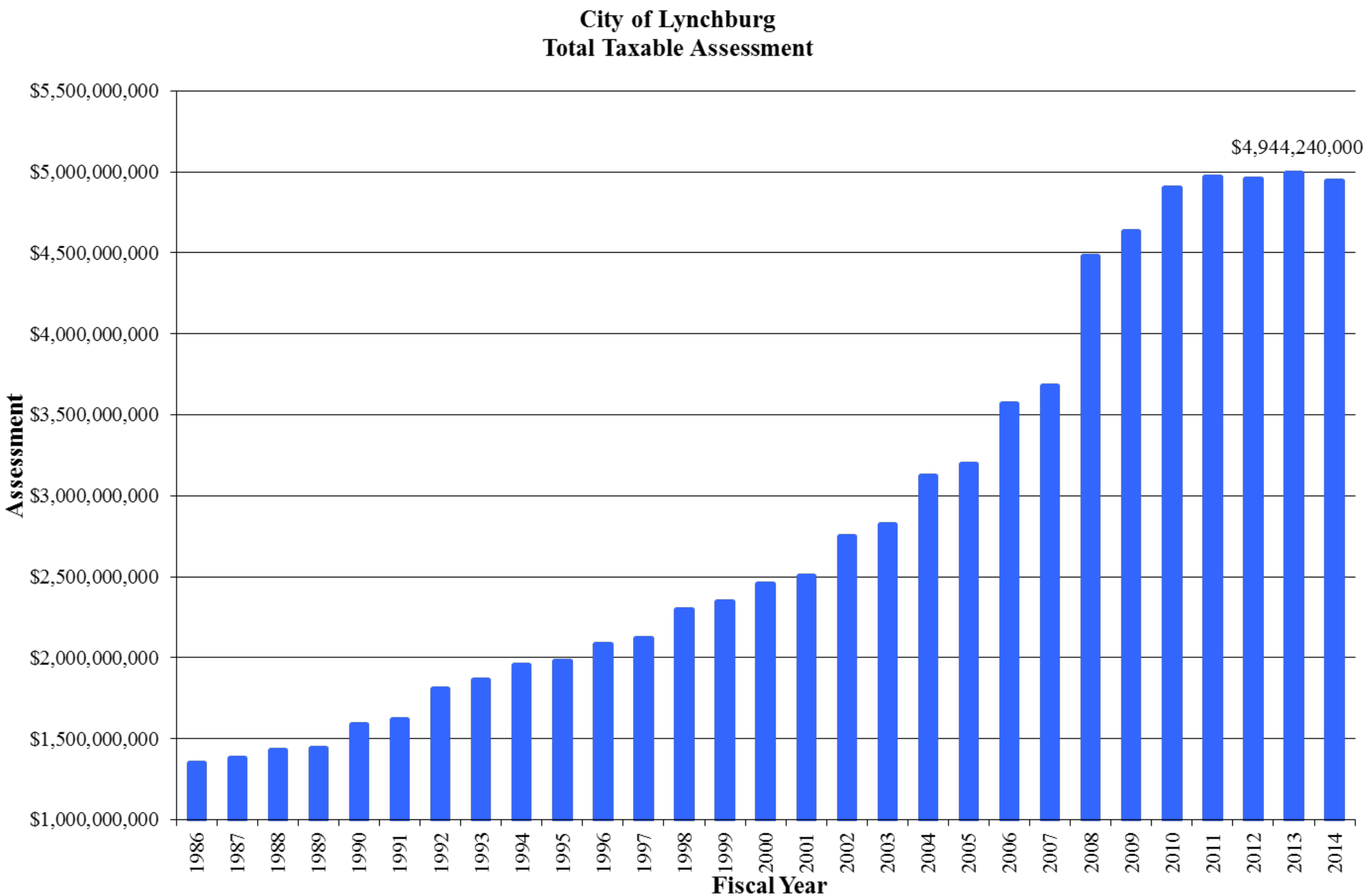
Action	Parcels	% of Taxable Parcels
No Change	20,200	68%
Decrease	8,805	29%
Increase	928	3%

July 1, 2013 Projected Values

- Total Taxable Value - $4,944,240,000 (78.3%)
- Taxable Parcels – 29,933
- Net Tax - $54,786,718
- Tax Rate is $1.11 per $100 of assessed value
- Total Exempt Value - $1,380,215,800 (21.7%)
- Exempt Parcels – 1,478
- Total (Taxable & Exempt) - $6,324,455,800

City Assessor
Proposed July 1, 2013
Values
Market Values by Property Class




City of Lynchburg
Total Taxable Assessment
$5,500,000,000
$5,000,000,000
$4,500,000,000
$4,000,000,000
$3,500,000,000
$3,000,000,000
$2,500,000,000
$2,000,000,000
$1,500,000,000
$1,000,000,000
Assessment
$4,944,240,000
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2014
Fiscal Year

Questions ?

Thank you!

// A regular meeting of the Council of the City of Lynchburg was held on the 26th day of February, 2013, at 4:00 P.M. in the Council Chamber, City Hall, Michael Gillette, President, presiding. The following Members were present:

Present: Cary, Foster, Helgeson, Johnson, Nelson, Gillette 6

Absent: Perrow 1

// Mayor Gillette announced that Council Member Perrow gave advanced notice that he would be late for the Council meeting.

// Council Member Perrow arrived at 4:03 P.M.

// Director of Communications and Marketing JoAnn Martin gave a demonstration of the newly redesigned City website. Ms. Martin explained that the last update was 2004. Ms. Martin stated that the new website would be more citizen friendly and the most visited site is the jobs page. Ms. Martin advised that the new site would be available for the Public on March 11, 2013. Ms. Martin thanked everyone involved in the new website design including Blair Marketing, Geographic Information Systems (GIS), Lynchburg TV 15 (LTV), Information Technology, and all pagemasters.

// Airport Manager Mark Courtney provided an Air Services update which included the results of the October 2012 passenger survey. Mr. Courtney gave thoughts about the potential impact of the US Airways/American Airlines merger on commercial air services at Lynchburg Regional Airport.

// Water Resources Director Tim Mitchell presented an overview of the FY 2014 Rate Study and Annual Report which includes information on the following:

- Water, Sewer, and Stormwater Fund operational expenses, revenues, and capital improvements
- Technology utilization for efficient operation of the water and sewer system
- Declining consumption discussion and recommendations
- Rate analysis and recommendations
- Rate comparisons
- Awards
- Water, Sewer, and Stormwater Projections
- Statistical data

Mr. Mitchell stated that the utility rate strategy developed for this year continues with the guiding principles of:

- Minimize the impact of rate adjustments on residential and other small customers
- Ensure necessary funding is provided for increases in operating and debt service costs
- Ensure compliance with the Special Order for Combined Sewer Overflow (CSO)
- Ensure compliance with adopted Fund Balance and Debt Management Financial Policies
- Provide an equitable distribution of costs based on actual services provided

Mr. Mitchell proposed increasing the monthly service charge by $2.00 per month per equivalent meter size. This charge has not been increased in at least 20 years. Increasing the fixed charge instead of the volumetric charge helps to stabilize revenues and better recover the fixed costs, such as debt service, associated with operating the water and sewer system. Mr. Mitchell stated this will result in an increase of

2.25% to 3.35% to typical water and sewer bills. The actual percent increase will vary depending upon actual consumption. Mr. Mitchell went on to say other proposed increases include a 5% increase in industrial surcharges and septic hauler charges and a 10% increase in water and sewer connection fees to more closely cover the cost of providing those services. It was consensus of Council to proceed with a public hearing regarding the rate recommendation contained within the Department of Water Resources FY 2014 Rate Study and Annual Report.

// Water Resources Director Tim Mitchell provided an overview of the Bedford County Public Service Authority plan to provide the Forest service area with water from Smith Mountain Lake, potential impact to the Water Fund and water rates for Lynchburg customers and alternative contract methodology. Mr. Mitchell explained the objectives:

- Keep Bedford as a long term customer
- Bedford currently uses 1.5 MGD (average), 13% of total water use
- Water sales to Bedford equal $1.6 million per year, almost 20% of rate base water revenue
- Very little can be done to mitigate the revenue loss if Bedford decides to go their own way.

Mr. Mitchell provided information on Bedford's plan to supply Forest and back-up supply to the Town of Bedford by 2016. Mr. Mitchell explained the issues with the current contract which will expire in 2022 and that there is no commitment by Bedford to remain a long term customer. Mr. Mitchell further stated that Amherst and Campbell County may also want a comparable lease. It was the consensus of Council that the Department of Water Resources move forward with further discussion with Bedford and keep Council updated.

// During roll call Vice Mayor Johnson mentioned that Council Member Joan Foster will be the guest speaker for the Epsilon Kappa Zeta Chapter of Zeta Phi Beta Sorority, Inc., at the Health Awareness Banquet which will be held on March 2, 2013.

// Kent White, Director of Community Development, and Marjette Upshur, Director of Economic Development, conducted a tour with Council of the renovated space on the second floor of City Hall. The tour included an overview of the new "one stop" reception and intake area in the Community Development department and the relocation of the Office of Economic Development. Mr. White stated how these changes are expected to reduce costs, improve efficiency and enhance customer service. The costs for renovation will be recovered in less than three years because of reduced operating costs and improved efficiency.

// City Council recessed the meeting at 6:20 p.m.

// City Council reconvened the meeting at 7:30 p.m.

The following Members were present:

Present:	Cary, Foster, Helgeson, Johnson, Nelson, Perrow, Gillette	7
Absent:		0

Council Member Cary gave the Invocation, followed by the Pledge of Allegiance.

// Copies of the minutes from the February 12, 2013 meeting, having been previously furnished Council, reading was dispensed with, and on motion of Council Member Foster, seconded by Vice Mayor Johnson, Council by the following recorded vote approved the minutes as presented:

Ayes: Cary, Foster, Helgeson, Johnson, Nelson, Perrow, Gillette 7
Noes: 0

// In the matter of Courts – General, Resolution #R-12-015 amending the FY 2013 City/Federal/State Aid Fund and appropriating $5,631, fully reimbursable, to preserve three Marriage Register books with records dated 1853 to 1909 at the Lynchburg Circuit Court Clerk's Office, laid over from the February 12, 2013 meeting, was again presented and read, and on motion of Council Member Foster, seconded by Vice Mayor Johnson, Council by the following recorded vote adopted the Resolution:

Ayes: Cary, Foster, Helgeson, Johnson, Nelson, Perrow, Gillette 7
Noes: 0

// In the matter of Fire – General, Resolution #R-12-016 amending the FY 2013 City/Federal/State Aid Fund budget and appropriating $161,406, fully reimbursable, for Staffing for Adequate Fire and Emergency Response (SAFER) grant to hire nine (9) full-time firefighters for the Fire Department, laid over from the February 12, 2013 meeting, was again presented and read, and on motion of Council Member Foster, seconded by Vice Mayor Johnson, Council by the following recorded vote adopted the Resolution:

Ayes: Cary, Foster, Helgeson, Johnson, Nelson, Perrow, Gillette 7
Noes: 0

// In the matter of Community Development – General, Resolution #R-12-021 for the sale of approximately four hundred twelve thousandths (0.412) of an acre located at 2400 Lakeside Drive to allow for retail development, laid over from the February 12, 2013 meeting, was again presented and read, and on motion of Council Member Foster, seconded by Vice Mayor Johnson, Council by the following recorded vote adopted the Resolution:

Ayes: Cary, Foster, Helgeson, Johnson, Nelson, Perrow, Gillette 7
Noes: 0

// In the matter of Registrar, Resolution #R-12-023 amending the FY 2013 City/Federal/State Aid budget and appropriating $24,327, with resources of $7,600 from the State Board of Election and $16,727 from the General Fund Reserve for Contingencies to replace 53 electronic pollbook laptop computers and carrying cases, laid over from the February 12, 2013 meeting, was again presented and read, and on motion of Council Member Foster, seconded by Vice Mayor Johnson, Council by the following recorded vote adopted the Resolution:

Ayes: Cary, Foster, Helgeson, Johnson, Nelson, Perrow, Gillette 7
Noes: 0

// In the matter of Schools – General, Resolution #R-12-024 amending the FY 2013 General Fund Budget and appropriating $993,862 with the following Committed Fund Balance Reserves hereby authorized: $300,000 for school health insurance; $372,862 for school textbooks and $321,000 for Special Education

Disproportional reserve, laid over from the February 12, 2013 meeting, was again presented and read, and on motion of Council Member Foster, seconded by Vice Mayor Johnson, Council by the following recorded vote adopted the Resolution:

Ayes: Cary, Foster, Helgeson, Johnson, Nelson, Perrow, Gillette 7

Noes: 0

// In the matter of City Code/Registrar, a public hearing was held regarding City Council Report #13 regarding amending the <u>City Code</u> relating to the designation of a new polling place in the First Precinct of the City's Fourth Voting Ward. Mr. John Falcone, Electoral Board Member, gave a summary of the request. There was no one else present who wished to speak to this item, and the public hearing was closed. On motion of Council Member Perrow, seconded by Vice Mayor Johnson, followed by discussion, Council by the following recorded vote adopted Resolution #R-13-027, as presented, to amend the <u>City Code</u> relating to the designation of a new polling place in the First Precinct of the City's Fourth Voting Ward:

Ayes: Cary, Foster, Helgeson, Johnson, Nelson, Perrow, Gillette 7

Noes: 0

// In the matter of Public Works – General, City Council Report #14 was considered. Mayor Gillette deferred to Council Member Perrow, Physical Development Committee Chair (PDC) and Council Member Nelson, Finance Committee Chair (FC), both stating that the item came before their Committees which recommended approval. This motion does not required a second, and Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-13-028, as presented, amending the FY 2013 City Capital Project Fund budget and appropriating $1,212,137 with resources from the sale of property at 3901 Old Forest Road to make improvements to transportation infrastructure for two projects – Whitehall Road/Lakeside Drive Traffic Improvement ($500,000) and Greenview Drive Phase II Improvements ($712,137):

Ayes: Cary, Foster, Helgeson, Johnson, Nelson, Perrow, Gillette 7

Noes: 0

// In the matter of Finance – General, City Council Report #15 was considered. Donna Witt, Director of Financial Services, gave a summary of the request, noting several revisions in the City's Financial Management Policy. The noted changes on pages 2 and 5 under Committed Fund Balance and Process clarify that the City's Budget is adopted by Resolution instead of Ordinance. The other change is on page 4 (Tax-Supported Debt #6) which states: The 10-Year Principal Payout Ratio shall not be less than 60% <u>at the end of each adopted five-year Capital Improvement Program</u> for Tax-Supported General Obligation Indebtedness. During Council discussion there was some concern with the change on page 4. Council Member Helgeson stated he would not support the change on page 4, item #6, but would support the word change on pages 2 and 5 from "Ordinance" to "Resolution".

Council Member Helgeson made a substitute motion, seconded by Council Member Perrow, to vote only to approve the word change from "Ordinance" to "Resolution" on pages 2 and 5. Council by the following recorded vote adopted Resolution #R-13-029, as presented, of the City's Financial Management Policies with Amendments changing the wording from "Ordinance" to "Resolution":

Ayes: Cary, Foster, Helgeson, Johnson, Nelson, Perrow, Gillette 7

Noes: 0

On motion of Council Member Nelson, seconded by Council Member Foster, Council by the following recorded vote adopted Resolution #R-13-030, as presented, of the City's Financial Management Policies with Amendments on page 4, which states the 10-Year Principal Payout Ratio shall not be less than 60% at the end of each adopted five-year Capital Improvement Program for Tax-Supported General Obligation Indebtedness:

Ayes: Cary, Foster, Helgeson, Johnson, Nelson, Perrow, Gillette 5

Noes: Helgeson, Perrow 2

// In the matter of Public Works – General, a City Council Report not included on the agenda regarding the repairs to the Holiday Inn Parking Deck was submitted. Mayor Gillette asked that this item be added to the agenda due to the fact that the item was presented at the Finance Committee, and bids from the contractor are good for 60 days. Council Member Helgeson was opposed to adding this item to the agenda to allow more time to digest the financial information. On motion of Council Member Cary, seconded by Council Member Foster, followed by discussion, Council by the following recorded vote agreed to add this item to the agenda:

Ayes: Cary, Foster, Johnson, Nelson, Perrow, Gillette 6

Noes: Helgeson 1

Council Member Nelson, Finance Committee Chair (FC), stated that this item came before FC which recommended approval. This motion does not required a second. Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-13-031, as presented, amending the FY 2013 City Capital Projects budget and appropriating $182,250 with resources from the General Fund Reserve for Contingencies to fund repairs to the Holiday Inn Parking Deck with anticipation of reimbursement from the at-fault party's insurance company:

Ayes: Cary, Foster, Helgeson, Johnson, Nelson, Perrow, Gillette 7

Noes: 0

// On motion of Council Member Cary, seconded by Council Member Foster, Council by the following recorded vote elected to hold a closed meeting for consultation with legal counsel and briefings by staff members regarding a specific legal matter requiring the provision of legal advice, specifically, the legal issues involved in the creation of a public-private partnership under the Virginia Public-Private Transportation Act, pursuant to Section 2.2-3711(A.)(7) of the Code of Virginia,1950, as amended:

Ayes: Cary, Foster, Helgeson, Johnson, Nelson, Perrow, Gillette 7

Noes: 0

// The meeting was re-opened to the public.

// Vice Mayor Johnson made the following motion:

WHEREAS, the Council of the City of Lynchburg has convened a closed meeting on this date, pursuant to an affirmative recorded vote and in accordance with the provisions of The Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3712 of the Code of Virginia requires a certification by City Council that such closed meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Lynchburg certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by Council.

The Motion was seconded by Council Member Nelson, and Council by the following recorded vote adopted the motion:

Ayes: Cary, Foster, Helgeson, Johnson, Nelson, Perrow, Gillette	7
Noes:	0

// The meeting was adjourned at 9:17 P.M.

____

Clerk of Council

LYNCHBURG CITY COUNCIL
Agenda Item Summary

MEETING DATE: **March 12, 2013** AGENDA ITEM NO.: 8

CONSENT: REGULAR: **X** WORK SESSION: CLOSED SESSION: (Confidential)

ACTION: **X** INFORMATION:

ITEM TITLE: **Mid-Atlantic Broadband Cooperative (MBC) Request for Lease of a Portion of one 3" Conduit on City Owned Property at Lynchburg Regional Airport from Hand Hole #10 to Hand Hole #2.**

RECOMMENDATION: After a public hearing, approve the attached resolution to lease City-owned property located at the Lynchburg Regional Airport.

SUMMARY: Mid-Atlantic Broadband Cooperative (MBC) has requested to lease space in one of two 3" conduits located at the Lynchburg Regional Airport. They want to use approximately 3,600 feet of the conduit to place their fiber optic cable. They have agreed to pay $1,500 per year with the initial term of 5 years. They would like to have an option for 3 additional 5 year terms. By securing this lease they are reducing the length of the fiber run from their hut on Hanger Road to Route 29.

PRIOR ACTION(S): PDC Meeting 2/12/13 – Proceed to hold a public hearing

FISCAL IMPACT: Rental income for the Airport

CONTACT(S):
Steve Lawson – Real Estate Manager – 455-3945
Lee Newland – City Engineer – 455-3947
David Owen – Public Works Director - 455-4469

ATTACHMENT(S): Resolution; Map Route of Leased Conduit in Red

REVIEWED BY: lkp

RESOLUTION

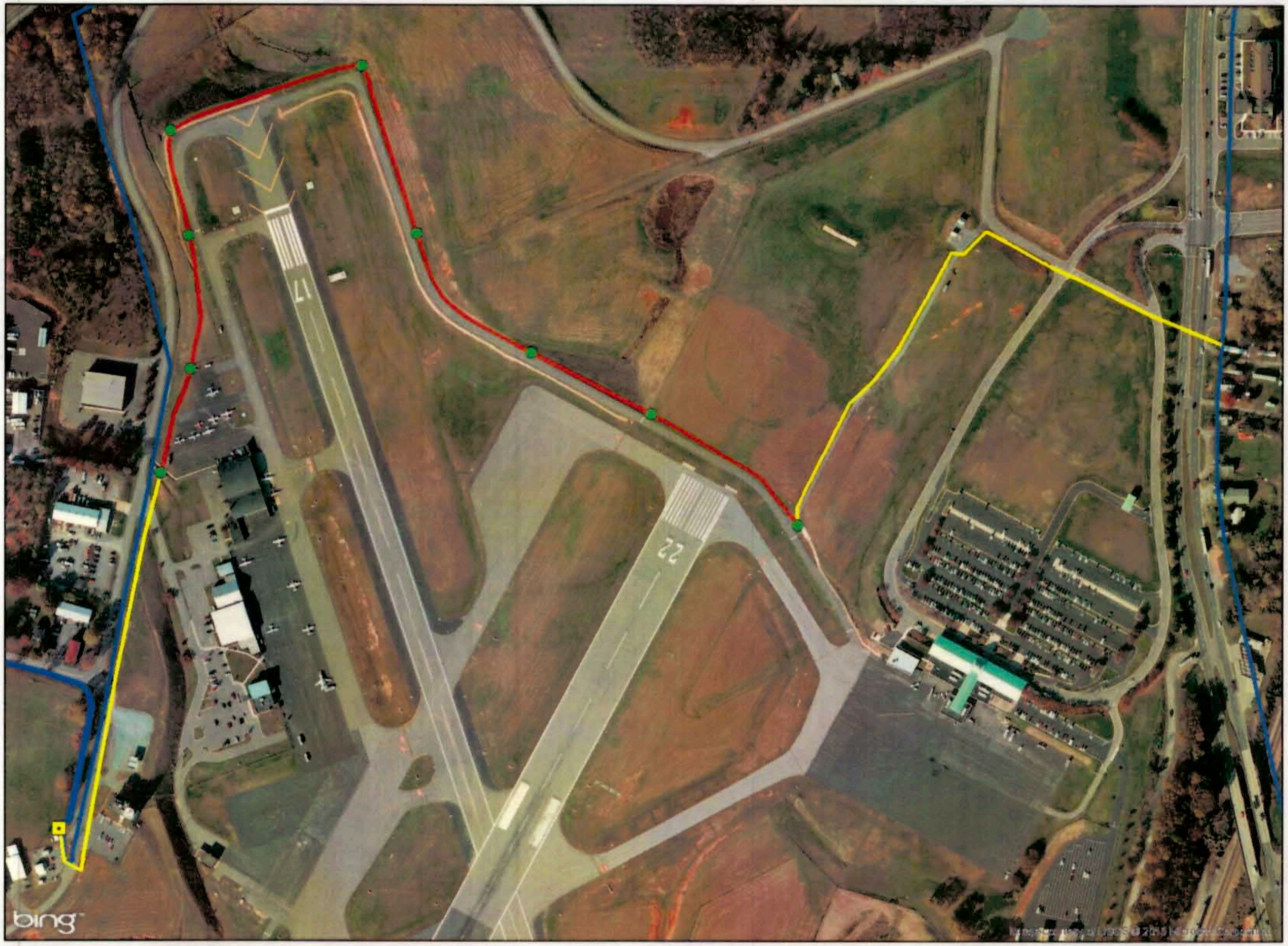
BE IT RESOLVED that the Lynchburg City Council hereby authorizes the City Manager to execute a lease agreement on behalf of the City for a lease between the City and Mid-Atlantic Broadband Cooperative (MBC) that will allow MBC to lease space for its fiber optic cable in one of two 3” conduits located at the Lynchburg Regional Airport. Under the terms of the lease MBC will install approximately 3,600 feet of fiber optic cable conduit. The lease agreement will be for an initial term of five years and MBC will pay the City $1,500 per year in rent. At the end of the initial five year term, the City and MBC will have the option of renewing the lease for up to three additional five year terms upon such conditions as are mutually agreeable to the City and MBC.

