

// A special meeting of the Council of the City of Lynchburg, recessed from January 8, was held on the 22nd day of January, 2008, at 1:00 p.m., Council Chamber, City Hall, Joan F. Foster, President, presiding. The purpose of the meeting was to conduct a work session regarding several items. The following Members were present:

Present: Dodson, Garrett, Gillette, Helgeson, Seiffert, Foster

6

Absent: Johnson

1

// Mr. Courtney Rogers, of Davenport and Company, the City's financial advisors, provided an analysis of the City's Proposed Capital Improvements Program (CIP) on debt capacity and debt affordability. Mr. Rogers explained that the City's proposed CIP contains approximately \$150.2 million of General Fund projects currently identified over the next five years (2009-2013) and does not include figures for the Heritage High School project. Following the presentation, Mr. Rogers explained that the currently proposed five year General Government CIP can be funded while maintaining compliance with existing fiscal policy guidelines, that the City's current debt ratios are at solid levels and in line with peer Virginia cities, and that the limiting factors as far as funding the proposed General Government CIP is finding available funds to repay the debt. Mr. Rogers also provided information regarding a refunding opportunity. City Manager Kimball Payne stated that the appropriate resolutions would be presented to City Council at a future meeting regarding refunding of existing bonds. In response to questioning, City Manager Payne stated that he would look into pending legislation regarding changes to the Schools Literary Fund Loan program.

// Council Member Johnson arrived at 2:15 p.m. during Agenda Item #2.

// City Manager Kimball Payne along with Museums Director Doug Harvey provided an overview regarding the key points in a revised agreement between the City, Wachovia Bank and Point of Honor, Inc., for the continued operation of Point of Honor as a historic museum. Mr. Payne explained that the goals of the agreement are to establish a single board, with the same persons serving on the advisory and foundation board, and for the City Museum System to be allowed to operate in an efficient, professional manner without excessive oversight and in accordance with accepted museum system standards. Mr. Payne went on to say that with approval of the agreement, the City Code section regarding the composition of the Museum Advisory Board would need to be revised. In response to questioning, City Manager Payne stated that the suggested corrections on pages 3, 4, and 5 would be made before the revised Agreement is signed. Following discussion, and on motion of Council Member Gillette, seconded by Vice Mayor Dodson, Council by the following recorded vote adopted Resolution #R-08-006, as presented, authorizing the City Manager to sign a revised agreement between the City of Lynchburg, Wachovia Bank, and Point of Honor, Inc., for the continued operation of Point of Honor as a historic museum:

Ayes: Dodson, Garrett, Gillette, Helgeson, Johnson, Seiffert, Foster

7

Noes:

0

// Lynchburg Planning Commission Chair Laura Hamilton presented a power point presentation regarding the results of the Planning Commission's five year review of the Lynchburg Comprehensive Plan. Ms. Hamilton stated that the five year review focuses on fifteen areas:

1. Reaffirming the Vision.
2. Reviewing and updating demographic information.
3. Performing additional analysis on vacant land.
4. Identifying land suitable for conservation.
5. Periodically updating regional market analysis.
6. Preparing a Housing Plan.
7. Consider reviewing and updating the Future Land Use Map (FLUM).
8. Review and update of land use ordinances.
9. Preparation of a Transportation Master Plan and/or policy.
10. The inclusion of all park & recreation master plans as part of the Comprehensive Plan.
11. Review and update of the Natural Systems, Goals & Objectives.
12. Proceed with Revitalization and Corridor Study Plans.
13. Study of Neighborhood Conservation Areas.
14. Provide additional guidance on Traditional Neighborhood Developments (TND) and Planned Unit Developments (PUD).
15. Continuing to promote, encourage and partner with institutions related to history, culture, education and the arts.

Ms. Hamilton explained that as part of the five year review, the Planning Commission reaffirmed the Vision of the Comprehensive Plan and is committed to fulfilling the goals and objectives of the Plan by establishing City policies, amending City Codes and Ordinances, and by preserving, providing and achieving the following:

- A City of Strong Neighborhoods
- The City as the Center of the Region
- Downtown as the Heart of the Region
- Accessible and Attractive Commercial Corridors and Districts
- Celebrating History and Heritage
- Sustaining Nature in the City
- A Diverse and Vital Economy
- Opportunities for a Quality Education
- Striking a Careful Balance
- Effective Support Systems
- A Clean and Healthy Environment

Ms. Hamilton went on to say that to achieve the above objectives, the following actions should be taken:

- The City should continue to review and update the background information as data becomes available.

- The City should perform additional analysis of its vacant land to identify sites suitable for development. Sites should be categorized by size, availability of water and sewer infrastructure, needed transportation improvements and impacts to surrounding neighborhoods.
- The City should perform analysis of land suitable for conservation. Sites should be categorized by size, recreation opportunities, flood plain, wetlands, stream management zones, steep slopes, mature forests, wildlife habitats and view shed protection.
- The City should periodically update market trend assessments to understand the City's position within the regional market place and to ensure that the City captures its fair share of residential, commercial and industrial development.
- The City should prepare a Housing Plan to survey its existing housing stock and to determine its future housing needs.
- The City should consider reviewing and possibly amending its future land use map to facilitate appropriate and needed development.
- The City should continue to review and amend its land use ordinances as needed. Recommended amendments include creation of a Traditional Residential Overlay District to encourage expansion and infill in the City's older neighborhoods, creation of an ordinance that would promote and if possible require provision for multi-modes of transportation; review of minimum parking requirements; creation of an ordinance to encourage "green" building techniques; and creation of an ordinance limiting development of steep slopes.
- The City should proceed with the preparation and adoption of a Transportation Master Plan.
- As Master Plans are adopted for the renovation/rehabilitation of existing parks or the creation of new parks, these plans should be incorporated into the Comprehensive Plan.
- The City should proceed with the preparation of a Master Plan for Twelfth Street while committing the necessary resources to ensure the implementation of plans already completed.
- Corridors recommended for further study include the Crosstown Corridor Study Area, Wards Road/Candlers Mountain Corridor Study Area, Campbell Avenue Corridor Study Area, Boonsboro Road Corridor Study Area, Old Forest Road Corridor Study Area, and the Timberlake Road

Corridor Study Area. Other areas that should be studied include Wards Ferry Road, Wiggington Road, Forest Brook Road, Langhorne/Park Avenue, and Fort Avenue to 12th Street.