Adopted:

Certified: ______________________________
Clerk of Council

042K

Proposed Lynchburg Regional Airport Fiber Path



MBC

- MBC Node
- Lynchburg Airport Handholes
- Proposed Buried Fiber Route
- Proposed Conduit Fiber Route
- MBC Existing Fiber

3,564 feet of fiber will need to be placed in Lynchburg Regional Airports existing conduit. 3,140 feet of fiber will need to be buried. The total amount of fiber needed to be placed is 6,704.

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LYNCHBURG CITY COUNCIL
Agenda Item Summary

MEETING DATE: **March 12, 2013** AGENDA ITEM NO.: 9

CONSENT: REGULAR: **X** WORK SESSION: CLOSED SESSION: (Confidential)

ACTION: **X** INFORMATION:

ITEM TITLE: **Mid-Atlantic Broadband Cooperative (MBC) Request for Approval for Installation of Fiber Optic Cable from Hangar Road to Wards Road crossing City Owned Property at Lynchburg Regional Airport.**

RECOMMENDATION: After a public hearing, approve the attached resolution to grant Mid-Atlantic Broadband Cooperative (MBC) a license agreement for installation of fiber optic cable at Lynchburg Regional Airport.

SUMMARY: Mid-Atlantic Broadband Cooperative (MBC) has submitted a request for installation of fiber optic cable as a diverse route from the MBC hut located on Hangar Road (on City of Lynchburg Airport property) to Wards Road (Route 29). All new installations by MBC are now engineered with diverse routes. This route is needed in case a failure occurs in the aerial section of cable that Mid-Atlantic Broadband Cooperative (MBC) currently has located on AEP pole lines located on Airport Road and City owned property at the airport.

PRIOR ACTION(S): PDC Meeting 2/12/13 – Proceed to hold a public hearing

FISCAL IMPACT: None

CONTACT(S): Steve Lawson – Real Estate Manager – 455-3945
Lee Newland – City Engineer – 455-3947
David Owen – Public Works Director - 455-4469

ATTACHMENT(S): Resolution; Map Route

REVIEWED BY: lkp

RESOLUTION

BE IT RESOLVED That the City Manager is hereby authorized to execute a license agreement with Mid-Atlantic Broadband Cooperative (MBC), allowing MBC to install fiber optic cable from the MBC hut located on Hangar Road (on City of Lynchburg Airport property) to Wards Road (Route 29).

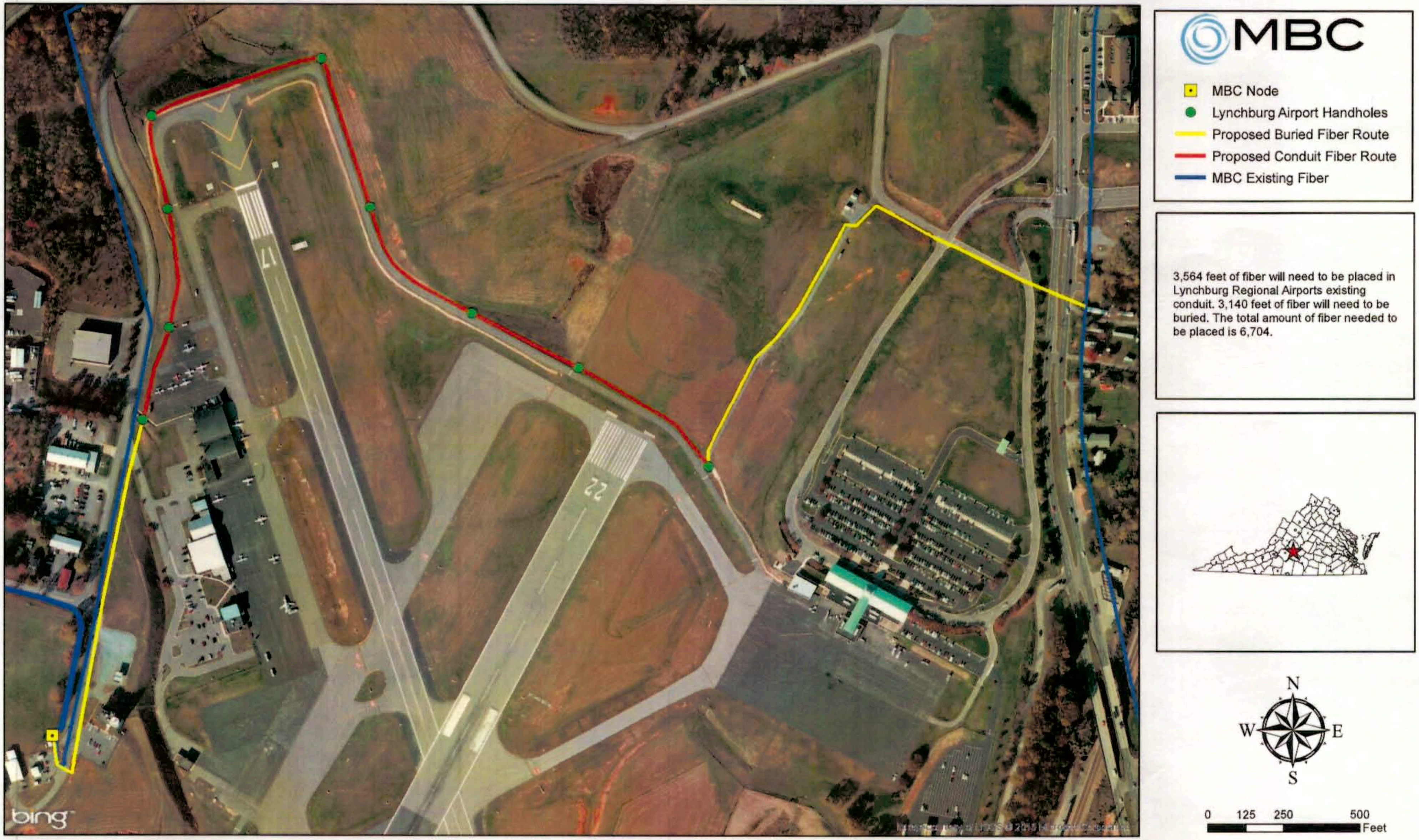
Adopted:

Certified: ______________________________

Clerk of Council

041K

Proposed Lynchburg Regional Airport Fiber Path



LYNCHBURG CITY COUNCIL
Agenda Item Summary

MEETING DATE: **March 12, 2013**			AGENDA ITEM NO.: 10
CONSENT:	REGULAR: **X**	WORK SESSION:	CLOSED SESSION: (Confidential)
ACTION: **X**		INFORMATION:	

ITEM TITLE: **Public Hearing Regarding the 2013/14 Allocation of Community Development Block Grant (CDBG) and HOME Program Funds**

RECOMMENDATION: Conduct a public hearing to receive input regarding the Program Year 2013, Fiscal Year (FY) 2014, projected allocation of $672,915.89 in Community Development Block Grant (CDBG) and $277,823 in HOME Program funds.

SUMMARY: The U.S. Department of Housing and Urban Development (HUD) funds the CDBG and HOME Programs. The City has available the following funds to use for eligible CDBG and HOME activities during the 2013/14 (FY 2014) program year.

CDBG AVAILABLE FUNDING/SOURCE	**AMOUNT**
HUD Allocation	$607,280.00*
Reprogrammed Funds	63,605.89
Anticipated Program Income	2,030.00
Total CDBG Funding Available	**$672,915.89**

HOME AVAILABLE FUNDING	**AMOUNT**
HUD Allocation	$269,647.00*
Reprogrammed Funds	8,176.00
Total HOME Funding Available	**$277,823.00**

***In anticipation of HUD reductions to CDBG and HOME entitlements, the estimated entitlement amount for FY 2014 has been reduced by 5% from the prior year entitlement amount.**

The Community Development Advisory Committee (CDAC) met on February 19 and reviewed the applications that were submitted. The following lists of projects have been recommended for funding by the CDAC.

CDBG PROJECTS RECOMMENDED FOR FUNDING
BY THE COMMUNITY DEVELOPMENT ADVISORY COMMITTEE

Agency/Project Name	**CDAC Recommendations**
Bluffwalk Section 108	$ 284,048.00
City Administration	88,100.00
5th Street CDC Phase III - City	150,000.00
Tinbridge Hill Neighborhood - City	45,000.00
Lynchburg Redevelopment and Housing Authority (LRHA) Administration and Delivery Costs	-0-**
LRHA Spot Blight Abatement	105,767.89**
Total CDBG	$ 672,915.89

**Deb Guyot, Executive Director for LRHA will present the recommendation of CDAC to the LRHA Board of Directors and subsequently submit to City staff a detailed budget for Administration/Delivery Costs and the Spot Blight Abatement Program within the recommended amount.

HOME PROJECTS RECOMMENDED FOR FUNDING
BY THE COMMUNITY DEVELOPMENT ADVISORY COMMITTEE

Agency/Project Name	**CDAC Recommendations**
City Administration	$ 25,000.00
Habitat for Humanity – Homeownership Program	60,000.00
Lynchburg Neighborhood Development Foundation (LNDF) Homeownership Fund	30,000.00
Lynchburg Community Action Group (Lyn-CAG) Homeowner Substantial Rehabilitation	75,000.00
Lyn-CAG Homebuyer (Community Housing Development Organization-CHDO)	40,823.00
LNDF Single Family Development	50,000.00
Total HOME	$ 277,823.00

All CDBG and HOME funds will be expended in accordance with primary objectives of these programs. It is important that City Council is aware that HUD is enforcing its' spend down policies and that as funds are allocated, HUD expects funds to be spent at a ratio of 1.5 times the program year grant amount. Further, the City estimates that over 70 percent of the total funds for 2013/14 funding will benefit low/moderate income persons.

All applications submitted for funding consideration are available for review in the Grants Administration Office, Second Floor, City Hall.

At the work session on March 26, City Council will review the recommendations of the CDAC and will cast their final vote for the projects and allocations to be included in the Annual Action Plan and submitted to HUD.

PRIOR ACTION(S): N/A

FISCAL IMPACT: N/A

CONTACT(S): Bonnie Svrcek, Deputy City Manager, 455-3987
Melva Walker, Grants Manager, 455-3916

ATTACHMENT(S): CDAC Meeting Notes – February 19, 2013 – Attachment A
CDAC Funding Recommendations Worksheet – Attachment B
Summary of CDBG and HOME Applications – Attachment C
CDBG and HOME Reprogrammable Funds – Attachment D
CDBG and HOME Unexpended Balances – Attachment E

REVIEWED BY: lkp

043K

ATTACHMENT A

Community Development Advisory Committee (CDAC) Meeting
February 19, 2013
City Hall, Second Floor Training Room

Meeting Notes*

(*MEETING NOTES HAVE BEEN REVIEWED INDIVIDUALLY BY CDAC MEMBERS; WILL NOT HAVE FORMAL APPROVAL UNTIL THEIR NEXT MEETING DATE SCHEDULED FOR FEBRUARY 2014.)

Members and persons in attendance included:

CDAC Members Present:	Council Member Jeff Helgeson, Chair; Council Member Dr. Ceasor T. Johnson, Vice Chair; Mr. Michael Bedsworth (Daniel's Hill representative); Ms. Valerie Duncan (College Hill representative); Ms. Vicky Paige (At-Large Member); and Mr. Jeffery Schneider (Diamond Hill representative)
CDAC Member Absent:	Ms. Marry Culpepper (Tinbridge Hill representative)
City Staff:	Bonnie Svrcek (Deputy City Manager); Melva Walker (Grants Manager); Rhonda Allbeck (Assistant Director of Financial Services); Toni Butler (Grants Accountant); Tom Martin (City Planner); Kevin Henry (Planner); Kent White (Director of Community Development); Starlette Early (Community Development Program Coordinator)
Guests:	Debra Guyot, Lynchburg Redevelopment and Housing Authority (LRHA); Barbara Murrell, Greater Lynchburg Habitat for Humanity (GLHFH); Denise Crews, Lynchburg Community Action Group (Lyn-CAG); Donna Vincent (GLHFH); Dr. James Mundy, (Lyn-CAG); Cindy Sommers, Lynchburg Neighborhood Development Foundation (LNDF); Laura Dupuy, (LNDF)

The Committee Chair, Council Member Jeff Helgeson, called the meeting to order at 11:01 a.m., noting a quorum was present. He advised the Committee members that Ms. Mary Culpepper was unable to attend the meeting. Ms. Vicky Paige arrived later in the meeting, but prior to the Committee's discussion on recommendations for the projects.

Council Member Helgeson invited Melva Walker, Grants Manager, to introduce the new CDAC representative and City staff members. Ms. Walker welcomed the newest member of CDAC, Ms. Valerie Duncan, representing the College Hill neighborhood. She then introduced new City of Lynchburg staff members Starlette Early (Community Development Program Coordinator) and Toni Butler (Grants Accountant).

Council Member Helgeson noted that copies of the minutes for the February 21, 2012 meeting had previously been provided to CDAC members and called for comments, corrections, or approval. A motion was made by Mr. Bedsworth, and seconded by Mr. Schneider, to approve the minutes as submitted. A vote was called, and the minutes were unanimously approved.

Council Member Helgeson reviewed the process for making recommendations with the Committee and reminded CDAC members that funding requests outweigh the amount of funds available. Council Member Helgeson yielded the floor to Ms. Walker to provide a more detailed overview and current status of the CDBG and HOME Program.

Ms. Walker shared highlights of the U. S. Department of Housing and Urban Development (HUD) Program Year 2011 Consolidated Annual Performance Report (CAPER) via slide presentation. She summarized accomplishments in the following areas:

- Housing Ownership, Rehabilitation and Rental Housing
- Support of Neighborhoods
- Economic Development Efforts
- Public Service Providers for At-Risk Youth, Adults and Families
- Residential Rental Property Inspections Program and Property Maintenance Inspections
- Demolition and Code Enforcement
- Spot Blight Acquisitions and Rental Rehabilitation Grants

Ms. Walker noted the full narrative is posted on the Grants Administration page of the City's website at www.lynchburgva.gov/grants. She also noted the CAPER was submitted to HUD in October and, after staff made minor edits requested by HUD, the report was accepted.

Ms. Walker discussed the Citizen Participation Plan for CDBG and HOME Program and, in particular, the role of CDAC in this process:

- Review CDBG and HOME Program applications received by staff;
- Make recommendations to City Council; and
- City Council conducts public hearings (notices are published for the public meetings), reviews CDAC recommendations and gives final approval for project funding.

Ms. Walker summarized City Council's continued direction for the 2013-2014 application funding requests:

- Bluffwalk – must be funded in order to make payments against loan;
- Maximize use of CDBG funds for Capital Improvement Projects;
- Cooperation with the Lynchburg Redevelopment & Housing Authority (LRHA) regarding spot blight, rental rehabilitation and other housing related projects; and

- Focus resources on targeted neighborhood(s) through partnerships with City departments and/or LRHA.

Ms. Walker provided an overview of the 2013-2014 Annual Action Plan Goals. She noted these goals were previously approved at a public hearing by City Council on January 8 and remained unchanged from the prior year.

Ms. Walker directed attention to the CDBG and HOME Allocations Worksheet, (Ms. Allbeck and Ms. Butler were showing "real-time" changes to the worksheet on overhead screen during CDAC's discussion), making special note of the following details:

- The LNDF Development project is not a Community Housing Development Organization (CHDO) project; this will be a single-family development project. There is only one CHDO request for funding and that request is from Lyn-CAG.

- City staff reduced the estimated CDBG and HOME entitlement amounts for FY 2014 by 5% to reflect an anticipated funding decrease from HUD. The estimate is not final at this point. She noted the overall CDBG estimated Entitlement amount is $672,915 with breakdown as follows: Program Year 2013 estimated Entitlement is $607,280, reprogrammed funds category is $63,605 and estimated program income is $2,030. The HOME Program estimated Entitlement amount is $277,823 with breakdown as follows: Program Year 2013 estimated Entitlement is $269,647 and reprogrammed funds is $8,176.

- Set expenditures in the worksheet include: Bluffwalk: $284,048; CDBG Program Administration: $88,100; and HOME Program Administration: $22,000.

- HUD requirements stipulate a minimum of 15% of entitlement amount must be allocated for a CHDO project. The minimum amount for a CHDO project is $40,447.05.

Council Member Helgeson asked that a placeholder amount of $40,447.05 be put in the Lyn-CAG CHDO project, since that was the minimum amount to satisfy the percentage requirement. He then suggested the Committee focus first on all the HOME allocations since those appeared to be less complicated. He asked Ms. Walker to further elaborate on the HOME Program for CDAC members, and she gave a synopsis of the Program's goals, noting all projects requested were eligible for funding.

Council Member Helgeson asked for suggestions from the Committee for a place to start the discussion and asked for a proposed allocation amount. He indicated there was $277,823 total available for HOME projects. Mr. Bedsworth offered to begin with a proposal to allocate the full funding request of $60,000 for GLHFH.

Council Member Johnson asked Ms. Walker to provide a short overview of the allocation procedure process for new CDAC member, Ms. Duncan. Ms. Walker explained the process that Committee members were now discussing and deliberating the projects and making recommendations for funding within available resources. Council Member Johnson further explained that all Committee members should feel free to ask questions and express their opinions throughout the process.

Council Member Johnson proposed $75,000 for Lyn-CAG Substantial Rehabilitation and $30,000 for each LNDF project. Mr. Schneider suggested an allocation amount for the LNDF projects on a percentage basis related to the requested funding amounts, rather than an equal amount of funding. He proposed a $35,000 allocation to LNDF Homeownership and a $45,000 allocation for LNDF Development.

Seeking advice on the allocation distribution, Chairman Helgeson invited a representative from LNDF to educate the Committee on their two projects submitted for funding requests. Laura Dupuy and Cindy Sommers came forward and provided CDAC with an overview:

- LNDF Homeownership Fund supports the buyer by reducing the financing costs for their mortgage. Assistance is approximately $10,000 per closing; so with the proposed $35,000 allocation they could assist 3.5 buyers. Ms. Dupuy noted that LNDF also has other funding sources that can be combined with the HOME Program funds to assist the buyers.

- LNDF Development helps with costs of building a home. Assistance is approximately $35,000 per home; therefore the proposed $45,000 funding could support assistance for almost 1.5 homes.

Mr. Schneider asked whether LNDF would prefer a different division of the $80,000 allocation to better serve their program needs. Ms. Dupuy favored an allocation of $30,000 for LNDF Homeownership and $50,000 for LNDF Development. This funding allocation was updated on the worksheet.

Council Member Johnson asked for a representative from GLHFH to come forward and provide additional details on their funding request. Donna Vincent and Barbara Murrell indicated the $60,000 would provide down-payment assistance for 4 homeowners to get in homes. They further elaborated on giving back HOME funds last year for other requests due to their building schedule during the fiscal year.

Council Member Helgeson indicated he appreciated their gesture to allow other agencies to use the funds in a timelier manner, supported their current request, and proposed the Committee make a firm commitment to provide $60,000 funding for GLHFH.

CDAC members discussed adding the final balance ($375.95) of program funds to the Lyn-CAG Homebuyer CHDO project. With all HOME resources allocated, a motion was made by Mr. Bedsworth to accept the allocations proposed for 2013 HOME funding as shown on the worksheet. The motion was seconded by Mr. Schneider, and approved unanimously by the entire Committee.

Referring next to the CDBG side of the worksheet, Council Member Helgeson explained this Program was a more difficult task with more requests and less funding to go around. He also advised CDAC that City Council had already reprogrammed $100,000 funding to 5th Street CDC Phase III. Council Member Johnson indicated that Council's funding should not affect the funding allocations made by this Committee.

CDAC asked for clarification on the division of LRHA categories of requests. Ms. Walker explained the LRHA Administration & Delivery Costs were the costs of having a staff person to do the project and other directly related administrative costs of delivering the project. If CDAC elected to fund the LRHA Rental Rehabilitation or Spot Blight Abatement programs, they needed to allocate sufficient funding in the Administration & Delivery Costs line item to support the cost of delivering those programs. Debra Guyot (LRHA) clarified the request in the Administration & Delivery Cost category provided funding for delivery of both LRHA programs.

Council Member Johnson re-visited the issue of City Council's role in redirecting funding for the 5th Street Project. Ms. Svrcek and Ms. Walker provided historical context for the City's request to combine $145,000 in available funding previously designated for a low-interest rehabilitation loan for the property at 302 Cabell Street and demolition of properties acquired by LRHA and $100,000 reprogrammed funding from Phase II of the 5th Street project. Ms. Walker further explained how the City must meet timeliness and spend-down guidelines imposed by HUD and it was our goal to watch those parameters closely to avoid returning grant awards back to HUD. Ms. Svrcek added the City's request for funding under the CDBG grant served to reduce the amount of funds that would need to be allocated within the City's General Fund Budget.

Council Member Johnson asked Tom Martin to provide a status report for the 5th Street Project and how these funds would be used to meet the necessary expenditures for Phase III. Mr. Martin indicated Phase II of the project had an expected completion date of June 2013, and the City would move on to Phase III in Fall 2013. He explained engineering estimated cost of Phase III at $950,000 without any contingency, and the City was seeking $250,000 funding from the CDBG program and $750,000 in City Capital Improvements Program (CIP) budget. Mr. Martin specified the more expensive cost for Phase III was due to water resources. Additional discussion about Phase III funding concluded with members of CDAC agreeing to an initial funding amount of $150,000.

Council Member Helgeson asked Debra Guyot, Executive Director of Lynchburg Redevelopment and Housing Authority (LRHA) to come forward to discuss the details of their program and related funding request. Ms. Guyot provided an overview:

- LRHA Rental Rehabilitation Program– focuses on rehabilitation of rental units to benefit low-income tenants. They provide a 50% matching grant to help landlords make needed repairs to their property and the program emphasizes accessibility for low-income tenants.

- Spot Blight Abatement Program – LRHA works with the City to identify housing units not meeting City codes and posing a threat to public safety. Their goal is to have the homeowner repair their property to bring it into compliance with Building Code regulations. If not, LRHA purchases the property and markets it for sale. Ms. Guyot explained this program affects more than just the identified property. It sometimes creates a "ripple" effect and causes other nearby homeowners to make repairs to their properties.

Mr. Bedsworth asked Ms. Guyot to clarify whether the 50 percent match was a loan or grant. Ms. Guyot confirmed it was a grant. Mr. Bedsworth said it was his opinion the LRHA Rental Rehabilitation was not a good stewardship of CDBG program money. He felt the owner of the property should be held accountable to make the necessary repairs to their own property. He figured, based on their delivery request amount, for every $3 funding provided to the owner, it cost $2 to run the program. He strongly felt if was not a good use of program money and proposed a $0 amount for those programs. Mr. Bedsworth concluded he felt the program encouraged landlords to allow their property to "run down" and get free money to fix it up. Council Member Helgeson agreed the program funding would directly benefit the landlord.

Council Member Johnson directed attention to the Tinbridge Hill Neighborhood project, requesting an overview of the request by City staff. Kent White came forward and provided a historical synopsis of the project, now in its third year. The philosophy is to create a public/private partnership within the neighborhood, providing infrastructure and updating/development support to make the neighborhood more self-sustainable. Due to staffing changes, the Tinbridge project has not moved forward as quickly as expected. The funding request of $143,500 allows for three home rehabilitations at $45,000 per home and $8,500 for an easement for a trail access within the neighborhood.

Ms. Paige questioned the effects to the project if it was not funded. Mr. White suggested the project is more about creating a sustainable neighborhood model by forming long-term public/private partnerships. It is the hope that homeowners in the neighborhood will work together to form partnerships with area building partners such as Lyn-CAG to assist with their development goals. If funding is not allocated for the project, they will do fewer housing rehabilitations in the neighborhood.

Council Member Helgeson recapped CDAC's recommendation to provide funding for Tinbridge Hill for past two years and it was now going into its third year. He suggested the project may not be a sustainable model if the City has to continue funding it. Ms. Walker clarified the project still had $75,000 in funds allocated to Lyn-CAG for housing rehabilitations. Lyn-CAG plans to expend these funds prior to May 1st. Ms. Svrcek reminded the Committee it was due to transition in staffing that the City had not completed the plan for that neighborhood during the original timeframe. The plan requires completion before the anticipated outcomes can be realized.

Council Member Johnson proposed funding of $45,000 for the Tinbridge Hill Neighborhood project. He believed this funding demonstrated the City was still "in touch" with their planned project and this recommendation would provide resources for one housing rehabilitation.

Council Member Helgeson initiated additional discussion regarding the LRHA requests. He recommended funding the Spot Blight Abatement program only and requested Ms. Guyot suggest an amount needed to cover the delivery costs for this program only. Without specific figures available, Ms. Guyot estimated $85,000 for the cost of staffing, legal and associated administrative costs. Discussion also focused on reasons for the $125,000 funding requested from last year that was returned back to the CDBG coffers. Ms. Guyot explained they have to set aside the funds to purchase these blight properties, but do not use the money to purchase if they are successful in getting the homeowner to repair their property as necessary.

Ms. Paige asked for historical context regarding funding allocated to the Bluffwalk program. Ms. Svrcek indicated the City entered into a legal agreement with the developer and was obligated to reserve this amount in the CDBG funding each year.

Ms. Paige indicated she was a strong supporter of the LRHA Rental Rehabilitation Program and had experienced first-hand the benefits it provides to the tenant. Mr. Schneider indicated he too had supported funding for the Program last year. However, based on the amount of funding he calculated still available to them from the current year, he thought they had enough money to get through the current year and the next cycle. He supported returning the funding for LRHA Rehabilitation back to $0 and giving the available funding back to Spot Blight. Ms. Duncan offered she had no opinion on this particular project given her recent appointment to CDAC.

Council Member Helgeson indicated they needed a breakdown from LRHA to administer/deliver only the Spot Blight Program. Council Member Johnson suggested reallocating all the LRHA Administration & Delivery Costs back to the LRHA Spot Blight Abatement category and let City Council figure out how to distribute. Ms. Svrcek suggested LRHA staff should come back with a proposal to City staff of how to breakdown funding. CDAC members agreed with this suggestion and allocated all remaining CDBG funds ($105,767.89) to LRHA Spot Blight Abatement project.

Ms. Svrcek asked CDAC for clarification on whether their $45,000 allocation to Tinbridge Hill included $8,500 for the trail easements, with remainder to housing rehabilitation. Ms. Crews was asked if Lyn-CAG could work with that amount to cover rehabilitation of one house and she agreed. The Committee indicated the $8,500 could be used to complete the trail easements.

After a review of the worksheet, a motion was made by Mr. Bedsworth, seconded by Ms. Duncan, to accept the funding allocations as shown for CDBG funds. CDAC unanimously approved, and Council Member Helgeson indicated their work was completed.

Ms. Svrcek asked whether the Committee might offer any guidance if the final entitlement amounts from HUD were different from the estimated 5 percent reduction. Mr. Schneider suggested all “hard-wired” allocations needed to stay the same, but allow reductions as a percentage across the board. Council Member Helgeson asked the members if they wanted a “trigger” percentage (i.e. > 20%) in order to have CDAC reconvene to possibly adjust their recommendations. Consensus was to keep the allocations as currently approved, but make appropriate percentage adjustments across the board.

Council Member Helgeson asked for other items of discussion.

Ms. Walker advised the Committee of the timeline for the 2014 Fiscal Year Annual Action Plan:
- City Council Public Hearing (CDAC Recommendations) - March 12, 2013 @7:30 p.m.
- City Council Allocation – Work Session – March 26, 2013
- Draft Annual Action Plan – Public Review – April 13, 2013
- City Council Public Hearing (Annual Action Plan) – May 14, 2013 @ 7:30 p.m.
- Annual Action Plan Submittal to HUD – May 15, 2013

With no further business to discuss, Council Member Helgeson adjourned the CDAC meeting at 12:23 p.m.

ATTACHMENT B

CDBG and HOME Allocations Worksheet 2013-2014

Total CDBG Available $ 672,915.89

CHDO Requirement $ 40,447.05

CDBG

NAME	Prior Year 12/13 Award	Amount Requested	CDAC Amount Awarded	City Council Amount Awarded
Bluffwalk Section 108	$ 290,084.00	$ 284,048.00	$ 284,048.00	
City Administration*	25,000.00	88,100.00	88,100.00	
Analysis of Impediments to Fair Housing	30,000.00	0.00	0.00	
5th Street CDC Phase III - City	115,830.81	250,000.00	150,000.00	
Tinbridge Hill Neighborhood	125,000.00	143,500.00	45,000.00	
Riverside Park Improvements	125,000.00	0.00	0.00	
Demo of Substandard Structures - City	12,000.00	0.00	0.00	
LRHA Admin & Delivery Costs ***	148,821.00	135,277.00	0.00	
LRHA Rental Rehabilitation	30,000.00	30,000.00	0.00	
LRHA Spot Blight Abatement ***	125,000.00	125,000.00	105,767.89	
Total CDBG	**$ 1,026,735.81**	**$ 1,055,925.00**	**$ 672,915.89**	**$ -**
Remaining Amount to Award			**$ -**	**$ 672,915.89**

HOME

Amount Available $ 277,823.00

NAME	Prior Year 12/13 Award	Amount Requested	CDAC Amount Awarded	City Council Amount Awarded
City Administration*	$ -	$ 22,000.00	$ 22,000.00	$ -
Rush Homes (CHDO)	175,000.00	0.00	0.00	
Habitat for Humanity	0.00	60,000.00	60,000.00	
LNDF Homeownership Fund	14,999.60	50,000.00	30,000.00	
Housing 2000 Dev/LNDF	65,000.00	0.00	0.00	
Lyn-CAG Substantial Rehab	75,000.00	75,000.00	75,000.00	
Lyn-CAG Homebuyer (CHDO	0.00	50,000.00	40,823.00	
LNDF Single Family Dev.	0.00	70,000.00	50,000.00	
Total HOME	**$ 329,999.60**	**$ 327,000.00**	**$ 277,823.00**	**$ -**
Remaining Amount to Award			**$ -**	**$ 277,823.00**

	FY 2013	FY 2014	Difference	%
CDBG				
Entitlement**	639,243.00	607,280.00	(31,963.00)	(0.05)
Reprogrammed Funds	385,462.81	63,605.89	(321,856.92)	(0.83)
Program Income	2,030.00	2,030.00	0.00	0.00
TOTAL	1,026,735.81	672,915.89	(353,819.92)	(0.34)
Administration CAP	127,848.60	121,456.00	(6,392.60)	(0.05)
Public Service CAP	101,100.25	91,092.00	(10,008.25)	(0.10)
HOME				
Entitlement**	283,839.00	269,647.00	(14,192.00)	(0.05)
Reprogrammed Funds	46,160.60	8,176.00	(37,984.60)	(0.82)
Program Income	0.00	0.00	0.00	
TOTAL	329,999.60	277,823.00	(52,176.60)	(0.16)
Administration CAP	28,383.90	26,964.70	(1,419.20)	(0.05)
CHDO Required	42,575.85	40,447.05	(2,128.80)	(0.05)

*Due to reduced HUD allocations and the availability of prior year Administration allocations for CDBG and HOME, the City was able to reduce the amount of the CDBG administration request and eliminate the HOME administration request. However for FY 2014 the administration amounts requested will return to normal levels as the balances from prior years will have been expended.

**In anticipation of HUD reductions to CDBG and HOME entitlements, the estimated entitlement amount for FY 2014 has been reduced by 5% from the prior year entitlement amount.

***LRHA will submit to the City a breakdown of Admin/Delivery and Spot Blight Abatement costs.

ATTACHMENT C

Summary of Community Development Block Grant (CDBG) and HOME Program Funding Requests FY 2014

Following is a brief summary of each of the applications received for consideration of CDBG and HOME Program funding. Entire applications are available and can be reviewed in the Grants Administration Office.

Community Development Block Grant Applicants

Bluffwalk

FY 2013 Award	FY 2014 Request	CDAC Recommendation
$290,084	$284,048	$284,048

Funding is reserved to make principal and interest payments on this property in the event the owner cannot make the payment. This is in compliance with a commitment approved by City Council on January 29, 2002.

City Administration

FY 2013 Award	FY 2014 Request	CDAC Recommendation
$25,000*	$88,100	$88,100

Funding is requested to fully fund the personnel, operating, and training costs associated with managing the CDBG Program.

*****Due to reduced HUD allocations and the availability of prior year Administration allocations for CDBG and HOME, the City was able to reduce the amount of the CDBG administration request and eliminate the HOME administration request in FY 2013. However, for FY 2014 the administration amount requested has returned to the normal level as the balances from prior years will have been expended or reduced to a minimal amount.

Fifth Street Community Development Corporation (CDC)

FY 2013 Award	FY 2014 Request	CDAC Recommendation
$115,831	$250,000	$150,000

Funding is requested for $250,000 for continued improvements as outlined in the Fifth Street Master Plan for neighborhood stabilization. The funding would be leveraged with City Capital funding for Phase III, which would install streetscape improvements from Jackson Street to Taylor Street. The work would progress in conjunction with planned water/sewer line upgrades.

The Fifth Street Master Plan was adopted by City Council on May 23, 2006. The Plan establishes the Vision for a rehabilitated and revitalized corridor that serves the needs of the surrounding neighborhoods. The 2010 Census indicates that 77% of the residents in the immediate study area are African American and indicated that 49% of the individuals have an annual income below $15,000. The City has committed CDBG, and Capital funds to improve the streetscape over three phases. Phase I was completed in September 2009 and included the construction of water and sewer lines in addition to a modern urban roundabout and complimentary streetscape between Jackson & Harrison Streets. Phase II is currently under construction and will contain the same underground utility upgrades and streetscape improvements as Phase I. Phase II extends from Harrison Street to Main Street. Phase III would extend streetscape improvements south between Jackson and Taylor Streets and finish streetscape improvements as recommended in the Master Plan.

The Fifth Street Corridor is seeing considerable private development interest as a result of the streetscape improvements. The Red Shoe Dance Academy located at 409 Fifth Street opened in the renovated Moser Furniture Building in 2012. The former Fisher Auto Parts Buildings located at 400-408 Fifth Street and the former Coiner Auto Parts Building at 500 Fifth Street are currently under renovation; 702 – 708 Fifth Street are also under renovation; the Lynchburg Housing and Redevelopment Authority is working with private entities to develop 701 – 709 Fifth Street; and Word Works Literacy Centre located at 801 Fifth Street opened in late 2012.

Tinbridge Hill Neighborhood Council

FY 2013 Award	FY 2014 Request	CDAC Recommendation
$125,000	$143,500	$45,000

Funding is requested for Lynchburg Community Action Group (Lyn-CAG) to continue to provide substantial housing rehabilitation in Tinbridge Hill. The housing stock in Tinbridge Hill is dated and upgrades to improve energy efficiency are necessary for the long term viability of the neighborhood and for funds to be used by the Department of Parks and Recreation to secure access easements for a future trail connection.

The Tinbridge Hill Neighborhood Council (THNC), in partnership with the City of Lynchburg, and supported by the Friends of Tinbridge Hill (FTH), propose continued funding for a long-term, targeted investment of CDBG funds into Tinbridge Hill to assist its residents and community stakeholders in accomplishing their goals and develop a model for a sustainable neighborhood. This proposal has two purposes: The first is to continue the development of a Sustainable Neighborhood Strategy, using Tinbridge Hill as a model, incorporating elements of Lynchburg’s Sustainable City Initiative that can be applied to other Lynchburg neighborhoods. The elements of the Sustainable City Initiative include Arts and Culture, Citizen Engagement and Social Capital, Economic Development, Infrastructure, Healthy and Active Living, Land Use, Lifelong Learning, Natural and Environmental Resources, Neighborhoods, Safe Community and Transportation. The second is to request funding for the City partnership with the Tinbridge Hill Neighborhood Council for the third year of this multi-year project. This project is an interactive process that engages residents, partners and various stakeholders in defining the components to promote the sustainability of this neighborhood.

This proposal builds on the 1996 Tinbridge Hill Plan, a neighborhood satisfaction survey conducted by Randolph College students in 2011 of Tinbridge Hill residents and input received from recent neighborhood engagement meetings. The projects identified in this proposal for year three of this program complement the ongoing neighborhood planning element with a focus on housing rehabilitation and acquisition of access easements for a trail connection. In addition to these activities, neighborhood participation and building capacity in the neighborhood continue to be part of the process.

Lynchburg Redevelopment and Housing Authority (LRHA) – Administration & Delivery Costs

FY 2013 Award	FY 2014 Request	CDAC Recommendation
$148,821	$135,277	$0**

Funding is requested for the payment of the pro-rata share of salaries, benefits, travel and operating costs attributable to employees' duties associated with the CDBG program as outlined in the Authority's annual administrative budget.
Funding is also requested for direct service costs associated with:
- identifying and monitoring spot blight properties and coordinating rehabilitation activities with owners;
- acquiring real property and coordinating work with appraisers and legal counsel under contract to LRHA; and
- the disposition of properties previously acquired with CDBG funds.

**Deb Guyot, Executive Director for LRHA will present the recommendation of CDAC to the LRHA Board of Directors and subsequently submit to City staff a detailed budget for Administration/Delivery Costs and the Spot Blight Abatement Program within the recommended amount.

Lynchburg Redevelopment and Housing Authority (LRHA) – Spot Blight Abatement

FY 2013 Award	FY 2014 Request	CDAC Recommendation
$125,000	$125,000	$105,767.89**

Funding is requested to address seven (7) vacant, deteriorated properties within the City through the Spot Blight Program.

LRHA began addressing individual blighted property in February 1999 through its Spot Blight Abatement Program. Section 36-19.5 of the Code of Virginia provides a mechanism for the local housing authority and local governing body to work collaboratively to identify single family and multi-family residential structures that are deteriorated and that exert a detrimental influence on surrounding properties. Further, the statute provides a process for the acquisition, stabilization, disposition and demolition of the property. The Spot Blight Abatement Program provides our city with another avenue to address and assist with the enforcement of its housing codes.

**Deb Guyot, Executive Director for LRHA will present the recommendation of CDAC to the LRHA Board of Directors and subsequently submit to City staff a detailed budget for Administration/Delivery Costs and the Spot Blight Abatement Program within the recommended amount.

HOME Program Applicants

City Administration

FY 2013 Award	FY 2014 Request	CDAC Recommendation
$0*	$22,000	$22,000

Funding is requested to fully fund the personnel, operating and training costs associated with managing the HOME program.

***** Due to reduced HUD allocations and the availability of prior year Administration allocations for CDBG and HOME, the City was able to reduce the amount of the CDBG administration request and eliminate the HOME administration request in FY 2013. However, for FY 2014 the administration amount requested has returned to the normal level as the balances from prior years will have been expended or reduced to a minimal amount.

Greater Lynchburg Habitat for Humanity (GLHFH) – Homeownership Program

FY 2013 Award	FY 2014 Request	CDAC Recommendation
$0	$60,000	$60,000

Funding is requested to provide closing costs assistance that is required for mortgage closings for low-to-moderate income persons.

Greater Lynchburg Habitat for Humanity (GLHFH) develops homeownership opportunities for low-income families that would not qualify or be able to afford homeownership through conventional bank mortgages. GLHFH builds good quality, moderately appointed homes and sells them to qualified applicants. The target population for the program is families whose income falls in the range of 30% to 80% of HUD's median family income, adjusted for size of family. To qualify, families must demonstrate need (residing in poor, unsafe, unhealthy, and/or unaffordable housing); they must have the ability to pay a no-interest mortgage (must have a steady income and low debt to income ratio); and must be willing to partner with GLHFH (provide sweat equity, participate in training, and prepare for the responsibilities of homeownership).

GLHFH solicits funding, materials, and volunteer labor from the community and is thereby allowing the organization the ability to maintain low construction costs. GLHFH is therefore able to sell the home to the qualified family at cost and to offer a no-interest mortgage loan. Families have to provide 300 hours of labor, referred to as "sweat equity," to the project. The mortgagees must attend GLHFH's course designed to prepare them for homeownership. The series of classes provide education about financial literacy, budgeting, home maintenance, taxes and insurance, predatory lending, and loss mitigation options.

At mortgage closing, the family is required to pay a processing fee of $400.00 which is applied to the attorney's fee and recording costs. GLHFH will use HOME funds to pay for advance escrow required (taxes and insurance) and for down payment assistance which will reduce the principal balance so that the family can afford the monthly mortgage payments. GLHFH defines "payment affordability" as not more than 30% of monthly income.

Lynchburg Neighborhood Development Foundation (LNDF) – Homeownership Fund

FY 2013 Award	FY 2014 Request	CDAC Recommendation
$14,999.60	$50,000	$30,000

Funding is requested to provide affordable mortgage financing assistance for five (5) low-to-moderate income persons and ultimately homeownership for these persons.

Lynchburg Homeownership Fund is a combination of programs administered by LNDF that seek to create and support homeownership. This philosophy has been an essential part of LNDF's mission and incorporates blended multi-layered financing from City and State sources along with private mortgages from conventional lenders and buyer's cash investment. This application seeks to continue to blend City HOME funds in the mortgages offered to low- and moderate-income borrowers.

LNDF's affordable mortgages consist of a 30-year, fixed rate first mortgage at below-market interest rates and additional subordinate mortgages at low rates or forgiven over time. These mechanisms help with making the mortgage affordable, but most often additional soft loans are needed as well. As the economy has driven conventional mortgage rates down, VHDA, our primary source of first mortgage loans, is rethinking its program in order to let the private sector handle the originating loan.

LNDF has brought more $16 million into the region for this purpose, creating more than 250 new homeowners in the City and throughout the planning district, as well as assisting several hundred others achieve their housing goals through other means.

Lynchburg Community Action Group (Lyn-CAG) – Homeowner Substantial Rehabilitation

FY 2013 Award	FY 2014 Request	CDAC Recommendation
$75,000	$75,000	$75,000

Funding is requested for the rehabilitation of four (4) low-to-moderate income homeowners who will be served with substantial rehabilitation funds from the HOME Program funds and the State Department of Housing and Community Development (DHCD).

The Homeowner Substantial Rehabilitation Program provides substantial rehabilitation for eligible low-to-moderate income owned properties. The Program is designed to remove health and safety hazards and code violations from the homes of low-income homeowners who live in the City of Lynchburg and meet HUD income guidelines for HOME programs. Typical requests for services include electrical, plumbing, structural and roof repair/replacement. All local contractors who provide the services are licensed and insured. Building materials are purchased from local businesses.

Lynchburg Community Action Group (Lyn-CAG – CHDO) – First-time Homebuyers Program

FY 2013 Award	FY 2014 Request	CDAC Recommendation
$0	$50,000	$40,823

Funding is requested for labor/material and developer's fee to assist with the acquisition and rehabilitation of one housing structure for a low-to-moderate income family.

The Home/Community Housing Development Organization (CHDO) First Time Homebuyers Program provides for acquisition of vacant properties for rehabilitation or new construction to eligible first time homebuyers. Proceeds from the sale of properties are reinvested in housing program services that benefit eligible low-to-moderate income persons. This program provides a level of subsidy to keep the property affordable for low-to-moderate income families.

Lynchburg Neighborhood Development Foundation (LNDF) – Single Family Development

FY 2013 Award	FY 2014 Request	CDAC Recommendation
$0	$70,000	$50,000

Funding is requested to provide assistance for the development of two (2) housing structures for low-to-moderate income families.

This program is a continuation of the years of single-family development undertaken by LNDF. With this request, LNDF proposes to develop two (2) houses for resale to HOME-eligible borrowers in the City. Since quality housing may cost more to develop than the neighborhood market can support in light of economic factors, subsidies are needed to defray costs and make financing accessible for low- and moderate-income borrowers. Financing for these newly developed homes will continue to be packaged by LNDF and made available through its affordable mortgage programs.