- The Plan identifies five neighborhood conservation areas, i.e., The Lower Rivermont Area, the Fifth Street Area, the Twelfth Street Area, the Fort Avenue Area, and the Edgewood/Edinboro Area. These areas should be studied and included as part of a Traditional Neighborhood Development Overlay amendment to the Zoning Ordinance.
- The Plan identifies four areas for planned development, i.e., Wyndhurst, Greenview Drive (Cornerstone), Cheese Creek, and Candler's Mountain Road. The Plan should provide additional guidance on the appropriate location and size of Mixed Use Development and Planned Unit Development.
- The City should continue to promote, encourage and partner with institutions and areas providing history, cultural, education and arts.

Following the presentation, Ms. Hamilton stated that the Planning Commission is committed to the continued implementation of the Comprehensive Plan 2002-2020 and recognizes the importance of continued maintenance and updates to ensure that the plan meets the needs of a growing and evolving City. Ms. Hamilton also stated that the Planning Commission would like to have a joint meeting with City Council to discuss prioritization and implementation of the Plan. City Council agreed to a joint meeting with the Planning Commission on Tuesday, February 26, at 6:00 p.m.

// Information Technology Director Mike Goetz stated that Comcast has requested a cable television franchise in order to continue to provide cable television service in Lynchburg and that City staff has reached agreement with Comcast on a proposed new franchise. Mr. Goetz provided a brief summary regarding the major provisions of the proposed franchise and informed that a public hearing is scheduled for the City Council meeting on February 12 in order for City Council to consider accepting this franchise agreement. Mr. Goetz went on to say that once the franchise is awarded to Comcast, Chapter 12.1 of the City Code will no longer be needed and a resolution to repeal this section of the City Code will also be presented at the February 12 meeting.

// City Manager Kimball Payne presented a proposed policy drafted by the Communications and Marketing Director JoAnn Martin to govern the operation of the City's new government channel scheduled to begin operation on February 15. Mr. Payne informed that Council has been provided with a revised policy and explained that after consultation with legal counsel, the bullet at the top of page 3 has been amended to address issues of discrimination against protected classes as defined by the federal government. Mr. Payne went on to say that staff feels that it is inappropriate to go beyond those definitions of protected classes that are established by federal law and that is why those three words have been removed.

Council Member Seiffert made a motion, seconded by Council Member Garrett, to approve the proposed revised policy governing the operation of the government channel with the deletion of the three words at the top of page 3. Some Council Members stated that the three words "or sexual orientation" should remain in the policy to reflect what we believe is appropriate for our government channel and to show that our community will not tolerate discrimination on any level. Council Member Gillette made a substitute motion, seconded by Mayor Foster, to approve the proposed policy as originally presented with the inclusion of the words "or sexual orientation" at the top of page 3. In response to Council questioning, City Attorney Walter Erwin stated that when he reviews these types of clauses, his recommendation is to keep the language to those categories that are protected under federal and state law. Mr. Erwin went on to say that these clauses are normally used for public access programming and in this instance the clause may not be necessary since we are producing all of the programs on the government channel. Following discussion the vote was called on the substitute motion, and Council by the following recorded vote defeated the substitute motion:

Ayes: Gillette, Johnson, Foster 4

Noes: Dodson, Garrett, Helgeson, Seiffert 3

The vote was called on the original motion, and Council by the following recorded vote approved the proposed revised policy governing the operation of the government channel with the deletion of the three words "or sexual orientation" at the top of page 3:

Ayes: Dodson, Garrett, Gillette, Helgeson, Johnson, Seiffert, Foster 7

Noes: 0

// During roll call, Council Member Helgeson stated that he would like for the City to study the area along Wards Road where Liberty University students are using to access the shopping centers. Council Member Helgeson explained that students are walking across this very heavily traveled road to get to the shopping centers and inquired if there is some type of pedestrian friendly access point that could be installed in this area. Council Member Helgeson also questioned if the left turning lane that the students using as a U-turn to get back to the University campus could be lengthened in order to allow the traffic to flow better along Wards Road. Mayor Foster stated that a citizen recently complimented the City on its soccer fields.

// Council Member Gillette made a motion, seconded by Council Member Garrett, to hold a closed meeting to consider appointments to Council-appointed Boards and Commissions pursuant to Section 2.2-3711(A)(1) of the Code of Virginia, 1950, as amended. Council Member Gillette stated that one the Committees being considered in the closed meeting is the Central Virginia Community Services Board and since he has a contract with that organization, he plans to excuse himself from participating in the discussion and voting on the appointment to this Board. The vote was called on the motion and Council by the following recorded vote agreed to hold a closed meeting to consider appointments to Council-appointed Boards and Commissions pursuant to Section 2.2-3711(A)(1) of the Code of Virginia, 1950, as amended:

Ayes: Dodson, Garrett, Gillette, Helgeson, Johnson, Seiffert, Foster 7

Noes: 0

// City Council members, with the exception of Council Member Gillette, entered the closed meeting at 4:05 p.m.

// Council Member Gillette was not present during the discussion of the Central Virginia Community Services Board. Dr. Gillette joined the closed meeting at 4:34 pm. to participate in the discussion of a vacancy on the Community Development Advisory Committee.

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

// Council Member 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 Mayor Foster, and Council by the following recorded vote adopted the motion:

Ayes: Dodson, Garrett, Gillette, Helgeson, Johnson, Seiffert, Foster 7

Noes: 0

// In the matter of Appointments, and on nomination of Vice Mayor Dodson, seconded by Council Member Johnson, Council by the following recorded vote appointed William F. Schneider to serve on the Central Virginia Community Services Board for a term to expire December 31, 2010:

Ayes: Dodson, Garrett, Helgeson, Johnson, Seiffert, Foster 6

Noes: 0

Abstention: Gillette 1

// The meeting was adjourned at 4:40 p.m.

Clerk of Council

// A regular meeting of the Council of the City of Lynchburg was held on the 22nd day of January, 2008, at 5:00 P.M. in the Council Chamber, City Hall, Joan F. Foster, President, presiding. Vice Mayor Dodson gave the Invocation, followed by the Pledge of Allegiance. The following Members were present:

Present: Dodson, Garrett, Gillette, Helgeson, Johnson, Seiffert, Foster 7

Absent: 0

// Copies of the minutes of the January 8, 2008 meeting, having been previously furnished Council, reading was dispensed with, and on motion of Council Member Garrett, seconded by Council Member Johnson, Council by the following recorded vote approved the minutes as presented:

Ayes: Dodson, Garrett, Gillette, Helgeson, Johnson, Seiffert, Foster 7

Noes: 0

// In the matter of City Code/Community Planning - Zoning, City Council Report #2 regarding amending the Rezoning Application fee schedule to cap rezoning fees after 100 acres was considered. City Planner Tom Martin stated that the fee charged for a rezoning application is currently set at \$400 + \$75 per acre with no "cap" set on the amount of the review fee required. Mr. Martin explained that the fee charged for a rezoning is intended to recoup a portion of the City's cost involved in processing a rezoning application, i.e., copying costs and staff time expended in review, report writing and attending neighborhood meetings. Mr. Martin went on to say that while exact City costs are hard to quantify, typically equilibrium between costs and fees are obtained and occasionally, rezoning applications are submitted that require fees beyond actual costs to the City. Mr. Martin stated that currently in review is a petition to rezone 237 acres and that the rezoning fee required for this petition is \$18,175 and that the petitioner has requested relief from the required fee. Mr. Martin explained that staff believes that fairness dictates that there should be a cap on the rezoning fee since it is hard to justify that the costs associated with a rezoning application increase with the acreage beyond a certain point. Mr. Martin explained that city staff surveyed rezoning fees of other Virginia First Cities and the Counties of Amherst, Bedford and Campbell and that one hundred acres seems to be a reasonable cap. Council Members discussed the request and following discussion, Vice Mayor Dodson made a motion, seconded by Council Member Garrett, to amend the Rezoning Application fee schedule to cap rezoning fees after 100 acres and Council by the following recorded vote approved the motion:

Ayes: Dodson, Garrett, Gillette, Helgeson, Johnson, Seiffert, Foster 7

Noes: 0

// In the matter of City Code, City Council Report #3 regarding amending the City Code relating to the inspection of Residential Rental Dwelling units within the City was considered. City Attorney Walter Erwin explained that the Inspections Division is having difficulty collecting from some landlords the \$50 inspection fee approved by City Council to cover the cost of inspecting residential rental dwelling units. Mr. Erwin stated that the proposed amendment to the City Code makes it an offense to rent a residential rental dwelling unit without paying the inspection fee and allows the Inspections Division to revoke a landlord's certificate of compliance if the landlord gives the City a bad check. Mr. Erwin went on to say

that the State Code also allows a building code official to obtain an administrative inspection warrant to inspect a residential rental dwelling unit if the building code official is denied access to the dwelling unit and that the proposed amendment makes it clear that the local magistrate's office is authorized to issue such administrative inspection warrants. On motion of Council Member Gillette, seconded by Council Member Johnson, Council by the following recorded vote adopted Ordinance #0-08-007, as presented, amending the City Code relating to the inspection of Residential Rental Dwelling units within the City:

Ayes: Dodson, Garrett, Gillette, Helgeson, Johnson, Seiffert, Foster

7

Noes:

0

// The meeting was adjourned at 5:18 P.M.

Clerk of Council

Lynchburg City Council

Agenda Item Summary

MEETING DATE: **February 12, 2008**

AGENDA ITEM NO.: 2

CONSENT: **X**

REGULAR:

CLOSED SESSION:
(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: Department of Homeland Security Federal Emergency Management Agency's National Preparedness Directorate's FY 2007 Assistance to Firefighters Grant (AFG) to Purchase Hose, Nozzles, and a Breathing Air Compressor

RECOMMENDATION:

Adopt a resolution to amend the FY 2008 City/Federal/State Aid Fund budget and appropriate \$156,528 with resources from the Department of Homeland Security Federal Emergency Management Agency's (DHS/FEMA) National Preparedness Directorate's FY 2007 Assistance to Firefighters Grant to purchase hoses, nozzles, and a breathing air compressor.

SUMMARY:

DHS/FEMA awards grant funding through the Assistance to Firefighters Grant program with the primary goal of meeting the firefighting and emergency response needs of fire departments and other agencies by assisting with the purchase of critically needed equipment, protective gear, emergency vehicles, training, and other resources needed to protect the public and emergency personnel from fire and related hazards.

The Lynchburg Fire and EMS Department has received notification from DHS/FEMA of an award of \$156,528 from the FY 2007 Assistance to Firefighters Grant program to use toward the purchase of hoses, nozzles, and a breathing air compressor.

The grant requires that 20 percent of the total project cost be provided by the submitting agency. The Department will provide the 20 percent match of \$39,132 from its Virginia Fire Programs Aid to Localities allocation. The total project cost is \$195,660.

PRIOR ACTION(S):

Finance Committee, February 5, 2008

FISCAL IMPACT:

The Fire Department will provide the required 20% local match out of its current budget.

CONTACT(S):

Fire Chief S. Brad Ferguson 455-6340
Master Firefighter Ed Fletcher 385-6214
Ellen Davidson-Martin, Fire Administrative Manager 455-6368

ATTACHMENT(S):

Resolution
Award letter

REVIEWED BY: lkp

Resolution:

BE IT RESOLVED That the FY 2008 City/Federal/State Aid Fund budget is amended and \$156,528 is appropriated with resources from the Department of Homeland Security Federal Emergency Management Agency's (DHS/FEMA) National Preparedness Directorate's FY 2007 Assistance to Firefighters Grant to purchase hoses, nozzles, and a breathing air compressor.

Introduced:

Adopted:

Certified:

Clerk of Council

017L

U.S. Department of Homeland Security
Washington, D.C. 20472



FEMA

Ms. Ellen Davidson-Martin
Lynchburg Fire and EMS Department
800 Madison St.
Lynchburg, Virginia 24504-2545

Re: Grant No.EMW-2007-FO-05708

Dear Ms. Davidson-Martin:

On behalf of the Department of Homeland Security (DHS), I am pleased to inform you that your grant application submitted under the FY 2007 Assistance to Firefighters Grant has been approved. The DHS Federal Emergency Management Agency's National Preparedness Directorate, in consultation with the U.S. Fire Administration, carry out the Federal responsibilities of administering your grant. The approved project costs total to \$195,660.00. The Federal share is 80 percent or \$156,528.00 of the approved amount and your share of the costs is 20 percent or \$39,132.00.

As part of your award package, you will find Grant Agreement Articles. Please make sure you read and understand the Articles as they outline the terms and conditions of your Grant award. Maintain a copy of these documents for your official file. **You establish acceptance of the Grant and Grant Agreement Articles when you request and receive any of the Federal Grant funds awarded to you.** By accepting the grant, you agree not to deviate from the approved scope of work without prior written approval from DHS.

The first step in requesting your grant funds is to confirm your correct Direct Deposit Information. Please go on-line to the AFG eGrants system at www.firegrantsupport.com and if you have not done so, complete and submit your SF 1199A, Direct Deposit Sign-up Form. Please forward the original, completed SF 1199A, Direct Deposit Sign-up Form, signed by your organization and the banking institution to the address below:

Department of Homeland Security
FEMA, National Preparedness Directorate
Grants Management Branch
500 C Street, SW, Room 334
Washington, DC 20472

Attn: Assistance to Firefighters Grant Program

After your SF 1199A is reviewed and you receive an email indicating the form is approved, you will be able to request payments online. Remember, you should basically request funds when you have an immediate cash need (i.e. you have a bill in-hand that is due within 30 days).