CDBG

updated January 31, 2013

Prior Year Appropriations and Returned Funds available to Reprogram:

Returned Funds from LRHA related to Daniel's Hill	600.00
Returned Funds from LRHA related to 921 Taylor Street	21.00
Returned Funds from LRHA related to Daniel's Hill	1,100.00
Returned Funds from LRHA related to Spotblight Abatement/Acq	995.00
Program Income true up from FY12	8,739.89
Program Income true up from FY11 (Weed)	150.00
Hunton Randolph	25,000.00
Bluffwalk	27,000.00
Total	**63,605.89**

HOME

updated January 31, 2013

Prior Year Appropriations available to Reprogram:

Program Administration 2010-2011	8,176.00
Total	**8,176.00**

ATTACHMENT E

CDBG Unexpended Balances

updated February 22, 2013

Program Description	2009 - 2010	2010 - 2011	2011 - 2012	2012-2013	Total
City Program Administration	-		19,963.21	24,191.87	44,155.08
Fifth St - Phase II	-		15,740.00	245,462.78	261,202.78
Rebuilding Together	-	38,922.67			38,922.67
Hunton-Randolph	25,000.00				25,000.00
Housing Improvement - Lyn-Cag	-	10,744.29			10,744.29
Tinbridge Hill -Rebuilding Together Rehab	-		20,000.00	15,000.00	35,000.00
Tinbridge Hill -Admin	-		9,396.32	25,000.00	34,396.32
Tinbridge Hill - Blackwater Creek	-		8,500.00		8,500.00
Tinbridge Hill - Neighborhood cleanup			3,000.00		3,000.00
Tinbridge Hill - Rehab Lyn-Cag			8,590.95	75,000.00	83,590.95
Tinbridge Hill - Job Training				10,000.00	10,000.00
Bluffwalk				27,000.00	27,000.00
Analysis of Impediments to Fair Housing				30,000.00	30,000.00
Demolition of Substandard Structures				12,000.00	12,000.00
LRHA Spot Blight	-		94,064.66	125,000.00	219,064.66
LRHA Spot Blight Loan Program	-	-			-
LRHA Delivery Costs - Property Disposition	-			7,573.59	7,573.59
LRHA Delivery Costs - Acquisition	-			50,171.93	50,171.93
LRHA Delivery - Rehab	-			27,452.21	27,452.21
LRHA Property Maintenance	-	5,011.91			5,011.91
Subtotal LRHA Spot Blight Program					**309,274.30**
LRHA Rental Rehab	20,329.28			30,000.00	50,329.28
LRHA Minor Property Repairs	-	5,000.00			5,000.00
LRHA Property Demolition	-	20,000.00			20,000.00
LRHA Delivery Costs - Administration	-			20,874.71	20,874.71

Program Description	2009 - 2010	2010 - 2011	2011 - 2012	2012-2013	Total
Total LRHA					**405,478.29**
Riverside Park Improvements	-			125,000.00	125,000.00
Fifth St Phase III	-			5,830.81	5,830.81
Fifth St Phase III 702 5th St	-			5,000.00	5,000.00
Fifth St Phase III 708 5th St	-			5,000.00	5,000.00
Total Unexpended CDBG Funds					**1,169,821.19**

The items highlighted in yellow will be reprogrammed in the FY 2013-2014 Allocations.

LYNCHBURG CITY COUNCIL
Agenda Item Summary

MEETING DATE: **March 12, 2013** AGENDA ITEM NO.: **11**

CONSENT: REGULAR: **X** WORK SESSION: CLOSED SESSION: (Confidential)

ACTION: **X** INFORMATION:

ITEM TITLE: **Zoning Ordinance Amendments – Section 35.1-38.2, Institutional District (IN-2), Section 35.1-38.3, Institutional District (IN-2)**

Section 35.1-11.11, Terms beginning with "P" through "R"

Landscaping Ordinance Sections 35.1-25.1.2, Applicability, 35.1-25.1.8, Street trees for multi-family, commercial, institutional and industrial districts, 35.1-25.1.9, Foundation Plantings, 35.1-25.1.11, Buffering, 35.1-25.1.12, Tree Canopy Requirements, 35.1-25.1.16, Alternate layout of landscaping

Sign Ordinance Sections 35.1-26.3, General Regulations, 35.1-26.5, Temporary signs, 35.1-26.9, Signs in B-1, B-2 and IN-1 Districts, 35.1-26.10, Signs in B-3, B-5 and IN-2 Districts

Section 35.1-47, General Standards

RECOMMENDATION: Approval of the *Zoning Ordinance* amendments.

SUMMARY: On February 9, 2010, City Council initiated revisions to the *Zoning Ordinance* related to institutions. Over a period of seventeen (17) months, the Planning Commission and City staff worked with a group of stakeholders to draft ordinance amendments that would facilitate the development of the City's institutions without the need for obtaining a conditional use permit (CUP) as currently required. The amendments will address common themes identified during the stakeholder discussions including:

1. Improvements that do not cause off-site impacts should be allowed by right.
2. The amendments should focus on expansions or incremental growth resulting in off-site impacts.
3. A definition of what a "substantial impact requiring a more in-depth review" should be developed.
4. There should be flexibility in requirements for master plans.
5. An ongoing dialogue between Institutions and the City should be developed.

Following a public hearing on July 13, 2011, Planning Commission recommended approval of two (2) new zoning districts – an IN-1 district intended for institutions that are smaller in scale and located primarily within or adjacent to residential areas and IN-2 districts intended for large scale institutions primarily located within or adjacent to non-residential areas.

On August 9, 2011 City Council conducted a work session and directed staff to redraft the *Zoning Ordinance* amendments, noting concerns primarily related to the IN-2 district language. City staff worked with Liberty University staff over a fifteen (15)-month period to address those concerns while holding true to the common themes that emerged early in the ordinance development process. The resulting IN-2 district revisions were substantially different than the ones originally considered by the Planning Commission and additional sections of the *Zoning Ordinance* were also proposed for amendment. City Council reviewed the proposed changes at their December 11, 2012 work session and referred the amendments to the Planning Commission for a new public hearing.

Planning Commission reviewed the ordinance revisions during their January 9, 2013 public hearing and recommended removing references to "size" of the IN-1 and IN-2 districts. The commissioners also requested staff meet with Virginia Department of Transportation (VDOT) and Liberty University representatives to discuss comments offered by the VDOT Lynchburg District Planning Manager. At the January 23, 2013 Planning Commission meeting City staff reported a representative from Liberty University would be added to both the Metropolitan Planning Organization (MPO) and the supporting Transportation Technical Committee (TTC). VDOT, City staff and Liberty University representatives agreed this was a preferred method of planning for and mitigating regional transportation impacts associated with large institutions rather than adding requirements to a local ordinance. Planning Commission recommended approval of the ordinance amendments.

PRIOR ACTION(S):

February 9, 2010:	City Council initiated an amendment to the *Zoning Ordinance* regarding Institutions.
February 9, 2011:	Planning Division recommended approval of the *Zoning Ordinance* amendments. Planning Commission moved the *Zoning Ordinance* amendments to a work session for further discussion.
June 8, 2011:	Planning Commission directed staff to schedule a new public hearing for the proposed *Zoning Ordinance* amendments.
July 13, 2011:	Planning Division recommended approval of the *Zoning Ordinance* amendments. Planning Commission recommended approval (7-0) of the *Zoning Ordinance* amendments.
August 9, 2011:	City Council conducted work session on the *Zoning Ordinance* amendments. City Council directed staff to redraft *Zoning Ordinance* amendments addressing concerns.
December 11, 2012:	City Council conducted work session on the *Zoning Ordinance* amendments. City Council forwarded the *Zoning Ordinance* amendments to the Planning Commission for consideration.
January 9, 2013:	Planning Commission conducted public hearing concerning the *Zoning Ordinance* amendments. Planning Commission postponed action until January 23, 2013.
January 23, 2013:	Planning Commission conducted work session concerning the Zoning Ordinance amendments. Planning Commission recommended approval (6-0 with 1 member absent (Hannon)) of the *Zoning Ordinance* amendments.

FISCAL IMPACT: None

CONTACT(S): Tom Martin, City Planner – 455-3900
Kent White, Director of Community Development – 455-3900

ATTACHMENT(S):
- Ordinance
- Planning Commission Report – January 9, 2013
- Planning Commission Minutes – January 9, 2013
- Planning Commission Memorandum – January 23, 2013
- Planning Commission Minutes – January 23, 2013

REVIEWED BY: lkp

044K

ORDINANCE

AN ORDINANCE TO AMEND THE CODE OF THE CITY OF LYNCHBURG, 1981, BY ADDING THERETO NEW SECTIONS NUMBERED 35.1-38.2 (IN-1/IN-2), 35.1-38.3 (IN-1) AND 35.1-38.4 (IN-2), THE NEW SECTIONS RELATING TO THE ESTABLISHMENT OF INSTITUTIONAL DISTRICTS WITHIN THE CITY; AND TO AMEND AND REENACT SECTIONS 35.1-11.11, 35.1-25.1.2, 35.1-25.1.8, 35.1-25.1.9, 35.1-25.1.11, 35.1-25.1.12 AND 35.1-25.1.16 OF THE CODE OF THE CITY OF LYNCHBURG, 1981, RELATING TO THE LANDSCAPING ORDINANCE; AND SECTIONS 35.1-26.3, 35.1-26.5, 35.1-26.9, 35.1-26.10 OF THE CODE OF THE CITY OF LYNCHBURG, 1981, RELATING TO THE SIGN ORDINANCE; AND TO AMEND AND REENACT SECTION 35.1-47 OF THE CODE OF THE CITY OF LYNCHBURG, 1981 RELATING TO DEVELOPMENT STANDARDS ORDINANCE.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LYNCHBURG:

1. That the Code of the City of Lynchburg, 1981, be and the same is hereby amended and reenacted by adding thereto new Sections numbered 35.1-38.2, 35.1-38.3 and 35.1-38.4 as follows:

Section 35.1-38.2 Institutional Districts (IN-1 / IN-2)

(a) Intent. The intent of Institutional Districts is to provide for institutional uses such as schools, colleges, universities, senior living facilities, medical facilities and churches with multiple buildings contained in a campus setting. The amount of off site impact related to an institution depends as much on the location as the size and scale of the campus. These districts will provide flexibility for institutions while creating development standards to minimize off site impacts such as noise, lighting, traffic, and availability / capacity of water and sanitary sewer infrastructure associated with their development. Off site impacts related to erosion and sediment control / stormwater management will be mitigated by existing city ordinances.

(b) Definitions. The following definitions shall apply to IN-1 and IN-2 districts:

(1) Campus – A designated area of land including the buildings and grounds of institutional uses such as schools, colleges, universities, senior living facilities, medical facilities and churches. A campus may be divided by public or private rights-of-way.

(2) Concept Plan – A generalized, illustrative plan indicating how off site impacts such as traffic, water and sanitary sewer availability/capacity, lighting and noise are mitigated and providing an assessment of existing and future development of the institution's campus, including buildings, parking areas, recreational facilities, open space and access points to city streets. In addressing off site impacts related to traffic, the city encourages the institution to include improvements for sustainable alternatives such as: provisions for bus service, sidewalks and pedestrian crossings, pedestrian trails and bicycle trails, connected internal site circulation or park and ride lots which could, if implemented, improve the Level of Service (LOS) standards on city streets serving the institution.

(3) Level of Service (LOS) – A scale that measures the amount of traffic that a roadway or intersection can effectively and efficiently accommodate, based on such factors as volume, capacity, queues and delay. LOS is graded on a scale of A through F, where

LOS-A is free-flowing traffic and LOS-F is a condition where traffic flow is unstable and excessive delay and queuing is expected.

(4) Open Space – Any land or area, the preservation of which would: conserve and enhance scenic resources, protect streams, promote conservation of soils or provide for passive or active recreational space. Open spaces may include plaza areas, provided they contain a landscaped component. Setback areas may be included in the computation of required open space.

(5) Residence or residential – the terms “residence” or “residential” shall be as defined in Section 35.1-11.11(s) and for the purposes of determining setback and/or height requirements for IN-1 District, shall not include any properties owned, leased, or used by the institution regardless of zoning or land use.

(6) Residential Street – any local city street where the majority of land use on one or both sides of the street within the block is residential.

Section 35.1-38.3. Institutional District (IN-1)

(a) Intent. This district is to provide for institutional uses such as schools, colleges, universities, senior living facilities, medical facilities and churches with multiple buildings contained in a campus setting. This district will provide flexibility for institutions while identifying areas intended for future development.

IN-1 districts are for institutional campuses located primarily within or adjacent to residential areas

Institutions are encouraged to maintain a dialogue with city staff that will provide a greater understanding of the relationship of the institutions’ and the city’s future development plans and the availability of adequate water, sanitary sewer and transportation infrastructure.

(b) Establishment of District.

(1) The process for establishing an IN-1 Institutional District for a campus shall be the same as provided for a change to the Official Zoning Map as outlined in Section 35.1-17(b), Amendments of the Zoning Ordinance.

(2) Establishment of an IN-1, Institutional District. At the time the IN-1, Institutional District is established, the institution shall provide to the city:

(a) A concept plan with a two (2)-year projection of future development at the campus. The concept plan is intended to be illustrative in nature and should provide an overview of how the campus will develop; how off site impacts such as noise, lighting and traffic will be mitigated and proposed uses that would require an extension or upgrade to water / sanitary sewer infrastructure. The concept plan is not intended to serve as a master plan. Permitted and accessory uses do not need to be indicated on the concept plan provided the development standards of the Institutional District are met and adequate transportation and water/sanitary sewer infrastructure is available to serve the development.

(b) A traffic study prepared by a firm qualified to conduct traffic engineering studies. The methodology for the required traffic study shall be as specified in the City's Manual of Specifications and Standard Details in effect at the date of the adoption of this ordinance. Technical guidelines for traffic studies may be obtained from the city's transportation engineer. The traffic study shall include the following information:

i. The existing Level of Service (LOS) for city streets and intersections serving the campus.

ii. The projected amount of growth of the campus that would result in a street or intersection Level of Service (LOS) lower than "D" for city streets or intersections serving the institution, or

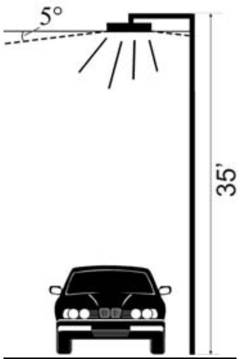
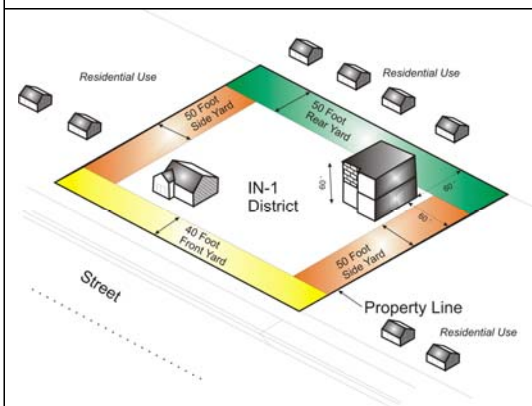
iii. In the case of city streets or intersections with a Level of Service (LOS) already lower than "D" the projected amount of growth of the campus that would result in further lowering the Level of Service (LOS).

(c) Uses permitted by right and by conditional use permit.

Use	Permitted	Conditional Use Permit
Accessory to the Institution Such as dormitories, visitor and faculty housing, book stores, coffee shops, cafeterias, offices, facilities management, storage and recreational uses	√	
Churches	√	
Colleges	√	
Lighted Athletic Fields Adjacent to Residential Use		√
Medical Facilities	√	
New access point to Residential City streets		√
Private water / sewer treatment facilities when public infrastructure is available		√
Schools	√	
Senior Living Facilities	√	

(d) Standards.

Standard	
Minimum Land Area	5 acres
Front Yard	40 feet
Side Yard	50 feet
Rear Yard	50 feet
Setback from Adjacent Residential Use	50 feet
Setback for structures and uses existing at the time district is established	Structures and uses with a setback less than required by these standards and existing at the time the district is established shall not be considered nonconforming and may be enlarged or expanded within the existing setback.

Uses permitted within required yards and setback	None
Height Requirement	Equal to distance of structure from adjacent residential use
Open Space	Twenty Percent (20%) of the campus
Lighting 	▪ Glare shielded no illumination beyond property line ▪ Shall not radiate above five degrees (5°) below horizontal ▪ Thirty-five feet (35') in height. (Excludes athletic field lighting.)
Landscaping	See Landscaping Ordinance Section 35.1-25 *et seq.*
Signs	IN-1 – See Sign Ordinance Section 35.1-26 et seq.
Stormwater Management	See Stormwater Management - Chapter 16.2
Erosion and Sediment Control	See Erosion and Sediment Control -Chapter 16.1
	
IN-1 Institutional District Dimensional Standards	

(e) New Concept Plan Required. A new concept plan for a campus shall be required when the city's technical review committee (TRC) determines in approving a site plan for the institutional campus:

(1) The cumulative total of the institution's existing and proposed development at the campus would result in a Level of Service (LOS) lower than "D" for city streets and intersections serving such campus or in the case of city streets or intersections serving such campus that had a Level of Service (LOS) lower than "D" at the time the district was established a further lowering of the Level of Service; or

(2) Adequate water/sanitary sewer capacity or infrastructure, as determined by current engineering standards, is not readily available to serve the institution's existing and proposed development at such campus; or

(3) A period of five (5) years has passed since the review of a concept plan by the Planning Commission for such campus.

(f) The new concept plan shall be prepared as stated in Section 35.1.38.3(b)2a and when the requirement for a new concept plan is based upon LOS standards, a traffic study shall be required as specified in Section 35.1-38.3(b)2b.

(1) Improvements required to maintain a LOS "D" for city intersections or to prevent a further lowering of the Level of Service when the institutional development itself gives rise to the need for the improvement shall be required to be made by the institution. Only those improvements where there exists a clearly demonstrated nexus between the proposed development of the campus and the need for the improvement shall be required to be made by the institution.

(2) The new concept plan with a two (2)-year projection shall be submitted to the Planning Commission for review and comment. Institutions are encouraged to maintain a dialogue with city staff that will provide a greater understanding of the relationship of the institutions and the city's future development plans and the availability of adequate water, sanitary sewer and transportation infrastructure.

Section 35.1-38.4. Institutional District (IN-2)

(a) This district is to provide for institutional uses such as schools, colleges, universities, senior living facilities, medical facilities and churches with multiple buildings contained in a campus setting. This district will provide flexibility for institutions while identifying areas intended for future development.

IN-2 districts are for larger institutional campuses located primarily adjacent to districts other than residential districts.

(b) Establishment of Institutional District (IN-2).

(1) The process for establishing an IN-2, Institutional District shall be the same as the process provided for amending the Official Zoning Map which is set forth in Section 35.1-17(b), provided however; an applicant shall not be required to submit a legal description, a metes and bounds description or a schematic site plan of the property that is the subject of the application. The site plan review procedures set forth in Section 35.1-14 shall not be applicable to applications to establish IN-2, Institutional Districts.

(2) At the time an application to establish an IN-2, Institutional District is submitted the applicant shall provide to the city:

(a) A map indicating the boundaries of the proposed IN-2, Institutional District, including:

(i) the boundaries of all parcels to be contained in the IN-2, Institutional District

(ii) the tax map identification numbers of all parcels to be contained within the IN-2, Institutional District
(iii) where available, the established street addresses of all parcels to be contained with the IN-2, Institutional District

(c) Permitted Uses

(1) Upon establishment of an IN-2, Institutional District by Council, the institution and its accessory uses shall be permitted by right, and, notwithstanding the provision of Section 35.1-27 of the Lynchburg City Code, all conforming uses and lawful nonconforming uses existing within an IN-2, Institutional District at the time of its creation, including replacements, renovations, and expansion of such uses, shall be permitted by right; provided however, no nonconforming sign or nonconforming billboard shall be expanded except as may be allowed by the Sign Ordinances set forth in Sections 35.1-26 *et seq*. of the Lynchburg City Code.

(2) Other uses not related to the institution shall be permitted by right or by conditional use permit as shown in the following use table:

Use	Permitted	Conditional Use Permit
Arenas, auditoriums or stadiums unlimited in capacity		√
Armories	√	
Arts & crafts shops	√	
Auction Rooms	√	
Automobile and truck rental	√	
Automobile and truck tire sales	√	
Automobile driving schools	√	
Automobile painting and body repair shops	√	
Automobile service stations	√	
Automobile, truck and trailer sales with outside sales and storage permitted	√	
Banks, savings and loan and similar establishments	√	
Banquet halls	√	
Barber and beauty shops	√	
Battery sales	√	
Bicycle rentals	√	
Billboards subject to the regulations of Section 35.1-26.1	√	
Blacksmith shops	√	
Boardinghouses or lodging houses	√	
Bookbinding, blueprinting, duplicating and print shops	√	
Bottling plants	√	
Building material sales	√	
Care centers	√	
Carpentry shops	√	
Churches and other places of worship	√	
Clubs and fraternal organizations	√	
Cluster Commercial development	√	
Coffee and peanut roasting	√	
Commercial amusement (temporary)		√
Commercial amusements	√	

Commercial greenhouses	√	
Commercial kennels for dogs and other pets	√	
Commercial recreation		√
Commercial swimming pools		√
Computer centers	√	
Contractors' establishments	√	
Convents and monasteries	√	
Custom dressmaking	√	
Custom furniture making	√	
Dairies, pasteurizing plants, or ice cream manufacture	√	
Dance halls	√	
Dance studios	√	
Depositories for the storage of office records, microfilm or computer tapes	√	
Diaper services	√	
Drive-in theaters	√	
Dry cleaning and dying plants	√	
Exterminators	√	
Food service facilities	√	
Fire Stations	√	
Flexible space developments as provided in Section 35.1-43.14		√
Funeral undertakers	√	
Furniture upholstering and repair shops	√	
Group homes	√	
Gymnasiums	√	
Halls or theaters for music, drama, lectures or other civic or amateur presentations of the arts	√	
Health salons	√	
Hiring halls and other places of assembly for the registration or assignment of employment	√	
Hospitals and Sanatoriums	√	
Hotels and Motels	√	
Ice manufacture	√	
Interior decorating establishments	√	
Large scale retail establishments not meeting the provisions of Section 35.1-43.22 thru Section 35.1-43.28.		√
Laundries	√	
Leather products (not to include tanning)	√	
Libraries	√	
Loan offices	√	
Medical and dental facilities, laboratories and offices	√	
Medical offices	√	
Monument and gravestone sales	√	
Motion-picture production studios	√	
Motor freight stations		√
Moving and storage establishments		√
Museums and similar institutions of noncommercial nature	√	
Newspaper offices	√	
Offices	√	
Opticians and optometrists	√	

Parking lots	√	
Pawn shops	√	
Pharmacies	√	
Photographic developing and printing establishments	√	
Photographic studios	√	
Police Stations	√	
Printing plants	√	
Public utilities	√	
Radio towers and transmitting stations		√
Rebuilding and rethreading establishments	√	
Residential uses of any density or type not related to the Institution		√
Restaurants, including drive-in and outdoor restaurants	√	
Retail Sales	√	
Sales lots for construction and farm equipment and similar machinery	√	
Schools and colleges of all types and accessory uses	√	
Second hand stores including auction sales provided such activity is conducted wholly within an enclosed building	√	
Senior living facilities	√	
Shoe repair	√	
Sign shops	√	
Soundproof radio and television studios without towers, that produce no electromagnetic effect on adjoining properties	√	
Stage and motion-picture studios	√	
Storage warehouses and yards, except sand yards, gravel yards, coal yards, railroad yards, automobile wrecking yards, junkyards or the storage of combustibles prohibited by the fire code	√	
Tailoring shops	√	
Telecommunication towers and facilities (See Article XI. Telecommunications towers and facilities)	√	
Telephone exchanges and dial centers	√	
Tourist homes or bed and breakfast	√	
Traditional neighborhood development		√
Transient trailer parks		√
Travel bureaus	√	
Travel trailer sales and rentals	√	
Trucking terminals		√
Veterinarian hospitals with or without outdoor kennels	√	
Wholesale or produce markets	√	
Wholesale sales	√	
Window blinds, shades and awnings (manufacture)	√	

(d) Future Planning

1. Institutions are encouraged to maintain a dialogue with city staff that will provide a greater understanding of the relationship of the institutions' and the city's future development plans and the availability of adequate water, sanitary sewer and transportation infrastructure.