If you have any questions or concerns regarding the awards process, donations, or how to request your grant funds, please call the helpdesk at 1-866-274-0960.

Sincerely,

A handwritten signature in black ink that reads "R. David Paulison".

R. David Paulison

Award Status

Congratulations! Your grant application has been selected for an award.

[View Award Package](#)

Award Number: EMW-2007-FO-05708

Award Amount: \$156,528

You establish acceptance of this award when you expend any grant funds available to you. You should fill out your Direct Deposit Form 1199A immediately; however, submit your request for funds when you are ready to spend the money. *It is a federal requirement to minimize the time between you receiving the funds in your bank account and your spending of those funds.* For planning purposes, you can estimate that it could take up to **three weeks** for the funds to be transferred to your account.

[Reply](#)

To: williammcchesney
Date: 11/09/2007
Subject: Award Notification (Application Number: EMW-2007-FO-05708)
From: firegrants@dhs.gov

Congratulations!

Your grant application submitted under the Emergency Preparedness and Response Directorate's (EP&R/FEMA of DHS) FY 07 Assistance to Firefighters Grant Program has been approved for award. Please go to <https://portal.fema.gov>. This will take you to the Assistance to Firefighters eGrants system. Enter your User Name and Password as requested on the login screen (on the left). Your User Name and Password are the same as those used to complete the application on-line. Once you are in the system, the Status page will be the first screen you see. On the right side of the Status screen, you will see a column entitled Action. In this column, you will see a link that says View Award Package. Click this link. This link will take you to your award package. Please print your award package for your records.

While you are in the system, you will see a link that says Update 1199A in the Action column. Click this link. This link will take you to the SF-1199A, Direct Deposit Sign-up Form. Please complete the SF-1199A on-line if you have not already done so. Submit the form electronically. If you have not already mailed a copy of your SF 1199A to FEMA, print the form (using the Print 1199A button), write your grant number on the form, and take it to your bank to have the bottom portion completed and mailed to the following address:

Department of Homeland Security
Emergency Preparedness and Response Directorate (EP&R/FEMA of DHS)
Attn: Assistance to Firefighters Grant
Grants Management Branch
Room 350
500 C Street, SW, Room 350
Washington, DC 20472

Due to delays in delivery of regular USPS mail to government offices, we suggest that you use USPS priority mail or a commercial overnight delivery service to decrease the amount of time that elapses between our request for information and your response. Please allow three weeks for the processing of your SF 1199A. You will receive an email when your form has been approved. If you have any questions regarding your SF-1199A, please call 1-866-274-0960.

[Go Back](#)

Lynchburg City Council

Agenda Item Summary

MEETING DATE: **February 12, 2008**

AGENDA ITEM NO.: 3

CONSENT: **X**

REGULAR:

CLOSED SESSION:
(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: Virginia Office of EMS-Rescue Squad Assistance Fund Grant Request to Purchase an Ambulance and Selected Ambulance Equipment

RECOMMENDATION:

Adopt a resolution to amend the FY 2008 City/Federal/State Aid Fund budget and appropriate \$213,005 with resources of \$84,407 from the Virginia Office of Emergency Medical Services (VOEMS) and \$128,598 from the FY 2008 General Fund Reserve for Contingencies to purchase a Type 1 Ambulance and selected apparatus (stretcher and stair chairs) to equip it.

SUMMARY:

The Virginia Office of Emergency Medical Services periodically awards grant funding to assist career and volunteer EMS agencies in obtaining/maintaining emergency vehicles and equipment; providing EMS management, leadership, and advanced life support training; and achieving other goals that support the enhancement of citizen and community EMS services. This grant award is a continuation of such endeavors.

The Fire and EMS Department has received notification from VOEMS of an award of \$84,407 from the Rescue Squad Assistance Fund (RSAF) to use toward the purchase an ambulance and selected equipment to support service delivery for emergencies and non-emergencies.

The grant requires that 50 percent of the total project cost be provided by the submitting agency. RSAF did fund 50 percent of the cost for the stretcher and three stair-chairs as requested; the City's match will be \$4,979 and \$3,301, respectively. The initial request for the ambulance was for \$196,446; therefore, the City's match would have been \$98,223. However, RSAF funded only \$76,128 of that request. The Department respectfully requests Council consider appropriating the additional \$22,095 from the FY 2008 General Fund Reserve for Contingencies to fund the full cost of the ambulance. The City's match for the ambulance would be \$120,318. The City's match for the total project is \$128,598.

PRIOR ACTION(S):

Finance Committee, September 5, 2007
Finance Committee, February 5, 2008

FISCAL IMPACT:

A one-time appropriation of \$128,598 from the General Fund for Contingencies.

CONTACT(S):

Fire Chief S. Brad Ferguson 455-6340
Ellen Davidson-Martin, Fire Administrative Manager 455-6368

ATTACHMENT(S):

Resolution
Award letter

REVIEWED BY: lkp

Resolution:

BE IT RESOLVED That the FY 2008 City/Federal/State Aid Fund budget is amended and \$213,005 is appropriated with resources of \$84,407 from the Virginia Office of Emergency Medical Services (VOEMS) and \$128,598 from the FY 2008 General Fund Reserve for Contingencies to purchase a Type 1 Ambulance and selected apparatus (stretcher and stair chairs) to equip it.

Introduced:

Adopted:

Certified:

Clerk of Council

018L



COMMONWEALTH of VIRGINIA

Department of Health

Office of Emergency Medical Services

P.O. Box 2448

Richmond, VA 23218-2448

January 1, 2008

Robert Stroube, M.D. M.P.H.
State Health Commissioner

Gary R. Brown
Director

P. Scott Winston
Assistant Director

109 Governor St., Suite UB-55
Richmond, VA 23219

1-800-523-6019 (VA only)
804-864-7600
FAX: 804-864-7580

Ninette Heath
Lynchburg Fire Department
800 Madison Street
Lynchburg, VA 24504

Dear Grant Administrator:

The Office of Emergency Medical Services (OEMS) is pleased to announce that your agency has been awarded funding from the OEMS Consolidated Grants Program. The attached Award Page itemizes the actual dollar value and item(s) your agency has been awarded under this program.

In order to provide the best possible customer service, please take time to read all grant award documentation. Please provide the grant number on all correspondence to OEMS and contact our office if you have any questions.

- **Award Acceptance Form** (Agreement for Services): must be returned within 60 days of grant award. Original or faxed copies will be accepted.
***Note: all forms are available for downloading on our website: www.vdh.virginia.gov/oems.*
- **Instructions for Grant Reimbursement.**
- **Reimbursement Checklist:** All items must be submitted in order to process your reimbursement.
- **Conditions:** A condition has been placed on some grant awards. Any and all conditions must be met in order to receive reimbursement.
- **Vehicles:** All vehicles awarded under this grant *must be available for service 24 hours a day - 7 days a week.*
- **PPCR/PPDR** submission is required. Grant reimbursements will **NOT** be processed for any agency not fully compliant.
- For communications equipment purchases, we recommend that you check the **STARS** contract for pricing.

It would be in your agency's best interest to purchase awarded item(s) by June 30, 2008 for the best price advantage, but **no later than** December 31, 2008. Contact Amanda Davis, OEMS Grant Program Manager at (804) 864-7611 or Linwood P. Pulling, Grant Specialist at (804) 864-7612 or 1-800-523-6019 for additional grant information.

Congratulations,

Gary R. Brown
Director

Enclosures

Office of Emergency Medical Services
Consolidated Grant Program

AWARD PAGE

January 1, 2008 - December 31, 2008 Grant Period

Agency Name: LYNCHBURG FIRE DEPARTMENT

Grant Number: BR-C09/12-07

Code	Items Requested	Status	Quantity Funded	Funding % Level	C T #	Amount Funded
G 17190	Type I Ambulance- Internat Conditions: 1-Vehicle	FUNDED	1	50		\$76,128.00
G 17191	Stryker Power Pro XT Cot	FUNDED	1	50		\$4,979.00
G 17192	Stryker Stair-Pro	FUNDED	3	50		\$3,300.50
						\$84,407.50

LYNCHBURG CITY COUNCIL

Agenda Item Summary

MEETING DATE: **February 12, 2008**

AGENDA ITEM NO.: 4

CONSENT:

REGULAR: **X**

CLOSED SESSION:
(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: **Public Hearing Regarding Vacating Spencer Street**

RECOMMENDATION:

Adopt an ordinance vacating Spencer Street located between Belmont and Blackford Streets.

SUMMARY:

Julio L. Uchimura and Mary J. Stewart have requested that Spencer Street located between Belmont and Blackford Streets be vacated. The adjoining property owner is in favor of the vacation of Spencer Street. The Technical Review Committee has no concerns regarding the vacation of Spencer Street.

PRIOR ACTION(S):

February 14, 2006: Technical Review Committee Review

January 22, 2008: Physical Development Committee Review

BUDGET IMPACT:

None

CONTACT(S):

Julio L. Uchimura 846-0403

ATTACHMENT(S):

- Ordinance
- Map
- Technical Review Committee Report
- Application

REVIEWED BY: lkp

AN ORDINANCE VACATING SPENCER STREET LOCATED BETWEEN BELMONT AND BLACKFORD STREETS

WHEREAS, Julio L. Uchimura and Mary J. Stewart have requested the City of Lynchburg, on its own motion, to vacate Spencer Street located between Belmont and Blackford Streets; and

WHEREAS, the adjoining property owner is in agreement to the vacation of Spencer Street; and

WHEREAS, City Council finds that no public inconvenience will result from vacating Spencer Street;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Lynchburg, on its own motion, and in accordance with the provisions of Section 15.2-2006 of the Code of Virginia, 1950, as amended, and Section 35-71 through Section 36-77 of the City Code, 1981, as amended, the following described street be, and the same hereby is, discontinued and vacated, namely:

Spencer Street from Belmont Street to Blackford Street, currently providing access to 845 Belmont Street, Parcel ID 02312015 and Blackford Street, Parcel ID 02312019.

Said vacation is contingent upon the condition that an easement to locate, relocate, repair, replace, maintain and perpetually operate all utilities currently located therein or needed by the City in the future is hereby reserved unto the City of Lynchburg, and the construction of any building or structure or the use of the vacated property in any manner that could interfere with the City's right to locate, relocate, repair, replace and maintain and perpetually operate utilities is prohibited without the prior written approval of the City Manager's Office, City Utilities Division and the City Engineering Division.

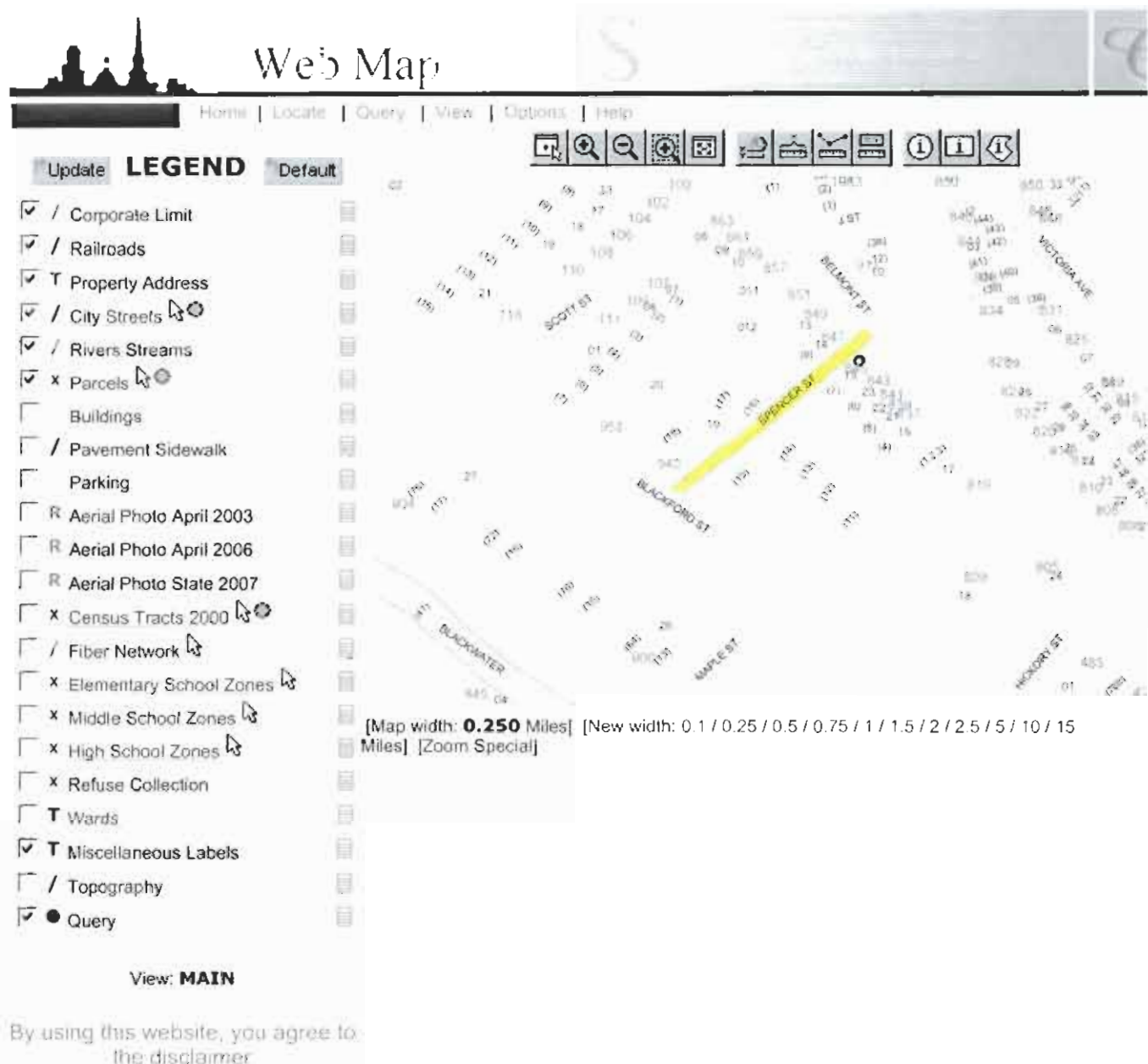
BE IT FURTHER ORDAINED That the Clerk of Council is hereby authorized and directed to deliver a duly-certified copy of this ordinance to the Clerk of the Circuit Court for the City of Lynchburg so that said certified copy of this ordinance may be recorded as deeds are recorded and indexed in the name of the City of Lynchburg.