2. An institution may, but is not required to, submit with its application to establish an IN-2, Institutional District, a concept master development plan for the proposed IN-2, district. Such plan shall show the institution's anticipated future development of the district for a period of not less than two (2) years, nor more than five (5) years.

3. At the time an arena, stadium, auditorium or new entrance to a city street is proposed for construction by the institution, a traffic impact study shall be required. The traffic impact study shall be prepared by a firm qualified to conduct such studies and shall be conducted in compliance with the City's Manual of Specifications and Standard Details in effect as of the date of adoption of this ordinance. The study shall indicate the following:

   a. The existing level of service for the city streets and intersections serving the IN-2 district.
   b. The impact the anticipated arena, stadium, auditorium or new entrance will have on the Level of Service (LOS) on city streets and intersections.
   c. Improvements that will be necessary to prevent such anticipated arena, stadium, auditorium or new entrance to a city street from reducing the Level of Service (LOS) of the streets or intersections serving the IN-2 district lower than "D"; and
   d. In the case of city streets or intersections with an existing Level of Service (LOS) of "D", improvements necessary to prevent the arena, stadium, auditorium or new entrance to a city street from further reducing the Level of Service.

(e) Exemptions

1. The IN-2, Institutional District shall be exempt from the requirements of the following Zoning Ordinance of the Lynchburg City Code:

   a. Section 35.1-22. Buildings, Uses and Lots
   b. Section 35.1-24. Accessory Buildings and Uses
   c. Section 35.1-25. Off Street Parking and Loading, provided; however any institution in the IN-2, Institutional District shall provide adequate parking and unloading areas to accommodate permitted uses within the district. The district shall be deemed to not have adequate parking and unloading areas, when the lack of parking and/or unloading areas in the district causes vehicles to be regularly parked in, or to partially or completely, block, and public rights-of-way.
   d. Section 35.1-50, Arenas, Auditoriums and Stadiums

2. That Sections 35.1-11.11, 35.1-25.1.2, 35.1-25.1.8, 35.1-25.1.9, 35.1-25.1.11, 35.1-25.1.12, 35.1-25.1-16, 35.1-26.3, 35.1-26.5, 35.1-26.9, 35.1-26.10, 35.1-47 of the Code of the City of Lynchburg, 1981, be and the same are hereby amended and reenacted as follows:

Sec. 35.1-11.11. Terms beginning with "P" through "R".

Terms used in this zoning ordinance, when defined in this section, shall have the following meaning:

(a) Parking area, off-street: An off-street area containing one (1) or more parking spaces, with passageways and driveways appurtenant thereto. In general, there shall be an average of at least three hundred (300) square feet of parking area per parking space and the required number of usable parking spaces.

(b) Parking garages: A building occupied by a public, community, commercial or private establishment providing space for the temporary storage of six (6) or more automobiles and other vehicles, where service or repair facilities are not permitted. A parking garage shall not be considered an accessory use, nor shall it be used for the storage of dismantled or wrecked motor vehicles, parts thereof, or junk, nor shall the sale of automobiles or trailers take place within it unless otherwise permitted by the zoning ordinance.

(c) Parking lot: An open lot serving the functions defined above for a parking garage.

(d) Parking space: An off-street space available for the parking of one (1) motor vehicle on a transient basis and having a minimum width of nine (9) feet and an area of not less than one hundred sixty-two (162) square feet, exclusive of passageways and driveways appurtenant thereto and having direct usable access to the street.

(e) Pedestrian facility: A sidewalk, walking path, bike path or transit / shuttle stop.

(f) Planned unit development: A multiple-unit residential development of at least five (5) acres laid out in accordance with a preconceived site plan and in harmony with provisions and procedures for the "PUD", planned unit development zoning district.

(g) Preservation: Any activity designed to prevent deterioration or destruction of a structure, a group of structures, or an area or a district.

(h) Private recreational facilities: A facility such as a swimming pool, tennis court or basketball court which is an accessory use located on a residential lot, the use of which is restricted to the occupants of the principal use and guests for whom no admission or membership fees are charged.

(i) Programmed: For the purposes of the zoning ordinance, the word "programmed" shall refer to a public facility which has been formally scheduled for construction within the following ten (10) years. Such formal scheduling may be in terms of an approved capital improvements program, an officially adopted thoroughfare, public utilities or community facilities plan specifying the approximate date of construction of the facility, or a similar official plan or program.

(j) Public: Any land, structure or building owned, used or maintained by the city government, or a regional authority of which the city is a member, or their agencies.

(k) Public utility: A public utility is an activity, or a building housing such an activity, which operates to serve the community as a whole, or a portion of the community, and which is publicly run or subject to special government controls.

(l) Reach: Longitudinal segments of a river or stream, which will be affected by the placement of an obstruction in a floodway or floodway fringe.

(m) Recreational vehicle: A vehicle which is:

(1) built on a single chassis;

(2) four hundred (400) square feet or less when measured at the largest horizontal projection;

(3) designed to be self-propelled or permanently towable by a light duty truck; and

(4) designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational camping, travel or seasonal use.

(n) Reconstruction: Any activity designed to rebuild entirely, or partially, a structure.

(o) Recycling bins: Recycling bin operations shall be located in industrial or business districts in an area no larger than five thousand (5,000) square feet or at public school or public recreation sites for the collection of recyclable materials. The operation of the recycling bins and the materials allowed to be collected, shall be under the supervision of the director of public works, and the location of the recycling bins shall be approved by the director of community planning and development. The definition does not include recycling containers which are used on site by a private entity for the purpose of storing recyclable waste materials generated only by such private entity.

(p) Rehabilitation: Any activity designed to place a structure into a usable condition with or without architectural change.

(q) Regulatory flood protection level: That level delineated by the one hundred (100) year flood.

(r) Renovation: Any activity relating to the updating and/or the modernization of an older structure involving architectural change.

(s) Residence or residential: A building or part of a building containing dwelling units or rooming units, including single-family or two-family houses, multiple dwellings, boarding or rooming houses or apartment hotels. Residences do not include the following:

(1) Such transient accommodations as transient hotels, motels, tourist cabins or trailer courts.

(2) Dormitories, fraternity or sorority houses, monasteries or convents.

(3) In a mixed building, that part of the building used for any nonresidential uses, except accessory to residential uses.

"Residential" means pertaining to a residence.

(t) ~~Residence~~ <u>Residential</u> district: Any district whose designation begins with the letter "R".

(u) Residence, single-family: A building containing only one (1) dwelling unit.

(v) Restoration: Any activity designed to impart a major flavor of an earlier state of a building.

(w) Riding stable: Any zoning lot used or designed for the boarding, breeding or care of horses or ponies, other than for farming or agricultural purposes, either with or without instruction in riding.

(x) Rooming house: A dwelling consisting of one (1) single building in which, for compensation, lodging or meals, or both, are furnished to transient or nontransient guests. A rooming house shall not be deemed a home occupation. Rooming houses shall adhere to Section 35.1-51.1, Boardinghouses, lodging houses, or rooming houses, of the zoning ordinance.

Sec. 35.1-25.1.2. Applicability.

(a) The provisions of this ordinance are applicable to the development or redevelopment of any property after the effective date of this ordinance and located in an R-4, R-5, B-1, B-2, B-3, B-4, B-5, B-6, IN-1, IN-2, I-1, I-2 or I-3 district or to any use requiring conditional use permit approval.

(b) When an existing use is expanded, enlarged, or redeveloped as defined in Section 35.1-11.5, (c) of the zoning ordinance only those portions of the property subject to the expansion, enlargement, or redevelopment are subject to the provisions of the landscaping ordinance.

(c) It is not the intent of this ordinance to regulate landscaping for one or two family dwellings.

Sec. 35.1-25.1.8. Street trees for multi-family, commercial, institutional and industrial districts.

(a) For all multi-family, commercial, institutional and industrial developments, street trees are required at the rate of one (1) shade tree for each forty (40) feet of street frontage or in the case where overhead utility lines prohibit the planting of shade trees one (1) ornamental tree for each twenty (20) feet of street frontage.

(b) Required street trees shall be planted along the property line that fronts the street and shall not be planted within the public rights-of-way or within any utility easements.

(c) Street trees within the site distance triangle may be raised to allow for visibility.

Sec. 35.1-25.1.9. Foundation plantings.

(a) All sides of multi-family, commercial, institutional or industrial buildings, which front on a public or private street or are visible from an adjacent residential district, shall be landscaped with foundation plantings as follows:

(1) One (1) ornamental tree per fifty (50) linear feet of building, and

(2) One (1) large shrub per ten (10) linear feet of building, or

(3) One (1) medium shrub and one (1) small shrub per ten (10) linear feet of building, or

(4) Three (3) small shrubs per ten (10) linear feet of building, or

(5) Any combination of 2, 3 or 4 above.

(b) Foundation plantings may be placed in collective groupings along the perimeter of the building for which required.

(c) In the event that the city planner determines that topography or other landscaping would prevent the required foundation plantings from being visible from a public or private street or an adjacent residential district, the only foundation plantings that shall be required are for the wall of the building on which the main entrance is located.

Sec. 35.1-25.1.11. Buffering.

(a) In all instances where a commercial district, institutional district, industrial district, or any parking area is located adjacent to any residential district, or a multi-family residential district is adjacent to a one or two family residential district, a vegetative evergreen buffer shall be established on the property for which said buffer is required.

(b) Where required, the planting area for buffering shall be a minimum of twenty (20) feet in width extending along the entire length of the development area and shall generally be required along the property line unless topographic or other considerations would make it more effective located back from the property line.

(c) The vegetative buffer shall consist of a staggered evergreen tree line with a baseline filler of medium height evergreen shrubs. The evergreen tree material shall be a minimum of four (4) feet in height at time of planting. The evergreen tree line shall be planted in rows fifteen (15) feet apart and staggered ten (10) feet on center. In lieu of the baseline filler an earthen berm may be used. The earthen berm shall vary in width and height and shall be curvilinear in form and provide a gentle tie-in with the existing grade. Average height of earthen berms used to satisfy this requirement shall be three (3) feet in height.

(d) Where appropriate existing vegetation may be used to satisfy this requirement. Existing vegetation may be required to be supplemented with additional evergreen material in order to meet the buffering requirements. The need for additional evergreen material shall be determined during the site development plan review process.

Sec. 35.1-25.1.12. Tree canopy requirements.

(a) For purposes of this section, "tree canopy" shall include all areas of coverage by existing plant material exceeding five (5) feet in height, and the extent of planted tree canopy at maturity shall be based on the published reference text, manual of woody landscape plants, fifth edition, 1998, by Michael A. Dirr.

(b) The planting or replacement of trees on a development site shall be required to the extent that, at a twenty (20) years, minimum tree canopies will be provided as follows:

	Minimum Tree Canopy Required
B-1, B-2, B-3, B-4, B-5, B-6, IN-1, IN-2, I-1, I-2, I-3	10% of entire development site
R-4, R-5	10% of entire development site
R-3	15% of entire development site

R-C, R-1, R-2	20% of entire development site

(c) Existing trees that are to be preserved may be included to meet all or part of the tree canopy requirements.

(d) Existing trees infested with disease or structurally damaged to the extent that they pose a hazard to person or property, or to the health of other trees on site, shall not be included to meet the tree canopy requirements.

(e) Tree canopy requirements do not replace, or negate full compliance with, the requirements of any other section of the landscaping ordinance. However, if planting of landscaping required by this ordinance meets or exceeds the tree canopy requirement, no further planting of trees or replacement of trees is required by this section.

(f) In areas zoned B-4, central business district, B-6, riverfront business district or where the city planner determines that crime prevention through environmental design (CPTED) principles apply, the city planner, in consultation with the city's urban forester, may allow the off-site planting of up to ninety-nine (99) percent of the required street trees, parking area screening, buffering and foundation plantings. Off-site planting areas shall be within the city limits and in such location as approved by the city planner.

(g) The following shall be exempt from the tree canopy requirements.

(1) Dedicated K-12 school sites.

(2) Playing fields and other non wooded recreation areas

(3) Designated wetlands

(4) Other facilities and uses similar in nature as determined by the city council.

Sec. 35.1-25.1.16. Alternate layout of landscaping.

(a) The city planner with the concurrence of the planning commission may approve an alternative layout to landscaping required by this ordinance provided that the spirit and intent of the ordinance are preserved and the goals of Section 35.1-25.1 are assured.

(b) <u>To provide greater flexibility for the layout and operations of institutions, landscaping required by this ordinance for an IN-2, Institutional District may be dispersed within the area proposed for development. In dispersing the required landscaping, no special approvals shall be required, provided that the same, quantity and size of landscaping as required by this ordinance are installed.</u>

Sec. 35.1-26.3. General regulations.

(a) The following shall not be subject to the provisions of the zoning ordinance regulating signs:

(1) Signs which are subject to the regulations of the Virginia Department of Transportation and which are placed in the public rights-of-way or on city-owned property by the city for public information purposes. Such signs include but are not limited to, signs which direct or regulate

pedestrian or vehicular traffic, community identification signs which identify the location of buildings and facilities or scenic or historic attractions, and similar types of signs;

(2) Flags;

(3) Memorial signs or tablets; and

(4) Decorative embellishments attached to light poles.

(5) Scoreboards.

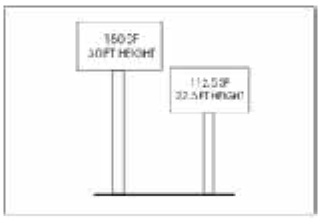
(6) Signs that are intended for wayfinding purposes in or signs that are only legible from within an IN-1 or IN-2, Institutional District.

(b) For the purposes of the zoning ordinance, other provisions notwithstanding, awning signs shall be allowed and treated as building mounted signs. The maximum permissible area for awning signs shall be subject to, and calculated with, the maximum permissible building mounted sign area for the specific district in which such signs are located. These provisions are applicable to awning signs regardless of the material.

(c) Window signs covering more than twenty-five percent (25%) of the glass area shall be calculated with and included in the maximum permitted building mounted sign area in the district.

(d) Discontinued uses. Within thirty (30) days after a use or activity that is advertised by a sign ceases, the owner of such use or activity or the owner of the property on which the sign advertising the discontinued use or activity is located shall remove any changeable copy on the sign. In the event the use of any nonconforming sign is abandoned for two (2) or more years the sign and its supporting structure shall be removed by the owner of the use or activity or by the owner of the property on which the sign is located. If the sign and its supporting structure are not removed the city shall give the property owner notice to remove the sign and a deadline for removal. If the property owner fails to remove the sign after having been given written notice by the city to do so or if the city after reasonable efforts to do so is unable to locate the property owner, the city may pursue any or all of the following remedies: (i) through its employees or agents enter the property upon which the sign is located, remove the sign and its supporting structure and bill the property owner for the costs of such removal; (ii) apply to a court of competent jurisdiction for an order requiring the removal of such abandoned nonconforming sign by the owner by means of injunction or other appropriate remedy; and/or (iii) charge the owner of the property where the sign is located with a violation of the zoning ordinance as provided in Section 35.1-20.

(e) Existing signs. Any existing sign and/or sign structure legally erected and maintained, which is nonconforming to the provisions of the June 22, 2004 amendments to the zoning ordinance, may continue in its nonconforming status as long as it is maintained in its then structural condition as it existed at the time of adoption of this article (see nonconforming Section 35.1-27). When a nonconforming sign, sign frame, and/or sign structure is intentionally reconstructed or structurally altered by the business or building owner, the surface area and height requirements for a new sign, sign frame, and/or sign structure, under this ordinance, shall apply. The new sign, sign frame, and/or sign structure may exceed the ordinance requirements, however, to a limit which is calculated by taking a twenty-five percent (25%) reduction in the height and/or square foot area of the original sign, sign frame and/or sign structure, provided that the new sign, sign frame, and or sign structure is constructed within sixty (60) days of the removal of the previous nonconforming sign and sign application approval is granted as provided in Sections 35.1-26 through 35.1-26.16.14 of the zoning ordinance. New signs, sign frames and/or sign structures, which exceed the ordinance requirements pursuant to this provision shall be considered as nonconforming. Replacements of signs destroyed by acts of God, or other occurrences beyond the control of the owner shall comply fully with Section 35.1-26 of the zoning ordinance.



25 % Reduction

(f) Portable signs, pennants, streamers, off site directional signs, and flashing signs are prohibited.

(g) Compliance with electrical code. All illuminated signs must comply with UL standards of the statewide uniform building code.

(h) Violations and penalties: refer to Section 35.1-20.

Sec. 35.1-26.5. Temporary signs.

(a) The following banners are permitted in the zoning districts of the City of Lynchburg:

District	*Size*	*Quantity*	*Setback*	*Wall Projection*
R-1, R-2, R-3, R-4, R-5	24 SF	1 Per Street Frontage	8 Feet	3 Inches Max
B-1, B-2, B-4, B-6	24 SF	1 Per Street Frontage	8 Feet	3 Inches Max
B-3, B-5, <u>IN-1, IN-2</u>	32 SF	1 Per Street Frontage	8 Feet	3 Inches Max
I-1, I-2, I-3	24 SF	1 Per Street Frontage	8 Feet	3 Inches Max

(b) Banners may be erected only by the occupant of the lot and the advertising matter shall apply only to the nature of the activity occupying the lot on which the banner is erected.

(c) An application and permit for a banner or inflatable item is required as provided in 35.1-26.14. No such permit shall be issued for a period to exceed sixty (60) days. Permits for banner signs and inflatable items shall not be issued for any location during a period of thirty (30) days after the expiration date of a permit for a banner or inflatable item previously issued for the same location, unless the business operated at the location has changed ownership. In no case shall a banner or inflatable item be displayed for more than a total of one hundred and eighty (180) days per calendar year. Said banners and inflatable items shall be securely fastened to the ground or other immovable object and shall be located a minimum of eight (8) feet from the property line.

(d) Temporary construction signs are permitted in the zoning districts of the City of Lynchburg as follows:

District	*Size*	*Quantity*
R-C, R-1, R-2, R-3	6 SF	1
R-4, R-5	16 SF	1
B-1, B-2, B-3, B-4, B-5, B-6, IN-1, IN-2	32 SF	1
I-1, I-2, I-3	32 SF	1

One temporary construction sign shall be allowed for each contractor, subcontractor, architect or engineer. Temporary construction signs shall only be allowed on the property on which construction will commence within the next three (3) months, and may be erected on the wall of a construction trailer, construction shed or on the ground. Temporary construction signs shall not be lighted by any means and shall be removed prior to a certificate of occupancy (CO) being granted for said building. A sign permit is not required for the placement of a temporary construction sign.

(e) Temporary real estate signs are permitted in the zoning districts of the City of Lynchburg as follows:

District	*Size*	*Quantity*
R-C, R-1. R-2, R-3	6 SF	1 per Street Frontage
R-4, R-5	16 SF	1 per Street Frontage
B-1, B-2, B-3, B-4, B-5, B-6, IN-1, IN-2	32 SF	1 per Street Frontage
I-1, I-2, I-3	32 SF	1 per Street Frontage

Temporary real estate signs are to be placed only on the property that is for sale or lease. Temporary real estate signs shall be removed within three (3) days of the sale or lease of the property.

(f) One (1) temporary subdivision identification sign not exceeding thirty-two (32) square feet in area may be erected during construction at an entrance to the subdivided property; provided not over two (2) signs shall be erected for any one (1) subdivision. These signs shall be removed upon completion or sale of seventy-five (75) per cent of the lots in the subdivision. No electric or other luminous sign and no sign illuminated by a floodlight or other similar device shall be permitted.

(g) Temporary signs that are permitted by this section may not be placed on utility poles, traffic control signs or within the public rights-of-way.

(h) All temporary signs must be removed within three (3) days after the event or activity being advertised or promoted by the temporary sign has been completed.

Sec. 35.1-26.9. Signs in B-1, ~~and~~ B-2 and IN-1 districts.

Signs pertaining only to the uses conducted on the premises, but not including any roof signs or billboards, will be permitted, subject to the following conditions:

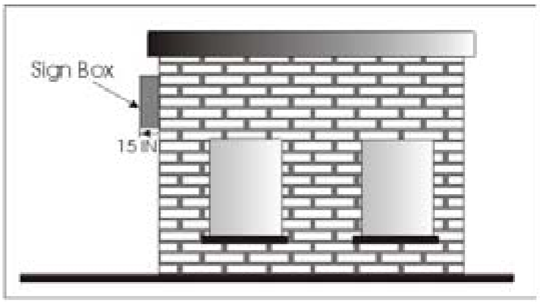
(a) Building mounted signs shall face only upon an abutting street or an abutting parking lot of the same parcel where the sign is located. The aggregate face area of all signs on any one (1) wall of the building shall not exceed twenty-four (24) square feet. Newly constructed groups of buildings shall have unified and coordinated building mounted signs.