Adopted:

Certified:

Clerk of Council

007P



APPLICATION FOR THE VACATION OF

SPENCER STREET

(Street/Alley)

LOCATED BETWEEN

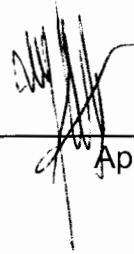
BELMONT STREET AND BLACKFORD STREET

The undersigned applicant, Julio L. Uchimura and Mary J. Stewart, pursuant to the provisions of Section 15.2-2006 of the Code of Virginia, 1950, as amended, and Section 35-71 through Section 35-77 of the City Code, 1981, as amended, respectfully makes application to the Lynchburg City Council for the vacation of that certain street described as follows:

Spencer Street from Belmont Street to Blackford Street, currently providing access to 845 Belmont Street, Parcel ID 02312015 and Blackford Street, Parcel ID 02312019.

The applicant further requests the Lynchburg City Council to hold a public hearing on this application at its meeting to be held in the Council Chambers, City Hall, 900 Church Street, Lynchburg, Virginia, on February 12, 2008, at 7:30 p.m., or as soon thereafter as the matter may be heard, and at the conclusion of which hearing to consider whether or not to vacate the above described street.

Given under my hand this 3rd day of December, 2007.



12-03-07

Applicant

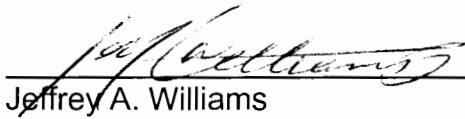
845 Belmont Street

Address

846-0403

Telephone Number

WE, THE ADJOINING PROPERTY OWNER(S), ARE IN AGREEMENT TO THE
VACATION OF THE ABOVE DESCRIBED PROPERTY:


Jeffrey A. Williams

12-03-07



The City of Lynchburg, Virginia

MEMORANDUM

TO: Patricia W. Kost, Clerk of Council
FROM: Annette M. Chenault, Planner II
DATE: February 21, 2006
RE: Vacation of Spencer Street

On February 14 the Technical Review Committee (TRC) reviewed and approved the proposed vacation of Spencer Street.



LYNCHBURG CITY COUNCIL

Agenda Item Summary

MEETING DATE: **February 12, 2008**

AGENDA ITEM NO.: 5

CONSENT:

REGULAR: **X**

CLOSED SESSION:
(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: **Public Hearing Regarding Vacating a Portion of 15th Street**

RECOMMENDATION:

Adopt an ordinance vacating a portion of 15th Street located between 1417 and 1501 Kemper Street.

SUMMARY:

The Conditional Use Permit adopted by City Council on January 8 to allow construction of a Cluster Commercial Development on Kemper Street contains a condition that requires the vacation of a portion of 15th Street located between 1417 and 1501 Kemper Street. This condition was recommended by both the Planning staff and Planning Commission. The Technical Review Committee has no concerns regarding the vacation of this portion of 15th Street.

PRIOR ACTION(S):

January 2, 2008: Technical Review Committee Review

January 22, 2008: Physical Development Committee Review

BUDGET IMPACT:

None

CONTACT(S):

Tom Martin 455-3990

ATTACHMENT(S):

- Ordinance
- Map
- Technical Review Committee Report

REVIEWED BY: lkp

AN ORDINANCE VACATING A PORTION OF 15TH STREET LOCATED BETWEEN 1417 AND 1501 KEMPER STREET

WHEREAS, the City of Lynchburg, on its own motion, is proposing to vacate a portion of 15th Street located between 1417 and 1501 Kemper Street; and

WHEREAS, the adjoining property owner is in agreement to the vacation of this portion of 15th Street; and

WHEREAS, City Council finds that no public inconvenience will result from vacating a portion of 15th Street located between 1417 and 1501 Kemper Street;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Lynchburg, on its own motion, and in accordance with the provisions of Section 15.2-2006 of the Code of Virginia, 1950, as amended, and Section 35-71 through Section 36-77 of the City Code, 1981, as amended, the following described portion of 15th Street be, and the same hereby is, discontinued and vacated, namely:

A portion of 15th Street located between 1417 and 1501 Kemper Street more fully described as follows:

Beginning at a point at the north east intersection of Kemper Street and 15th Street on the southern right-of-way of Kemper Street; thence along the right-of-way of 15th Street S 58° 25' 04" W 217.87' to a point; thence N 31° 34' 56" W 30' to a point; thence N 58° 25' 04" E to the point of beginning.

Said vacation is contingent upon the condition that an easement to locate, relocate, repair, replace, maintain and perpetually operate all utilities currently located therein or needed by the City in the future is hereby reserved unto the City of Lynchburg, and the construction of any building or structure or the use of the vacated property in any manner that could interfere with the City's right to locate, relocate, repair, replace and maintain and perpetually operate utilities is prohibited without the prior written approval of the City Manager's Office, City Utilities Division and the City Engineering Division.