(b) One (1) free-standing sign structure, permanently fixed to the ground, may be erected on each street on which a lot occupied by a permitted use abuts, provided such sign structure does not extend beyond the lot line nor shall such sign be located closer to the front property line than two (2) feet. Such sign structure shall be limited to two (2) sign faces, each of which shall not exceed twenty-four (24) square feet in surface area. Any architectural or decorative surrounds to support or enhance the sign face may not exceed twenty-five percent (25%) of the maximum allowable sign face surface area. Sign bases, uprights, or poles located under the sign shall not count toward the architectural or decorative surrounds calculation. The overall height of any such sign structure, including its architectural or decorative surrounds, shall not exceed ten (10) feet above the ground.

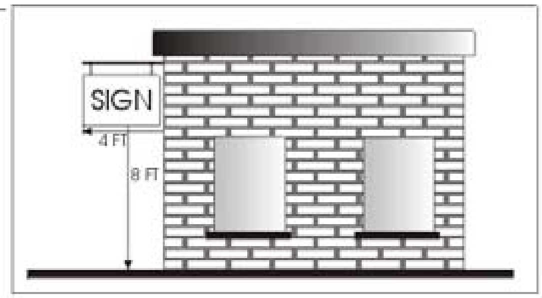
(c) When a group of buildings is coordinated into a business, IN-1, Institutional campus or shopping area, one (1) free-standing sign structure, permanently fixed to the ground and designed to identify the area as a whole, may be erected on each street on which the area abuts, provided such sign structure shall not be located closer to the front property line than two (2) feet. Such sign shall be limited to two (2) sign faces, each of which shall not exceed twenty-four (24) square feet in area for the first business tenant, but may be increased incrementally by four (4) square feet for each additional business tenant up to a maximum of thirty-two (32) square feet. Any architectural or decorative surrounds to support or enhance the sign face may not exceed twenty-five percent (25%) of the maximum allowable sign face surface area. The overall height of any such sign, including its architectural or decorative surrounds, shall not exceed ten (10) feet above the ground.

(d) Any pole supporting a freestanding sign shall be in an eighteen (18) inch wide rectangular enclosure. The material and color of the enclosure shall coordinate with the sign and/or building. Any freestanding sign in a historic district shall be monument style, maximum seven (7) feet in height, comply with the historic district guidelines, and receive approval from the secretary of the historic preservation commission. Decisions of the secretary may be appealed to the historic preservation commission.

(e) No building mounted sign shall project more than fifteen (15) inches beyond the face of a building. Signs mounted perpendicular to the building may project a maximum of four (4) feet beyond the face of the building and allow for eight (8) feet of clearance between the bottom of the sign structure and the ground. No sign shall project above the parapet wall of the building.



Building Mounted Signs



Projecting Signs Perpendicular to Building

(f) The provisions of this section do not apply to signs that are further than twelve (12) inches away from the inside face of an exterior window pane.

(g) Sign illumination. When any sign is lighted in these districts, such lights shall be enclosed in the sign, shaded or indirect so that the source of illumination is not visible and in no way interferes with the vision of motorists or with neighboring residents. Only white illumination shall be used, and no flashing (on-and-off) sign simulating movement shall be permitted, except signs indicating time and/or temperature or similar signs erected for the convenience of the public. No fluorescent paint or other preparation shall be used for high reflection.

(h) One sign with the word "open" (neon or otherwise) shall be permitted per use, provided the sign does not exceed four (4) square feet. Said sign shall not count towards the maximum allowable sign square footage.

(i) For visibility regulations at intersections see Section 35.1-23(j).

(g) Sign illumination. When any sign is lighted in these districts, such lights shall be enclosed in the sign, shaded or indirect so that the source of illumination is not visible and in no way interferes with the vision of motorists or with neighboring residents. Only white illumination shall be used, and no flashing (on-and-off) sign simulating movement shall be permitted, except signs indicating time and/or temperature or similar signs erected for the convenience of the public. No fluorescent paint or other preparation shall be used for high reflection.

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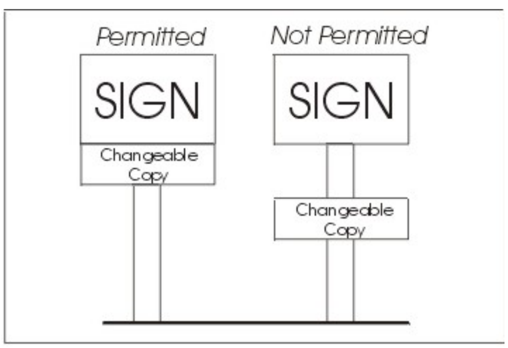
(i) For visibility regulations at intersections see Section 35.1-23(j).

Sec. 35.1-26.10. Signs in B-3, ~~and~~ B-5 and IN-2 districts.

Signs pertaining only to the uses conducted on the premises, but not including any roof signs or billboards, will be permitted, subject to the following conditions:

(a) Building mounted signs shall face only upon an abutting street or an abutting parking lot of the same parcel where the sign is located. The aggregate sign face surface area of all signs, including trim or right embellishment, on any one (1) building wall within two-hundred (200) feet from the abutting street -of-way shall not exceed twenty-five (25) square feet plus one (1) square foot for each lineal foot of such wall. In no case shall the sign face surface area exceed one-hundred fifty (150) square feet. The aggregate sign face surface area of all signs on any one (1) building wall greater than two-hundred (200) feet from the abutting street rights-of-way shall not exceed twenty-five (25) square feet plus two (2) square feet for each lineal foot of such wall. In no case, shall the sign face surface area exceed two-hundred (200) square feet. For buildings three (3) stories or greater in height the sign size may increase twenty (20) square feet per story above the maximum permissible sign area. Newly constructed groups of buildings shall have unified and coordinated building mounted signs.

(b) One (1) free-standing sign structure, permanently fixed to the ground, may be erected on each street on which a lot occupied by a permitted use abuts, provided such sign structure is not located closer to the front property line than two (2) feet. Such sign structure shall be limited to two (2) sign faces, each of which shall not exceed fifty (50) square feet in area. Any changeable copy sign must abut or connect with the sign face and the total square footage for both sign face surface area and changeable copy sign surface area may not exceed sixty-six (66) square feet. The changeable copy sign surface area itself may be no larger than twenty-two (22) square feet. Any architectural or decorative surrounds to support or enhance the sign face and/or changeable copy sign face may not exceed twenty-five percent (25%) of the allowable sign face surface area. The overall height of any such sign structure, including any architectural or decorative surrounds, shall not exceed seventeen (17) feet above the ground.



Changeable Copy Signs

(c) When a group of buildings is coordinated into a business, IN-2, Institutional campus or shopping area, one (1) free-standing sign structure, permanently fixed to the ground, designed to identify the area as a whole may be erected on each street on which the area abuts, provided such sign shall not be located closer to the front property line than two (2) feet. For a group of buildings that is between one hundred thousand (100,000) square feet and two hundred thousand (200,000) square feet, such sign shall be limited to two (2) faces, each of which shall not exceed seventy-five (75) square feet in area plus sixteen (16) square feet for a changeable copy sign. The changeable copy sign must be attached to the sign. For a group of buildings that exceeds two hundred thousand (200,000) square feet in area, such sign shall be limited to two (2) faces, each of which shall not exceed one hundred twenty-five (125) square feet in area plus sixteen (16) square feet for a changeable copy sign. The changeable copy sign must be attached to the sign. Any architectural or decorative surrounds to support or enhance the sign and/or changeable copy sign may not exceed twenty-five percent (25%) of the allowable sign area. The overall height of any such sign, including any architectural or decorative surrounds, shall not exceed seventeen (17) feet above the ground.

(d) Any pole supporting a freestanding sign shall be in an eighteen (18) inch wide rectangular enclosure. The material and color of the enclosure shall coordinate with the sign and/or building.

Any freestanding sign in a historic district shall be monument style, comply with the historic districts design guidelines and receive administrative approval from the secretary of the historic preservation commission. Decisions of the secretary may be appealed to the historic preservation commission.

(e) No sign applied flat to the wall shall project more than fifteen (15) inches beyond the face of a building. Signs mounted perpendicular to the building may project a maximum of four (4) feet beyond the face of the building and allow for eight (8) feet of clearance between the bottom of the sign structure and the ground. No sign shall project above the parapet wall of the building.

(f) The provisions of this section do not apply to window signs on the inside of buildings that are further than twelve (12) inches away from the inside face of an exterior window pane, nor to small signs on outdoor merchandise display racks, cases and vending devices.

(g) Traffic direction signs, each not exceeding four (4) square feet in area, and four (4) feet in height may be displayed on any lot zoned as B-3 or B-5 as follows: Signs identifying vehicular entrance to and exit from the lot and signs of the type generally used for traffic control necessary for the safe and proper control of vehicular and pedestrian traffic within the lot.

(h) Sign illumination. When any sign is lighted in this district, such lights shall be enclosed in the sign, shaded or indirect so that the source of illumination is not visible and in no way interferes with the vision of motorists or with neighboring occupants. Only white illumination shall be used, and no flashing (on-and-off) sign, nor any sign simulating movement shall be permitted, except signs indicating time and/or temperature or similar signs erected for the convenience of the public. No fluorescent paint or other preparation shall be used for high reflection.

(i) Neon tubing of any color is permitted on a sign, provided the neon is installed within a channel enclosure.

(j) One sign with the word "open" (neon or otherwise) shall be permitted per use, provided the sign does not exceed four (4) square feet. Such a sign shall not count towards the maximum sign square footage.

(k) For visibility regulations at intersections see Section 35.1-23(j).

Sec. 35.1-47. General standards.

All uses and structures for which a conditional use permit ~~or site plan~~ review permission is required shall conform to the following general standards:

(a) The location and size of the use, the nature and intensity of the operations involved in or conducted in connection with it, the size of the site in relation to it and the location of the site with respect to streets giving access to it shall be such that it will be in harmony with the appropriate and orderly development of the district in which it is located.

(b) The location, nature and height of buildings, walls and fences and the nature and extent of the landscaping on the site shall be such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings.

(c) Operation in connection with any special use will not be more objectionable to nearby properties by reason of noise, fumes, vibration or other characteristics than would be the operations of any permitted use not requiring a special permit.

(d) Parking areas will be of adequate size for the particular use, properly located and suitably screened from adjoining residential uses, and the entrance and exit drives shall be laid out so as to achieve maximum safety.

(e) Public utility service (electricity, sewerage, storm drainage, and water) will be adequate to service the proposed use and will have suitable access thereto, and the proposal will not overburden existing facilities; or, any on-site water supply, sewage treatment, storm drainage disposal, or power plant proposals will be adequate to serve the proposed use.

(f) In addition, uses shall conform to specific standards as set forth in the remainder of this article.

(g) The site of the proposed development is served by public sewers and water supply, and waste disposal will be provided to an extent acceptable to the director of community services and the city health officer.

3. That this ordinance shall become effective upon its adoption.

Adopted:

Certified: ________________________________

Clerk of Council

The Department of Community Development

City Hall, Lynchburg, VA 24504 **434-455-3900**

To: Planning Commission
From: Planning Division
Date: January 9, 2013
Re: Zoning Ordinance Amendments – Section 35.1-38.2, Institutional Districts, Section 35.1-38.3, Institutional District (IN-2), Section 35.1-38.4, Institutional District (IN-2)

Section 35.1-11.11, Terms beginning with "P" through "R"

Landscaping Ordinance Sections 35.1-25.1.2, Applicability, 35.1-25.1.8, Street trees for multi-family, commercial, institutional and industrial districts, 35.1-25.1.9, Foundation Plantings, 35.1-25.1.11, Buffering, 35.1-25.1.12, Tree Canopy Requirements, 35.1-25.1.16, Alternate layout of landscaping

Sign Ordinance Sections 35.1-26.3, General Regulations, 35.1-26.5, Temporary signs, 35.1-26.9, Signs in B-1, B-2 and IN-1 Districts, 35.1-26.10, Signs in B-3, B-5 and IN-2 Districts

Section 35.1-47, General Standards

I. PETITIONER

City of Lynchburg, 900 Church Street, Lynchburg, VA 24504
Representative: Mr. Tom Martin, AICP, City Planner, Planning Division, 900 Church Street, Lynchburg, VA 24504

II. LOCATION

The ordinance amendments would be applicable to institutions voluntarily requesting to be placed in the appropriate district.
Property Owner: N/A

III. PURPOSE

The purpose of the proposed ordinance is to provide for institutional uses such as schools, colleges, universities, senior living facilities, medical facilities and churches with multiple buildings contained in a campus setting. The ordinance would allow institutional uses to expand without the need for obtaining a conditional use permit (CUP).

IV. SUMMARY

- The proposed draft would create two (2) new zoning districts: IN-1 Districts intended for small scale institutions located within or adjacent to residential areas and IN-2 Districts intended for large scale institutions primarily located within or adjacent to non-residential areas.
- Institutions requesting and placed in the applicable Institutional District would no longer require a conditional use permit to expand.
- On August 9, 2011, City Council directed staff to redraft the IN-2 District ordinance to address concerns expressed by Liberty University.
- The IN-1 District ordinance draft is substantively the same as recommended by the Planning Commission to City Council on July 13, 2011.

The Planning Division recommends approval of the Zoning Ordinance Amendments

V. FINDINGS OF FACT

1. **Comprehensive Plan.** The *Comprehensive Plan 2002-2020* places a high value on the City's institutions and supports their continued presence within the city. The plan states that the city should work towards coordinating city planning with campus master planning. (***pg. 11.8***) The Comprehensive Plan 2002-2020 also states that some conditional uses are regularly approved with little controversy and perhaps should be changed to permitted uses". The plan recommends addressing rezoning, conditional use permit and site plan and subdivision plat review procedures to ensure efficiency and effectiveness. (***pg 5.10***)

   One of the primary catalysts for proposing the creation of Institutional Districts was to address the high number and frequency of CUPs obtained by the city's institutions.

2. **Zoning.** Institutions would have the option to request being placed in the applicable Institutional District or to continue obtaining CUPs as is currently required.

3. **Board of Zoning Appeals (BZA).** N/A

4. **Surrounding Area.** N/A

5. **Site Description.** IN-1 Districts are intended for small scale institutions (less than three hundred (300) acres) located primarily within or adjacent to residential areas. IN-2 Districts are intended for large scale institutions consisting of three hundred (300) or more contiguous acres primarily located within or adjacent to non-residential areas.

6. **Proposed Use of Property.** N/A

7. **Traffic, Parking and Public Transit.** IN-1 Districts would require a traffic study to be submitted at the time an application is made to rezone to the district and at the time the Technical Review Committee (TRC) determines that the institutions existing and proposed development would result in a Level of Service (LOS) lower than "D" for city streets and intersections service the campus. IN-2 Districts would require a traffic study to be submitted at the time an arena, stadium, auditorium or new entrance to a city street is proposed.

8. **Stormwater Management.** Stormwater Management would be subject to Chapter 16.2 of the City Code. Erosion & Sediment Control would be subject to Chapter 16.1 of the City Code.

9. **Emergency Services:** N/A

10. **Impact.** On February 9, 2010, City Council initiated amendments to the *Zoning Ordinance* related to institutions. Over a period of seventeen (17) months, the Planning Commission and City staff worked with a group of stakeholders to draft ordinance revisions that would facilitate the development of the City's institutions without the need for obtaining a conditional use permit (CUP), as in currently required.

    The resulting draft proposed the creation of two (2) new zoning districts: IN-1 districts intended for institutions that are smaller in scale and located primarily within or adjacent to residential areas and IN-2 districts intended for large scale institutions primarily located within or adjacent to non-residential areas. The *Zoning Ordinance* amendments were drafted to address common themes that resulted from early discussions with stakeholders:

    1. Improvements that do not cause off-site impacts should be allowed by right.

2. Primary concern should be related to expansions or incremental growth that results in off-site impacts.
3. A definition of what a substantial impact is requiring a more in-depth review should be developed.
4. There should be flexibility in requirements for master plans. Planning beyond two (2) years is speculative for institutions at best.
5. An ongoing dialogue between institutions and the City should be developed.

On August 9, 2011, City Council conducted a work session on the amendments and identified concerns related primarily to the IN-2 district language and a letter from Liberty University stating that it did not support the current draft. Council directed staff to redraft the *Zoning Ordinance* amendments prior to scheduling a public hearing.

City staff has been working with Liberty University over the past fifteen (15) months to draft an IN-2 district that would address the concerns of Liberty University while still addressing the common themes that emerged early in the process. As a result of the discussions, other ordinance sections which were not considered by the Planning Commission are proposed for amendment and would require new public hearings. These sections include:

- Section 35.1-11.11 by amending the term "residence" to "residential"
- Section 35.1-47, General Standards by removing the term "site plan".

The current draft of the IN-2 district regulations are substantially different from what was originally considered. Substantive changes include:

- Information required at the time a rezoning application for an IN-2 District is submitted to the City (no concept plan required);
- List of permitted uses in the district (specifically lists all permitted uses in a B-5 District);
- Traffic study required only if a new arena, stadium, auditorium or new entrance to a city street is proposed;
- Legally existing nonconforming uses (with the exception of signs and billboards) would become conforming uses;
- Flexibility to disburse required landscaping within the area proposed for development;
- Exemption of wayfinding signs and signs not legible from outside of the district from the sign ordinance;
- Additional square footage for signs placed on buildings three (3) stories or greater in height;
- Exemptions from the requirements of Section 35.1-22, Buildings Uses and Lots, Section 35.1-24, Accessory Buildings and Uses, Section 35.1-25, Off Street Parking and Loading and Section 35.1-50, Arenas, Auditoriums and Stadiums;.
- No requirement for future review as would be required in the IN-1 District.

Stakeholders have been provided a copy of the new draft ordinances.

11. **Technical Review Committee.** N/A

VI. PLANNING DIVISION RECOMMENDATION

Based on the preceding Findings of Fact, the Planning Commission recommends to City Council approval of amending and enacting the following sections of the *Zoning Ordinance* in order to create IN-1 and IN-2, Institutional Districts:

Section 35.1-38.2, Institutional Districts

Section 35.1-38.3, Institutional District (IN-2), Section 35.1-38.4, Institutional District (IN-2)

Section 35.1-11.11, Terms beginning with "P" through "R"

Landscaping Ordinance Sections 35.1-25.1.2, Applicability, 35.1-25.1.8, Street trees for multi-family, commercial, institutional and industrial districts, 35.1-25.1.9, Foundation Plantings, 35.1-25.1.11, Buffering, 35.1-25.1.12, Tree Canopy Requirements, 35.1-25.1.16, Alternate layout of landscaping

Sign Ordinance Sections 35.1-26.3, General Regulations, 35.1-26.5, Temporary signs, 35.1-26.9, Signs in B-1, B-2 and IN-1 Districts, 35.1-26.10, Signs in B-3, B-5 and IN-2 Districts

Section 35.1-47, General Standards

This matter is respectfully offered for your consideration.

William T. Martin

William T. Martin, AICP
City Planner

pc: Mr. L. Kimball Payne, III, City Manager
Ms. Bonnie M. Svrcek, Deputy City Manager
Mr. Walter C. Erwin, City Attorney
Mr. Kent L. White, Director of Community Development
Mr. J. Lee Newland, City Engineer
Ms. Cynthia Kozerow, Lynchburg Police Department
Captain Thomas Mack, Acting Fire Marshal
Mr. Doug Saunders, Building Commissioner
Mr. Robert Fowler, Zoning Administrator
Mr. Jacob Dorman, Environmental Reviewer
Institutional Stakeholders

VII. ATTACHMENTS

1. **Draft Ordinance January 9, 2013**

MINUTES FROM THE JANUARY 9, 2013 PLANNING COMMISSION MEETING (MINUTES HAVE BEEN APPROVED):

d. Consideration of adopting 35.1-38.2, Institutional District (IN-1) and Section 35.1-38.3, Institutional District (IN-2) as part of the Zoning Ordinance and amending Section 35.1-11.11, Terms beginning with "P" through "R", Landscaping Ordinance Sections 35.1-25.1.2, Applicability, 35.1-25.1.8, Street trees for multi-family, commercial, institutional and industrial districts, 35.1-25.1.9, Foundation Plantings, 35.1-25.1.11, Buffering, 35.1-25.1.12, Tree Canopy Requirements, 35.1-25.1.16, Alternate layout of landscaping, Sign Ordinance Sections 35.1-26.3, General Regulations, 35.1-26.5, Temporary signs, 35.1-26.9, Signs in B-1, B-2 and IN-1 Districts, 35.1-26.10, Signs in B-3, B-5 and IN-2 Districts and Section 35.1-47, General Standards of the Zoning Ordinance. The new ordinance sections and amended sections would allow for the creation of "Institutional Districts. IN-1 Districts are intended for institutions such as churches, colleges, medical facilities, schools and senior living facilities that are smaller in scale and located primarily within or adjacent to residential areas. IN-2 Districts are intended for institutions such as churches, colleges, medical facilities, schools and senior living facilities that are larger in scale and located primarily within or adjacent to non-residential areas. IN-2 Districts would also allow all uses permitted by right or by conditional use permit as B-5, General Business Districts.

Mr. Martin explained that on August 9, 2011, Council conducted a work session and identified some concerns related to the IN-2 district. These concerns were based primarily on a letter from Liberty University (LU) stating that it did not support the ordinance as written. City Council directed staff to work with LU to come up with an ordinance that was mutually agreeable to both the City and LU.

Mr. Martin explained that the proposed rewritten ordinance would differentiate an IN-1 and an IN-2 district as the first being primarily in a residential area and containing less than 300 acres and the second as being primarily in a commercial area, containing at least 300 contiguous acres and having access to a State primary road.

Mr. Martin summarized the substantive changes to the ordinance since it was forwarded to City Council by the Planning Commission in 2011. First, the definitions have been moved to a separate section so that they apply to both districts. Secondly, there was language in the former draft that restricted the Planning Commission and City Council to what it could review, such as the surrounding land uses when considering a rezoning. After conversations with the City Attorney, the City Manager and the LU's attorneys, it was agreed that the ordinance cannot limit what the Planning Commission or City Council could consider when recommending or deciding to rezone a piece of property. That wording was removed from the IN-1 district language.