BE IT FURTHER ORDAINED That the Clerk of Council is hereby authorized and directed to deliver a duly-certified copy of this ordinance to the Clerk of the Circuit Court for the City of Lynchburg so that said certified copy of this ordinance may be recorded as deeds are recorded and indexed in the name of the City of Lynchburg.

Adopted:

Certified:

Clerk of Council

006P



THE CITY OF LYNCHBURG, VIRGINIA

Community Development
Planning Division

City Hall, 900 Church Street
Lynchburg, Virginia 24504 • (434) 455-3900
FAX • (434) 845-7630

January 8, 2008

TO: Patricia W. Kost, Clerk of Council

FROM: Annette M. Chenault, Planner II

RE: Street Vacation - Portion of 15th Street (SUB0712-0006)
Between 1417 and 1501 Kemper Street
TM#027-02-001

On January 2, 2008 the Technical Review Committee (TRC) reviewed the request by Oliver Kuttner/Russell Nixon, Nixon Land Surveying, to vacate a portion of 15th Street. Following are the comments:

Planning:

1. The subject project proposes the vacation of a portion of 15th Street. An application for the street vacation has been submitted to Pat Kost, Clerk of Council, and is scheduled for the February 12, 2008 City Council meeting.
2. No lots would be landlocked as a result of the proposed street vacation. Therefore, we have no concerns.
3. If there are utilities in the street, contact the Engineering Division for information on whether easements should be reserved.

Utilities:

1. City to retain existing water and sewer easements within the vacated street row.

Engineering Design:

1. Indicate street segment to be vacated on plat.
2. Indicate split of vacated land between adjacent properties on plat.
3. Indicate existing water and sewer lines within vacated area on plat.
4. Indicate twenty (20) foot water line easement and sewer line easement retained by City in vacated area on plat.

Enclosure: Map Showing Portion of 15th Street to be Vacated

Pc: Technical Review Committee
Russell Nixon, Surveyor

SCALE: 1"=50'	DR BY: REN	DATE: 12/18/07
SUBJECT: 1 ON 1	CITY: DEX DEAN	PROJ: WOLF BSH

LYNCHBURG CITY COUNCIL
Agenda Item Summary

MEETING DATE: **February 12, 2008**

AGENDA ITEM NO.: 6

CONSENT:

REGULAR: **X**

CLOSED SESSION:
(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: **CONDITIONAL USE PERMIT (CUP) – Lynchburg College Master Plan
Amendment, 1501 Lakeside Drive**

RECOMMENDATION: Approval of the requested conditional use permit petition.

SUMMARY: Lynchburg College is petitioning for a conditional use permit to amend the Lynchburg College Master Plan to allow construction of a three thousand (3,000) square foot addition to Thompson Hall and the construction of a four hundred and eighty (480) square foot press box for baseball on Fox Field. All proposed improvements would take place on the main campus of the college located at 1501 Lakeside Drive. Planning Commission recommended approval of the petition because:

- Petition agrees with the *Comprehensive Plan* which recommends an Institutional land use in this area.
- Petition agrees with the *Zoning Ordinance* in that schools and colleges are allowed in an R-2, Low-Medium Density Single-Family Residential District, upon approval of a conditional use permit (CUP) from City Council.

PRIOR ACTION(S):

January 23, 2008: Planning Division recommended approval of the conditional use permit petition.
Planning Commission recommended approval (6-0, 1 Absent Sale) of the CUP with the following conditions:

1. The property shall be developed in substantial compliance with the "CUP Plan for Lynchburg College" dated December 13, 2007 and received by the Department of Community Development on January 11, 2008.

FISCAL IMPACT: N/A

CONTACTS: Charlene Montford/ 455-3902; Tom Martin/ 455-3909

ATTACHMENT(S):

Resolution
PC Report
PC Minutes
Vicinity Zoning Pattern
Vicinity Proposed Land Use
Watershed Location Map
Site Plan
Stormwater Narrative
Limits of Construction
Landscape Site Plan
Architectural Elevations
Speaker Sign-up Sheet

REVIEWED BY: lkp

RESOLUTION

A RESOLUTION GRANTING A CONDITIONAL USE PERMIT TO AMEND THE LYNCHBURG COLLEGE MASTER PLAN IN A R-2, LOW-MEDIUM DENSITY SINGLE-FAMILY RESIDENTIAL DISTRICT LOCATED AT 1501 LAKESIDE DRIVE.

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF LYNCHBURG that the petition of Lynchburg College for a Conditional Use Permit for use of the property at 1501 Lakeside Drive to amend the Lynchburg College Master Plan approved by City Council, to allow the construction of a three thousand (3000) square foot addition to Thompson Hall and the construction of a four hundred and eighty (480) square foot press box for baseball on Fox Field be, and the same is hereby, approved subject to the following conditions:

1. The property shall be developed in substantial compliance with the "CUP Plan for Lynchburg College" dated December 13, 2007 and received by the Department of Community Development on January 11, 2008.

Adopted:

Certified:

Clerk of Council

013L

The Department of Community Development
City Hall, Lynchburg, VA 24504 434-455-3900

To: Planning Commission
From: Planning Division
Date: January 23, 2008
Re: **CONDITONAL USE PERMIT: Lynchburg College Master Plan Amendment, 1501 Lakeside Drive**

I. PETITIONER

Lynchburg College, 1501 Lakeside Drive, Lynchburg, VA 24501

Representative: John C. Lewis, Lynchburg College, 1501 Lakeside Drive, Lynchburg, VA 24501

II. LOCATION

The subject property is located at 1501 Lakeside Drive.

Property Owner: Lynchburg College, 1501 Lakeside Drive, Lynchburg, VA 24501

III. PURPOSE

The purpose of this petition is to amend the Lynchburg College Master Plan to allow construction of a three thousand (3,000) square foot addition to Thompson Hall and the construction of a four hundred and eighty (480) square foot press box for baseball on Fox Field.

IV. SUMMARY

- Petition agrees with the Comprehensive Plan which recommends an Institutional land use in this area.
- Petition agrees with the Zoning Ordinance in that schools and colleges are allowed in an R-2, Low-Medium Density Single-Family Residential District, upon approval of a conditional use permit (CUP) from City Council.

The Planning Division recommends approval of the conditional use permit petition.