With regard to the changes to the IN-2 district section, there are several changes. They are no longer required to submit a concept plan or a metes and bounds description. They will need to submit an area map showing where the properties are located. All permitted uses of a B-5 district have been listed. Traffic study requirements have essentially been removed unless an arena, stadium or auditorium is built or there is a new entrance to a City street being proposed. Legally existing nonconforming uses would become conforming at the time of the adoption of the district. There are some exceptions to that, primarily billboards and signs. The flexibility to disperse landscaping has been added. The same amount would be required but they would be allowed some flexibility as to its placement within the development. Also, signage that is only legible within the district, as well as wayfinding signage, would not need any special approval and would be exempt from sign permitting.

The IN-2 district would also be exempt from the following sections of the *Zoning Ordinance*: Section 35.1-22. Buildings, Uses and Lots; Section 35.1-24. Accessory Buildings and Uses; Section 35.1-25. Off Street Parking and Loading, provided; however any institution in the IN-2, Institutional District shall provide adequate parking and unloading areas to accommodate permitted uses within the district. The district shall be deemed to not have adequate parking and unloading areas, when the lack of parking and/or unloading areas in the district causes vehicles to be regularly parked in, or to partially or completely, block, and public right-of-way and Section 35.1-50, Arenas, Auditoriums and Stadiums.

Mr. Martin noted that the term “residence” has been changed to “residential.” Also, under our general standards, the term “site plan” has been removed. Mr. Martin also reviewed a chart with the Planning Commissioners that compares the differences between the IN-1 and IN-2 districts.

Mr. Martin remarked that the City received comments from VDOT on January 8, 2013 with its concerns with the proposed ordinance. A copy of the letter was provided to the commissioners today. Mr. Martin has spoken with the City’s Transportation Engineer about some of those comments. They are suggesting that the definition of “level of service” be amended, which is based on the Federal Highway Administration’s definition of level of service.

Chair Sale asked for anyone who wished to speak in favor of the petition. Mr. David Corry, representing LU, came forward. He read the following statement into the record:

“Liberty University has been pleased to accept your invitation and the invitation of City Council to participate in a process to improve how the City’s zoning code relates to colleges and other institutional landowners. We have always agreed with the goal of finding better ways to allow uses of properties that don’t interfere with the property rights of neighbors while still respecting the property rights of owners. While Liberty University found the initial drafts this process yielded did not improve on the current CUP process for large scale institutions outside of residential areas, the latest proposal is a great improvement and Liberty University supports it.

Even though Liberty University sought for large scale institutional campuses in commercial and industrial districts to simply be restored to their pre-CUP status with development by right, the IN-2 zoning district proposed by staff here is a good common sense compromise. It gives the City appropriate oversight mechanisms over the internal improvements with outside impacts, like arenas, stadiums, towers, large signs and city street entrances, while giving appropriate flexibility to institutions for internal improvements without outside impact, like internal signage, internal parking, private water and sewage treatment facilities, placement of required landscaping and placement of athletic fields. The list of by right uses and uses allowed with conditional use permits more closely parallels the B-5 zoning list. By right uses eliminate the subjective judgments about “sufficiency” and “impact” by unelected decision makers. The proposal also recognizes the ongoing change in a large institution results in regular contact with planning staff so that requiring the development of concept plans with two year horizons and revisions at five year intervals just adds an expensive paperwork requirement without providing new or valuable information. So this requirement was dropped in the context of IN-2. The discussions with staff were very productive and the process even identified some other areas where code language could be clarified, made consistent with state law and improved.

What this exchange among the institutions, planning commissioners and staff has generated is a great improvement for both the smaller scale institutional campuses in residential areas and the larger scale institutions in commercial and industrial areas. Liberty University is pleased with the result and encourages the Planning Commission to endorse its approval to the City Council. We also look forward to continuing to work with the City and its elected representatives to make the best decisions in the best interests of the economic development of our City.”

Mr. Hank Creasy, representing Centra Health, came forward to speak. He stated that previously the language had suggested that there would be a small institution and a large institution and that it seemed likely that Centra would fit in the IN-2 district. Given the proposed requirement for 300 contiguous acres, Central would currently not fit into that designation. The Lynchburg General Hospital campus is approximately 168 acres. Mr. Creasy would like to know why this requirement is necessary, where it came from and whether or not, Centra could be considered suitable for IN-2. He would appreciate some feedback on this issue.

Chair Sale asked if there was anyone else present to speak in favor of the petition. No one came forward. He asked for anyone who wished to speak in opposition to the petition. No one came forward. He closed the public hearing portion of the petition.

Chair Sale asked Mr. Martin to talk about the conversations that staff has had with Liberty. Mr. Martin said there is really no mystery to the 300-acre standard; that is about the size of LU's campus. Staff would be interested in hearing what the Planning Commission feels is an appropriate acreage. He pointed out that the majority of the Lynchburg General Hospital's campus is located in a commercial area. The difference is that it not located on a State primary road. Planning Commission needs to consider reducing the acreage requirement, as well as the State primary road requirement, if it feels that Centra would fall in the IN-2 district.

Chair Sale was surprised to see VDOT's late comments as well as the amount of comments. He did not remember them being in the previous conversations. Mr. Martin acknowledged that it may have been valuable if they had been involved in the stakeholder discussions. Obviously, VDOT has some concerns and staff understands those concerns. Mr. Martin commented that the realism is whether or not the City is going to continue to allow LU to grow and if not, what that means to the City.

Commissioner Barnes feels that the conversations over the past months have led to a better proposal. He does have a significant concern with the concept plan exemption for IN-2 for two reasons. First, we say several times in the document that we seek to establish a dialogue between the City and the major institutions. Not having a concept plan runs counter to that. The other reason is that he thinks it is unfair to the smaller institutions that are required to submit a concept plan. There is a fundamental unfairness there. With this plan that has been worked out, LU has been granted wide latitude in the use of its property. Asking them to provide a concept plan to at least put in schematic form what their plans are is not asking too much.

Commissioner Hannon asked at what point the City gets information from LU regarding projects with potential significant impacts. Mr. Martin commented that they would still have to go through the site plan review process for anything it does. Commissioner Hannon asked if any of those projects would have a traffic component. Mr. Martin said that, typically, if it is a B-5 use, the City's traffic policy is that if it exceeds a certain trip generation threshold, it would require a traffic study. The developer would have to mitigate the identified impacts. Mr. Martin and the Transportation Engineer are not sure they can necessarily do that the way the current language is worded. Mr. Martin remarked that anything an institution does, such as a book store, has the potential to exceed those relatively small trip generation thresholds. So, they came up with the level of service standards to try and have one traffic study submitted early on and we would know that when they got to a certain amount of growth, there would need to be a new traffic study. Any IN-2 institution would be able to grow to a certain level, and when it is difficult to get in and out of it, it will not be able to grow or someone is going to have to improve the road network. Who that someone is, is questionable. It will be the City, VDOT, the institution or a combination of the two.

Commissioner Hooper asked for clarification that a traffic study could be required through the TRC process. Mr. Martin reiterated that he and the Transportation Engineer do not think that a traffic study can be required at any given point the way the language is currently worded unless it is for an auditorium, stadium or arena. In the end, we are saying that the institution needs to manage its property and get people in and out. Commissioner Sale pointed out that one of the principles is also review of impact to adjacent properties and how do we measure impact.

Commissioner Hooper asked if the capacity of utilities is part of the review process. Mr. Martin said it is and that is a little bit more straightforward.

Commissioner Hooper asked why the IN-1 district cannot have the same exemption for signs located on their property not being subject to further review or sign permitting as is being proposed for the IN-2. Mr. Martin said it is the same for both.

Commissioner Swienton commented that he would like them to get back to differentiating between the two districts as one being in a commercial district and the other being in a residential district rather than the acreage requirement. On the positive side, he is glad to see that there has been dialogue to get this moved many steps along the way.

Commissioner Swienton asked if the IN-2 designation would give Resource Conservation land a B-5 status. Mr. Martin stated that it would do so. When a petitioner comes in with a rezoning proposal, they will have to show you an area map of the proposed area to be rezoned. If there is some reasoning why certain property should not be included, the Planning Commission can make the recommendation that it not be included. The *Zoning Ordinance* allows for an area lesser or greater to be rezoned than what is submitted.

Commissioner Swienton asked Mr. Corry to address the different segments of LU that make up the 300 acres. He wondered if just LU would ask for the IN-2 designation or would it include Thomas Road Baptist Church and Liberty Christian Academy as well. Mr. Corry was not sure if there could be joint applicants and said he had not given that a lot of thought. TRBC and LCA sit on a separate parcel and it would be possible to leave that out. Mr. Corry said that parcel is basically from the 911 building to what they used to call North Campus and down to the railroad tracks. Mr. Martin thought that it could be possible for LU, TRBC and LCA to petition at the same time. Mr. Martin thought the church is zoned B-3 or B-5 and is permitted by right anyway.

Commissioner Hannon remarked that the way the definition is currently written is tailored to include only LU because of the 300-acre requirement and the fact that no one else is adjacent to a State primary road. Commissioner Hannon was not sure why they need two different institutional districts. Why couldn't they just have an institutional district and anyone can apply for it? Mr. Martin remarked that Liberty has stated and even some of the commissioners have stated that Liberty is different in terms of its location. It is not surrounded by residential neighborhoods. It could be argued or described that Centra is also predominantly located in a commercial area.

Commissioner Hannon pointed out that if you own a commercial property adjacent to Liberty, the change to your property could be significant. It could be good; it could be bad. Why should that property owner be considered less advantaged than a residential property owner? Mr. Martin said it would be allowing the same uses on a B-5 property as are allowed on any other B-5 property if those uses are allowed in IN-2 but it could also develop as an institution. This is the way it used to be until the 1990's. Mr. Martin explained that the point of having the IN-2 district is to protect other commercially zoned properties around the City so they are not enveloped by institutions and we no longer have adequate retail space. If the City just said "B-5 by right" again, then any B-5 property in the City would be open for institutions to develop.

Commissioner Hannon pointed out that is what happened to LU, only in the reverse. It was not really foreseen when those zoning designations were put in place that we were talking about an institution with as many students as LU has presently.

Commissioner Hannon thinks that the IN-1 institutions have been forgotten a little bit. If we are expanding what we think a large institution can do, he points out that the IN-1 institutions are also responsible community owners and could probably be trusted to do a lot of things that we are putting in the IN-2 district. Maybe the IN-1 district is overregulated at this point. If we do not need a concept plan for a huge institution, why do we need one for a small institution? Mr. Martin pointed out again that the difference is the location. If Commissioner Hannon is suggesting that no longer matters, then he is correct. If the commission still feels that it is an important difference and needs to be regulated, then this is the way to address it. Commissioner Hannon pointed out that when it was originally drafted, there were coherent similarities between the two and now we have drastically changed IN-2. He would like to hear from the IN-1 people about whether there is something that would make it better.

Commissioner Barnes responded, since he works for an IN-1 institution. He does think that the impacts are very different based on whether you are in a residential neighborhood or a commercial area. In a commercial area, you expect a higher level of noise, traffic and activity. Residential neighborhoods are expected to be quieter. In some ways, they are more sensitive. He remembers the problems that Lynchburg College has had in the past dealing with its residential neighbors and thinks that it makes sense to have two districts and to have different levels of reporting for the two districts.

Chair Sale asked Mr. Creasy about Centra's campus because it is not all contiguous property. Mr. Creasy said that is correct but they have plans for how they would like the properties to develop. Mr. Creasy said they feel that in the case of Lynchburg General Hospital, Centra falls more into the IN-2 category. They have not made any plans to opt into the designation but because they do not know what the future may hold, it may be appropriate and may prove to be a better alternative to the current process. He pointed out that the campus is large in terms of activity, not necessarily in terms of acreage.

Commissioner Hannon suggested that this process is completely discretionary and they should let the institutions come in and make their case for whichever district they would like to be. The Planning Commission, and ultimately, City Council would then either agree or disagree. Why do they need the definition of an acreage requirement and access to a State primary road? The problem he sees is drawing the line with an arbitrary number of acreage.

There was discussion about how to change the two definitions of the two districts and, in particular, how to define the word "primarily." Commissioner Swienton suggested that they try to nail that term down or figure out the intent for "primarily." Commissioner Hannon is not sure whether or not nailing that term down is possible. It seems to him that they are trying to give the institutions the environment that is most appropriate for their growth and health but establish some type of structure. He thinks they should let the applicant decide where they think they fall. Given the atmosphere we have in the City now, we know the ones that fall into each category. The only one that might be iffy is probably Centra. These decisions will be a discretionary call as they are in any rezoning.

Commissioner Swienton asked if an institution could come in for an IN-2 designation but then proffer that they would maintain a certain setback on a certain part of the property (for example, near properties that are residential.) Mr. Martin said an institution could certainly do that, but it is probably unlikely.

Commission Hannon made a motion, which was seconded by Commissioner Barnes to amend the sentence: "IN-1 districts are for institutional campuses consisting of less than three hundred (300) contiguous acres and located primarily within or adjacent to residential areas." to "IN-1 districts are for institutional campuses located primarily within or adjacent to residential areas."

The motion passed by the following vote:

AYES:	Barnes, Hannon, Hooper, Kennedy, Sale and Swienton	6
NOES:		0
ABSTENTIONS:		0
ABSENT:	Coleman	1

Commissioner Hannon made a motion to change the paragraph: "IN-2 districts are for larger institutional campuses consisting of at least three hundred (300) contiguous acres, which have access to a State primary road and are primarily adjacent to districts other than residential districts." to "IN-2 districts are for larger institutional campuses located primarily adjacent to districts other than residential districts." This sentence was added to the definition of "campus." "A campus may be divided by any public or private rights-of-way." The sentence "In determining whether a campus is contiguous, property that is divided by any public or private right-of-way shall not be considered noncontiguous as a result of such division." will be taken out for both the IN-1 and IN-2 district sections.

The motion passed by the following vote:

AYES:	Barnes, Hannon, Hooper, Kennedy, Sale and Swienton	6
NOES:		0
ABSTENTIONS:		0
ABSENT:	Coleman	1

The discussion went back to the VDOT letter. Commissioner Hooper asked Mr. Martin how their concerns would be addressed other than the suggested definition for level of service. Mr. Martin stated that if the Planning Commission is not comfortable with the way the ordinance is currently worded, then some sort of amendment needs to be formulated.

Mr. Rick Youngblood, the District Transportation and Planning Manager, from VDOT was present. Chair Sale wondered why he did not speak earlier at the public hearing. Mr. Youngblood explained that VDOT does not speak either for or against zoning ordinance amendments as those are local decisions. They had offered their concerns in the letter provided. He explained that they were made aware of the ordinance around the middle of December. He explained that typically VDOT is not involved in land use decisions; however, state code has evolved to assist VDOT in working with local governments and their decision making.

Mr. Youngblood remarked that VDOT has a very good working relationship with City staff and LU on working with its growth. VDOT's concerns are with the IN-2 districts because they are the larger impact areas. Because they are located in commercial areas, you already have large traffic volumes and other issues. By allowing the IN-2 institutions to go through without any master planning efforts or TIA requirements at the large scale, the incremental growth will eventually impact roads. They already have concerns with Route 460 with peak hour movements in the morning. They are currently working with LU on this issue.

Mr. Youngblood commented that VDOT is supportive of LU's plans to grow to 25,000 students but is obviously concerned with the impact on the roads. Some of the allowed uses in IN-2 districts will be high trip generators over time. Mr. Youngblood mentioned that LU has been a great partner to work with on the Odd Fellows Road interchange. However, VDOT leans on the local governments to use VDOT as a technical resource to help with future planning. He mentioned in his letter that in 2008, when LU went through the CUP process, VDOT did a master planning and modeling effort and now has a regional model. They want to make sure they are capturing the appropriate growth in the Transportation Analysis Zones and factor in the growth to forecast future problems.

Mr. Youngblood explained their comments are not regulatory. They are suggestions and concerns. Commissioner Hooper asked if the suggested definition for "level of service" is enough to take care of any problems. Mr. Youngblood commented that "level of service" is kind of a kindergarten term. When they look at traffic concerns, they look at volume over capacity, accident history, geometrics and a lot of other things. Using "level of service" is a start, but within the level of service there are categories with issues, specifically volume over capacity. He was glad to see that there was some effort to look at the queuing aspect and some other issues with the level of service definition.

Chair Sale commented that it sounds like Mr. Youngblood is saying is that VDOT has a grid or some way of defining impact in some planning protocols. He is hearing Mr. Youngblood say that it is not well defined in the current ordinance. Chair Sale agrees that the issue of what is impact, gradual or large scale is indefinite in the current ordinance.

Chair Sale commented that he is apologetic that they did not include VDOT more actively up to this point. He asked Mr. Martin if there were any time constraints on their getting this ordinance to City Council. Mr. Martin remarked that he thinks that Council expects the commission to act fairly expeditiously. Mr. Martin pointed out that they should speak with the City's Transportation Engineer as well. Chair Sale suggested that VDOT, Mr. Martin and Mr. DeBerry meet before the commission's next meeting and come back with some thoughts. Commissioner Hannon stated that he supports that suggestion and would like to see a point-by-point response to VDOT's letter. He would not feel comfortable acting on this ordinance without this being done. The other commissioners were in consensus. Mr. Martin requested that LU be involved with the conversation as well and the commissioners agreed with that suggestion.

Commissioner Hannon made a motion to postpone action on the ordinance until the next meeting, to hold the above suggested meeting and to have a point-by-point response to VDOT's letter provided to them. The motion was seconded by Commissioner Barnes and passed by the following vote:

AYES:	Barnes, Hannon, Hooper, Kennedy, Sale and Swienton	6
NOES:		0
ABSTENTIONS:		0
ABSENT:	Coleman	1

Chair Sale thanked Mr. Youngblood for his letter and for all that VDOT does for the City. They are very excited about some of the things that are coming down the road. Mr. Youngblood commented that VDOT is here to be a team player. He mentioned that the City has a great staff and VDOT has a great working relationship with both the City and LU.

Commissioner Swienton asked Mr. Youngblood which roads VDOT is really responsible for in terms of growth. Mr. Youngblood explained that VDOT provides maintenance money to the City to maintain roads. That is part of Mr. DeBerry's daily activities. VDOT manages and maintains Route 460. As part of the maintenance funds provided to the City, VDOT is intricately involved in growth from the modeling standpoint. They look at it from a regional basis. One of their main concerns is Route 460 because it is a corridor with state-wide significance and a primary thoroughfare east to west.

Commissioner Swienton asked if there are any building height restrictions for B-5 and for IN-2. Mr. Martin said they are the same.

MEMORANDUM

The Department of Community Development

Planning

455-3900

To: Planning Commission

From: Tom Martin, AICP, City Planner

Subj: Institutional Districts Ordinance

Date: January 23, 2013

At the January 9, 2013, Planning Commission meeting a public hearing was conducted concerning the creation of Institutional Districts. After the public hearing, the Planning Commission discussed the comments on the draft ordinance provided January 8, 2013 by Mr. Rick Youngblood, Lynchburg District Transportation Planning Manager for the Virginia Department of Transportation (VDOT). Planning Commission directed staff to provide a written response to each comment and to meet with representatives from VDOT and Liberty University to discuss the submitted comments.

On January 15, 2013, City staff convened a meeting with representatives from VDOT, and Liberty University. Representatives in attendance were: Kim Payne, City Manager; Bonnie Svrcek, Deputy City Manager; Walter Erwin, City Attorney; Kent White, Director of Community Development; Marjette Upshur, Director of Economic Development; Dave Owen, Director of Public Works; Lee Newland, City Engineer; Donald DeBerry, City Traffic Engineer; Rob Fowler, Zoning Administrator; Tom Martin, City Planner; Jerry Falwell, Jr., Chancellor, Liberty University; David Corry, General Council, Liberty University; Herschel Keller, Council, Liberty University; Robert Guercia, Lynchburg District Acting District Administrator, VDOT; Jorg Huckabee-Mayfield, Lynchburg District, Director Transportation and Land Use, VDOT; Rick Youngblood, Lynchburg District Transportation Planner, VDOT and Gerry Harter, Lynchburg Area Traffic Engineer. At the meeting, City staff provided an overview on the background of the Institutional Districts Ordinance, outlined the City's understanding of VDOT comments and discussed City staff's position on the comments.

VDOT provided nineteen (19) individual comments related to the draft ordinance. All of the comments were not related to transportation and the remaining can be placed into four (4) areas:

1. Traffic impacts based on Level of Service (LOS) standards.
2. Master plan not required for IN-2 Districts.
3. Traffic study not required for IN-2 Districts.
4. Impacts of incremental growth.

City staff understands that large institutions such as Liberty University are unique in the timing and funding mechanisms by which they expand. This uniqueness presents a challenge when attempting to apply typical zoning and traffic analysis requirements. Large institutions also provide significant positive regional impacts. These impacts include but are not limited to: Education, Culture, Recreation and the Regional Economy. Just as large institutions provide positive impacts they also present impacts related to the regional transportation network. These impacts are often difficult to understand, and this has resulted in the need for a different solution other than requiring impacts to be mitigated solely by the institution.

During the meeting, VDOT was asked several times what specific language changes they would recommend to the ordinance to address their concerns. VDOT reiterated that their comments did not constitute a requirement; rather VDOT was more interested in garnering a better understanding of expected growth at Liberty University to assist with regional transportation planning efforts. Although funding for significant transportation improvements is currently unlikely, having information included in regional plans could result in state and or federal funding, as it becomes available.

After a positive discussion, it was determined that the solution could only be built upon partnerships, relationships and continued communication between Liberty University, VDOT and the City. The mechanism for this to occur currently exists, in the form of the Metropolitan Planning Organization (MPO) and the supporting Transportation Technical Committee (TTC) which focuses on regional transportation issues. It was agreed that adding a representative from Liberty University to the MPO and the TTC would be a better method of planning for and mitigating regional transportation impacts rather than adding requirements to the current ordinance draft.

While there is agreement that substantial changes to the draft ordinance are not the best solution, planning staff has prepared the following responses to the comments provided by VDOT as directed by the Planning Commission:

1. Page I, definition of LOS: LOS is not a scale that measures the amount of traffic that a roadway or intersection can accommodate-that would be "capacity".
   RESPONSE: The definition for Level of Service (LOS) is proposed for revision upon input from the City's Transportation Engineer, Donald DeBerry and is based upon FHWA HRT-04-091, August 2004, Chapter 7. The proposed revised definition is:

   "Level of Service (LOS) – A scale that measures the amount of traffic that a roadway or intersection can effectively and efficiently accommodate, based on such factors as volume, capacity, queues and delay. LOS is graded on a scale of A thru F, where LOS-A is free-flowing traffic and LOS-F is a condition where traffic flow is unstable and excessive delay and queuing is expected."

   The ordinance is drafted under the premise that a LOS of D or above is acceptable for roadways serving institutions in the IN-1 District.

2. Page I, 1 a. It is unclear how the creation of Institutional Districts will create development standards to "minimize off site impacts such as ... traffic." No provision appears to do this and there is no actual requirement for the mitigation of impacts through transit or pedestrian (or other) improvements even in the Concept Plan (1.2.b).

   RESPONSE: Development Standards for IN-1 Districts are listed in Section 35.1-38.3d. The IN-2 Districts could benefit from clearly indicating setbacks, etcetera are similar to that of B-5, General Business Districts. Again, the ordinance is drafted under the premise that a LOS of D or above is acceptable for serving institutions located in the IN-1 District. In order to maintain this level of service a variety of methods could be used, such as pedestrian, bicycle, mass transit, park and rides, access management. These improvements would be

indicated in the TIA submitted with the rezoning application for IN-1 Districts. Section 35.1-38f states that improvements necessary to maintain a LOS D and directly attributable to the institution would be the responsibility of the institution.

For IN-2 Districts please see response to number 11.

3. Page 2, definition of residence or residential: the definition exempts for setback purposes any properties owned, leased, or used by the institute-but any use other than "owned" suggests that it is temporary and so could create future problems or issues with setback once the lease (or "use") has terminated and could impact future property values.

   RESPONSE: Comment not related to transportation.

4. Page 2, concept plan with 2-year projection: a concept plan of only two years duration is extremely short for something that exempts a vast majority of uses from approval. Why are IN-1 institutions required to submit a Conceptual Plan when IN-2 institutions are not? It would seem that an IN-2 institution (due to its size) has a greater potential to have off-site impacts than an IN-1 institution.

   RESPONSE: Early in the City's conversations with institutional stakeholders, it was explained that planning beyond two (2) years for institutions is speculative, due to funding. Stakeholders expressed that planning beyond the two (2)-year horizon for them was futile, and desired to not be regulated or made to go to the expense of preparing plans beyond a two (2)-year period. The current draft does not require IN-2 institutions to prepare a concept plan. This is due to the different nature of large scale institutions and their location being in areas primarily of a "non-residential" nature.

5. Page 2, permitted and accessory uses do not have to be shown in concept plan: how would a reviewer know if adequate transportation (and other infrastructure) is available to serve the development if the actual planned or expected uses are not shown?

   RESPONSE: The concept plan would not have to show location of specific uses; however, the TIA or traffic study required in Section 35.1-38.3b(2)b would require the institution to project the amount of growth that would degrade LOS below "D". While the concept plan would not need to be specific in where the growth would occur, the TIA would need to account for it.

6. Page 3, traffic study regarding below LOS D: This would only apply to LOS E or LOS F, which can cover a broad range of V /C ratios. In fact, at LOS F, the level of the F is vitally important-and V /C ratio, delay, or a similar measure should be used instead. This also should apply to other mentions of TIS (pages 5 and 9).

   RESPONSE: See response to number 1.

7. Page 3, permitted by right and conditional uses: new access points to residential city streets are listed as requiring a conditional use permit, but what about access points to other streets or highways?

   RESPONSE: The Zoning Ordinance is only relevant to what is regulated by the city. If an institution proposed a new connection to a state maintained road or highway, they would be required to obtain and meet permitting requirements of VDOT.

8. Page 3, standards: the height requirement (I assume, building and sign height limitation) is equal to distance from adjacent residential use-so if it is not adjacent to residential use it is unlimited?

   RESPONSE: Comment not related to transportation.

9. Pages 4 and 5, new concept plan required if proposed development lowers LOS below D: Does the city require the submission of a TIA with each site plan/construction approval? If not, who is going to determine if LOS is reduced below D? (Also, the requirement is for "city streets" when it should be for "public streets and highways".)

   RESPONSE: The draft ordinance proposes a "Transportation Impact Analysis" (TIA) at the time zoning to IN-1 is requested. This TIA would state the amount of development that could occur prior to the LOS being degraded below a LOS "D". A separate TIA with each site plan submittal would not be required. The City's Technical Review Committee (TRC) reviews all site plan submittals and would determine the point at which site plan approval would exceed development indicated in the TIA that would degrade LOS below "D". We are generally in agreement to include the terms "public streets" and "highways", provided that VDOT understands we have no regulatory control over State right-of-way.

10. Page 4e. It is unclear what would trigger the requirement for a site plan, or whether the plan is required for the entire campus or a single project interior to it. The relationship between the site plan and concept plan is unclear. How would a site plan generate the information in 1 and 2?

    RESPONSE: The draft ordinance provides the following definition of "concept plan":

    Concept Plan – A generalized, illustrative plan indicating how off site impacts such as traffic, water and sanitary sewer availability/capacity, lighting and noise are mitigated and providing an assessment of existing and future development of the institution's campus, including buildings, parking areas, recreational facilities, open space and access points to city streets. In addressing off site impacts related to traffic, the city encourages the institution to include improvements for sustainable alternatives such as: provisions for bus service, sidewalks and pedestrian crossings, pedestrian trails and bicycle trails, connected internal site circulation or park and ride lots which could, if implemented, improve the Level of Service (LOS) standards on city streets serving the institution.

    Concept plans are related to the entire campus of the institution.

    The draft ordinance states that a new concept plan would be required when the TRC determines that in approving a site plan, LOS would degrade below "D", adequate water and sewer infrastructure is unavailable or a period of five (5) years has passed since approval of the previous concept plan. The TRC reviews all plan submittals and would have prior knowledge of any development which had occurred on the campus of the institution.

11. It is unclear how the City expects to address slower and more gradual traffic growth such as growth generated by student population increases. For example, the current ramp that backs into Route 460 eastbound is due to slow and gradual University/LCA growth and not large event specific activities such as a football game.

    RESPONSE: Large institutions may be located within the city limits; however, they have "regional" significance in terms of benefits. Just as the region benefits from the institution, a regional solution is required in dealing with impacts to the region transportation network. It is expected that any solutions would not be realized without input and funding from the City, VDOT and the institution. The solution needs to be a partnership or partnerships that do not solely impact the institution in the form of zoning regulations.

12. Page 5. F.2. What is meant by "grate understanding"?

RESPONSE: Comment not related to transportation. Thank you for identifying the scriveners' error.

13. Page 6, permitted uses includes nonconforming uses which can then be expanded by right (not even require a conditional use permit). This is fairly permissive and this portion plus the discussion on pages 14-20 should be reviewed by regional outdoor advertising agent. Regarding the wayfinding sign exemption, it may be clearer to say that wayfinding signs placed on private roads are exempt. Any signage that is placed on public roads or is intended to be viewed by drivers on public roads will need to be approved by the governing agency.

    RESPONSE: The nonconforming use language has been reviewed by the City Attorney, Walter Erwin. The Sign Ordinance only permits signs located on private property, not within public right-of-way. Signs placed within City owned right-of-way would be subject to approval by the City Council and/or the City Manager. Signs placed within State controlled right-of-way would be subject to approval by VDOT.

14. Page 6. C1.2. Appears to suggest that permitted uses can be expanded *ad infinitem* without consideration of traffic impacts.

    RESPONSE: See response to comment number 11.

15. Page 6 through 9, list of permitted uses: this list appears to be largely permissive and includes many uses that would not typically be associated with an "institution" as defined in the introduction to IN-2 and that can generate fairly high levels of traffic such as arenas, automobile service stations, commercial amusements, drive in theaters, residential not related to institution, restaurants (including drive-in), trucking terminals, and wholesale or produce markets. While some of these require special use permits, many do not.

    RESPONSE: Large institutions located in non residential areas have numerous supporting accessory uses that may or may not be directly related to the institution. Imagine a neighborhood within a community.

16. Page 9, master plan: a master plan may be submitted but is NOT required and even then, is only limited to 5 years of development. As locality comprehensive plans can be up to 20 years in outlook, this does not make sense, especially given the wide latitude of non-related uses that the land can be put to by right. There should be a requirement to capture overall growth.

    RESPONSE: See response to number 4.

17. Page 9 d.3. The study should include, but not be limited to, the itemized study features.

    RESPONSE: Although VDOT was requested several times to suggest ordinance language, it has not been provided.

18. Page 9, TIS requirement: TIS required for new entrance to "city" street. Do Rte 460 and Rte 29 count as "city streets?" Again, prefer the use of "public street or highway" instead.

    RESPONSE: We are in generally agreement to include the terms "public streets" and "highways", provided that VDOT understands we have no regulatory control over State right-of-way.

19. Page 14, landscaping flexibility: landscaping required may be "disbursed" within the area-note, the intended term is "dispersed" I believe.

RESPONSE: Comment not related to transportation. Thank you for identifying the scriveners' error.

MINUTES FROM THE JANUARY 23, 2013 PLANNING COMMISSION MEETING (MINUTES HAVE BEEN APPROVED):

a. Institutional Zoning Ordinance: Mr. Martin commented that several City staff members, several VDOT staff members and representatives from Liberty University met on January 15 to discuss VDOT's comments and try to come to a resolution. City staff presented its thoughts on large institution. Staff recognizes that large institutions are unique in terms of funding streams and the timing of its expansions due to those funding streams. The uniqueness of these large institutions makes it difficult to address challenges, such as traffic impacts through a typical zoning ordinance requirement. City staff also recognizes that although large institutions create some negative impacts, they create many positive impacts, such as education, cultural and recreational opportunities and a positive impact on the City and regional economies.

Staff also recognizes that because large institutions have such a wide regional impact, the institution cannot be expected to solely address its traffic impacts. Mr. Martin pointed out that Liberty University has done many traffic improvements on its own, such as the pedestrian tunnel under 460 and the pedestrian tunnel underneath the railroad bridge. Liberty contributed significantly to the Wards Road pedestrian bridge. They constructed the ring road around the campus. Liberty has done a great deal with mass transit through the GLTC bus service and is getting ready to construct the vehicular tunnel at Harvard Street. These improvements were done without any requirement from either the zoning ordinance or a conditional use permit and were done because Liberty saw a need for them.

After a very positive discussion with VDOT, it was determined that a solution could only be based upon a continued communication between LU, the City and VDOT. The mechanism for that communication is having a representative from LU on the Metropolitan Planning Organization (MPO) and the Transportation Technical Committee (TTC). The TTC acts in an advisory capacity to the MPO. These committees do work such as the six-year transportation plan for the region. VDOT wants this communication and it does not necessarily need to be mandated through an ordinance. If VDOT is aware of LU's upcoming needs, they can get them into a plan and as funding streams become available, they can allocate funds for them.

Mr. Martin read an email from Rick Youngblood of VDOT confirming that VDOT is satisfied with this solution and does not have any objection to the passing of the institutional zoning ordinance. Mr. Youngblood has already begun the process of including LU on the MPO and TTC as a non-voting member.

Mr. Martin prepared a response to each of VDOT's comments, as requested by the commission. The comments are kind of irrelevant in light of the recent solution, but he is available to answer any questions they might have about the responses.

Commissioner Swienton remarked that prior to this, he did not know what an MPO is and did some research. He asked Mr. Martin if it is done through Region 2000 and Mr. Martin said that was correct. Commissioner Swienton commented that he went to Region 2000's website and did not find any recent minutes from these meetings. He also wanted to know if the meetings are open to the public and if there is a way for the public to give input at these meetings.

Mr. Martin commented that the MPO has representatives from the City and the counties. The City Manager and the Mayor are the representatives from the City. The MPO makes recommendations to VDOT on such things as the six-year plan and makes recommendations on how to spend the transportation dollars that come to the region.

Mr. Don DeBerry, the City's Transportation Engineer came forward and explained that the MPO serves as the regional planning body to direct federal dollars through VDOT. The partnership between VDOT, LU and the City on the MPO makes a lot of sense from VDOT's perspective.

Chair Sale remarked that the MPO could be a table for the conversations that the Planning Commission is seeking. Mr. DeBerry agreed that it is certainly the best place for the conversations to take place because it is a regional body and it is where the priorities are determined for how federal transportation monies are spent.

Commissioner Swienton asked if decisions are made by the MPO about other roads than just Route 460. Mr. DeBerry said they are and explained that the Odd Fellows Road project came out of the vision plan that the MPO has adopted. Even though the Odd Fellows Road project was not on the six-year plan, the fact that it was on the long-range vision plan allowed it to be funded. The impacts that LU would have on the region would be discussed, modeled and analyzed by the MPO.

Commissioner Swienton asked if the MPO addresses Wards Road. Mr. DeBerry said it maintains a transportation model of the region. In that model, they predict the growth of the area and determine the net effects on the roadways. They identify upcoming LOS deficiencies, identify potential solutions and do cost estimates. Staff is working on a traffic signal upgrade on Wards Road, but that is effectively all that can be done to improve conditions there without widening it. Mr. DeBerry pointed out that LU is impacted by traffic problems on Wards Road and are the ones coming to the City offering to help fix the problems. Mr. DeBerry also pointed that the MPO did some modeling to see what effect future growth of LU would have on the roadway network around the campus and VDOT is working toward achieving that new modeling effort.

Commissioner Coleman commented that he had to miss the January 23rd meeting but was happy to see that the matter was discussed appropriately.

Commissioner Barnes stated that he is still not happy with the exemption for IN-2 applicants from submitting a concept plan. A concept plan allows you to look at the aspirations and intentions of the institution. He would hope that applicants for IN-2 would include a concept plan. The current proposed ordinance encourages an IN-2 applicant to submit one but does not require it. He thinks including LU on the MPO and TTC is a very positive step, particularly since Liberty's property is in both the City and Campbell County.

Commissioner Swienton finds the lack of a concept plan requirement for IN-2 districts puzzling. Although he understands the argument that has been presented, he just does not follow it all the way through. Their impacts may be different but the larger institutions can have a great impact on different parts of the City.

Commissioner Hooper commented that the work that has gone into this ordinance and the discussions they have had have been really good. He asked Mr. Martin to explain again the reasoning behind not requiring the IN-2 applicants to submit a concept plan. Mr. Martin commented that the thought behind revising this requirement is that Liberty has been clear all the way through the process that they would like to get back to the way it was when it had B-5 zoning without the requirement for a conditional use permit. If you look at that reasoning, any other B-5 use does not have to do a concept plan. Things change as far as where they would like to put their buildings. Mr. Martin pointed out that the most important thing to consider about Liberty and Centra is how many students or patients they will serve. Knowing where buildings are going on the property is really not that important. Knowing the boundaries for the institution's growth and how many people will be going in and out of it are the important issues. The concept plan is needed for the IN-1 districts because it is important to know where the facilities are going and how they will impact the residences around them.

Mr. Martin assured them that the IN-2 institutions still have to go through the normal site plan review process and permitting process. Also, if they build something large like an arena or stadium there has to be a traffic study done. Commissioner Swienton asked if the City has any recourse if there are any adverse traffic impacts from the growth of an IN-2 institution. Mr. Martin commented that the ordinance can always be changed. Mr. Martin also pointed that any institution is going to grow to a point where they can get their people in and out easily. When they get beyond that, they will stop growing as a result of the impact. They will either address it or that will be the level of growth they can sustain.

Commissioner Swienton asked Mr. Martin to comment on the elimination of the open space requirement. Mr. Martin said the open space requirement was an element that was not looked favorably upon when it went to Council. It remains in the IN-1 district but as far as the IN-2 district, it will be treated like any other commercial property and be subject to the landscape ordinance, which will require a certain amount of green space.

Commissioner Sale thinks they are at a working level of the best they can do with the current knowledge and situation. He thinks this process has opened avenues of communication and coordination with a major institution. He also thinks it was a good decision to eliminate the IN-2 acreage requirement in order to open up this possibility to other large institutions, particularly Centra Health.

Commissioner Hooper made a motion to adopt the amended ordinance and forward it to City Council. The motion was seconded by Commissioner Kennedy and passed by the following vote:

AYES:	Barnes, Coleman, Hooper, Kennedy, Sale and Swienton	6
NOES:		0
ABSTENTIONS:		0
ABSENT:	Hannon	1

LYNCHBURG CITY COUNCIL
Agenda Item Summary

MEETING DATE: **March 12, 2013** AGENDA ITEM NO.: 12

CONSENT: REGULAR: **X** WORK SESSION: CLOSED SESSION: (Confidential)

ACTION: **X** INFORMATION:

ITEM TITLE: **Revised Subordination Agreement Between the City, Central Virginia United Soccer and the Bank of the James**

RECOMMENDATION: Adopt a resolution authorizing the City Manager and City Attorney to sign a revised subordination agreement.

SUMMARY: On June 28, 2011 City Council approved an amendment to its agreement with Central Virginia United Soccer (CVU) to allow for the construction of three additional natural turf fields at its complex on Route 501. At that time, the City also agreed to take a second deed of trust position on the property until such time as the construction loan for the fields was satisfied.

CVU now wishes to install lighting on its fields to increase their availability for practice and play. To do that will require an additional loan. The Bank of the James has agreed to a loan and to modify the current deed of trust that it holds in the amount of $350,000 to $500,000.

The City is being asked to agree to this modification and to reaffirm the subordination of its first lien on the property to the Bank of the James.

PRIOR ACTION(S): May, 2002 approval of original agreement; June 22, 2010 approval of amendment; June 28, 2011 approval of amended agreement and subordination agreement.

FISCAL IMPACT: None. This summer CVU will have been in compliance with the agreement for one year and on July 1, 2013 the first $50,000 of the $500,000 debt to the City on the facility will be forgiven.

CONTACT(S): Kimball Payne, 455-3990

ATTACHMENT(S): Resolution; Subordination Agreement

REVIEWED BY: lkp

RESOLUTION

BE IT RESOLVED THAT the City Manager and the City Attorney are hereby authorized to sign a subordination agreement between the City of Lynchburg, Central Virginia United Soccer, Inc., and the Bank of the James to facilitate the installation of lights at its soccer complex on Route 501 in Campbell County.

Adopted:

Certified: ______________________________
Clerk of Council

045K

Tax Map No. 15-A-105

THIS SUBORDINATION AGREEMENT, made this _____ day of March, 2013, by and between the **CITY OF LYNCHBURG**, a municipal corporation of the Commonwealth of Virginia (Grantor), party of the first part; **CENTRAL VIRGINIA UNITED SOCCER, INC.,** formerly known as **LYNCHBURG UNITED SOCCER, INC.** (Grantee), party of the second part; **WALTER C. ERWIN, III**, **Sole Acting Trustee**, whose address is 900 Church Street, Lynchburg, Virginia 24504 (Grantor), party of the third part, and the **BANK OF THE JAMES**, party of the fourth part (Grantee):

WHEREAS, the party of the second part did grant and convey that certain lot or parcel of land described in the attachment to this instrument, containing approximately 96.839 acres in Campbell County**,** Virginia**,** to John Randolph Nelson and Walter C. Erwin, III, as Trustees, by a deed of trust dated July 1, 2002, and recorded in the Office of the Clerk for the Circuit Court of Campbell County, Virginia, as Instrument No. 020005880, to secure a note in the principal amount of $141,880.00, payable to the party of the first part; and

WHEREAS, by a Loan Modification Agreement dated April 30, 2005 and recorded in the Office of the Clerk for the Circuit Court for Campbell County, Virginia, as Instrument No. 050004005, the obligation described and secured in the aforesaid deed of trust was modified to increase the principal obligation described therein to $500,000.00; and

WHEREAS, the said John Randolph Nelson has resigned as a Trustee under the terms of the aforesaid deed of trust dated July 1, 2002; and

WHEREAS, on April 17, 2009, the party of the second part changed its corporate name to CENTRAL VIRGINIA UNITED SOCCER, INC.; and

WHEREAS, by a deed of trust dated August 26, 2011 and recorded in the aforesaid Clerk's Office as Instrument #110004078, the party of the first part conveyed said real property to Robert R. Chapman, III and Donna W. Guthrie, Trustees, to secure a note of that same date and payable to the party of the fourth part in the principal amount of $350,000.00; and

WHEREAS, at the request of the party of the second part the party of the fourth part has agreed to modify the principal amount of the debt secured by said deed of trust so as to increase that note to $500,000.00; and

WHEREAS, the party of the second part and the party of the fourth part have requested the party of the first part to subordinate its lien to that additional level of debt; and

WHEREAS, the party of the first part has agreed to further subordinate the lien securing the $500,000.00 obligation owed to it by the party of the second part,

WHEREAS, by a Loan Modification Agreement, dated March ___, 2013 and to be recorded in the Office of the Clerk for the Circuit Court for Campbell County, Virginia, the aforesaid deed of trust is being modified to increase the principal obligation described therein to $500,000.00; and

WHEREAS, the party of the first part has directed the party of the third part to join herein to show approval of the subordination of that deed of trust lien.

NOW THEREFORE, THIS AGREEMENT WITNESSETH: That for and in consideration of the mutual promises passing between the parties hereto and the payment of the sum of One Dollar ($1.00), cash in hand paid, the receipt of which is hereby acknowledged, the party of the first part does hereby subordinate the lien of the aforesaid deed of trust dated July 1, 2002, recorded in said Clerk's Office as Instrument No.020005880 and of the modification thereof dated April 30, 2005 and recorded in said Clerk's Office as Instrument No. 050004005, to the lien of the deed of trust securing the party of the fourth part, as described above, dated August 26, 2011 and recorded in the aforesaid Clerk's Office as Instrument No. 110004078 and to the modification that is recorded contemporaneously herewith to increase the amount of the lien in favor of the party of the fourth part to the principal of $500,000.00 and such deed of trust securing the party of the fourth part shall be in all respects prior to the lien of the deed of trust dated July 1, 2002 and modified by that agreement dated April 30, 2005, to secure the party of the first part, as to the real property described herein.

IN WITNESS WHEREOF, the party of the third part sets his signature and the party of the first part has caused this instrument to be executed in its name by its duly authorized officer and agents pursuant to law and to a due and proper resolution of the City Council of the City of Lynchburg.

Accepted pursuant to Code of Virginia Sec. 15.2-1803 on behalf of the City of Lynchburg, by authority granted by City Council.

APPROVED AS TO FORM:	**ACCEPTED**:
______________________________	______________________________
City Attorney	L. Kimball Payne, III City Manager

____
WALTER C. ERWIN, III, Sole Acting Trustee

STATE OF VIRGINIA
AT LARGE)
) To-wit:
CITY OF LYNCHBURG)

The foregoing instrument was acknowledged before me this _______day of ______________________, 2013, by Walter C. Erwin, III, Sole Acting Trustee.

My commission expires: ______________________________.

Notary Registration No. ______________________________.

____
SEAL Notary Public