V. FINDINGS OF FACT

1. **Comprehensive Plan.** The Lynchburg Comprehensive Plan recommends an institutional use within this area. Institutions are religious, educational and other nonprofit entities in the City. Examples include churches, cemeteries, private schools and universities, private nonprofit hospitals, service clubs and organizations, and other nonprofit institutions. **(page 5.3)**

Throughout the public forums held for the preparation of the Comprehensive Plan, citizens emphasized the value they place on education. Quality education opportunities must be provided for youth at the secondary school level and college level and for adults as part of continuing education. The City places a high value on its colleges and will continue to support their presence within the City and to work with them in coordinating City planning with campus master planning. **(page 11.8)**

Neighborhoods & Housing, Objective 1.C states that all institutions should be encouraged to prepare master plans showing the location of existing and proposed facilities. Institutions are also encouraged to work with surrounding neighborhoods to ensure that the master plan will have neighborhood support. **(page 10.11)** The College had an informal meeting on January 10, 2008 with surrounding property owners to discuss the plans for the new construction and respond to their concerns, if any. No property owners were in attendance.

2. **Zoning.** The subject property was annexed into the City in 1926. The existing R-2, Low-Medium Density Single-Family Residential District, zoning was established in 1978 with the adoption of the Zoning Ordinance. The submitted petition does not propose to change the existing zoning.
3. **Board of Zoning Appeals (BZA).** The Zoning Official has determined that no variances will be needed for the development of the property as proposed.

4. **Surrounding Area.** There have been several items requiring City Council approval in the immediate area:

- On, January 24, 2007, Lynchburg City Council approved Lynchburg College's conditional use permit petition to allow the implementation of the Lynchburg College Consolidated Sign Plan at 1501 Lakeside Drive and 503 Westwood Avenue.
- On, June 13, 2006, Lynchburg City Council approved Lynchburg College's conditional use permit petition to allow college-supervised student housing at 217 Bell Street, 209 Amelia Street, 317 College Street, 402, 417, 419 Lakewood Street, 1115 McCausland Street, 518 Brevard Street, and 324 Vernon Street.
- On July 12, 2005, Lynchburg City Council approved Lynchburg College's conditional use permit petition for the conversion of existing residences to student housing at 214 Bell Street, 185, 307 Vernon Street, & 404, 428 Lakewood Street.
- On December 12, 2004, Lynchburg City Council approved Lynchburg College's conditional use permit petition for the conversion of existing residences to student housing at 201 Bell Street, 224, 350 Vernon Street, 1123 McCausland Street, 121 Thomas Road, 310, 416, 432 Lakewood Street & 333 College Street.
- On October 12, 2004, Lynchburg City Council approved Lynchburg College's conditional use permit petition for the construction of student housing and associated parking areas at 1501 Lakeside Drive.
- On June 8, 2004 Lynchburg City Council approved Lynchburg College's conditional use petition for the conversion of existing residences to student housing at 191, 225, 235, 246, 302, 310, 311, 331, 348 Vernon Street and 316 and 426 Lakewood Street.
- On June 12, 2001, Lynchburg City Council approved Lynchburg College's conditional use permit petition for the development of student housing at 511 Brevard Street, 312,420, and 425 Lakewood Street, and 504 Westwood Avenue.
- On June 13, 2000, Lynchburg City Council approved Lynchburg Christian Academy's conditional use permit petition for the temporary use of modular classrooms at 624 Thomas Road.
- On March 14, 2000, Lynchburg City Council approved Lynchburg College's conditional use permit petition to amend its master development plan for construction of student townhomes on campus at 1501 Lakeside Drive.
- On July 13, 1999 Lynchburg City Council approved Lynchburg College's conditional use permit petition for the development of a college office and student housing at 341 College Street, 504 Brevard Street and 245 Vernon Street.
- On August 11, 1998, Lynchburg City Council approved Lynchburg College's conditional use permit petition for the use of an existing residence for student housing at 215 Vernon Street.
- On June 9, 1998, Lynchburg City Council approved Lynchburg College's conditional use permit petition for the amendment of the existing master plan for the construction of a gym and physical plant storage building at 1501 Lakeside Drive.
- On May 12, 1998, Lynchburg City Council approved Lynchburg College's conditional use permit petition for the development of special interest student housing at 512 Brevard Street.
- On May 13, 1997, Lynchburg City Council approved Gethsemane Baptist Church's conditional use permit petition for the establishment of a play area and operation of a child care center for up to forty nine (49) children at 407 and 411 Blue Ridge Street.
- On December 12, 1995, Lynchburg City Council approved Lynchburg College's conditional

use permit petition for the amendment of the existing master plan to allow conversion of an existing residence for supervised student housing at 511 Brevard Street.

- On January 12, 1993, Lynchburg City Council approved Lynchburg College's conditional use permit petition for the amendment of the existing master plan for the construction of the School of Business at the 300 Block of College Street.
 - On April 9, 1991, Lynchburg City Council approved Gethsemane Baptist Church's conditional use permit petition for the construction of new parking and the expansion of both the existing parking and the sanctuary at 408 and 411 Blue Ridge Street.
 - On August 1, 1989, Lynchburg City Council approved Lynchburg College's conditional use permit petition for the development of college offices and student housing on College, McCausland and Brevard Streets.
 - On February 14, 1989, Lynchburg City Council approved Lynchburg College's conditional use permit petition for the development of faculty offices at 505 Brevard Street.
 - On August 9, 1988, Lynchburg City Council approved Lynchburg College's conditional use permit petition for the construction of a dormitory and office at 349 College Street.
 - On July 12, 1988, Lynchburg City Council approved Lynchburg College's conditional use permit petition for the construction of office space at 185 Vernon Street and 500 Westwood Avenue.
 - On August 13, 1985, Lynchburg City Council approved Lynchburg College's conditional use permit petition for the conversion of an existing residence hall to offices and construction of new classrooms/parking at College Street.
 - On September 25, 1984, Lynchburg City Council approved Lynchburg College's conditional use permit petition for the development of an alumni house off of Lakeside Drive.
 - On October 28, 1980, Lynchburg City Council approved Lester Heyer's conditional use permit petition for a Family Amusement Center off of Lakeside Drive.
5. **Site Description.** The subject property is bound to the east and west by single-family homes. Properties to the south of the site are a combination of parking and single-family homes. The northern portion of the property is heavily wooded and bound by College Lake.
6. **Proposed Use of Property.** The purpose of the conditional use permit petition is to amend the existing master plan to allow for a three thousand (3,000) square foot addition to Thompson Hall that will include two (2) classrooms and seven (7) offices, and the construction of a press box for baseball on Fox Field. Thompson Hall and Fox Field are located on the main campus of the college. The project requires no new City water or sewer connections; landscaping for the site will comply with the requirements of the City's *Zoning Ordinance*, which requires parking area landscaping, street trees and foundation plantings.
7. **Traffic, Parking and Public Transit.** The City's Traffic Engineer had no comments regarding traffic for the proposed building addition and press box construction.
- The current parking provided in the Master Plan greatly exceeds the necessary parking for this addition. Lynchburg College's projected 2008 student population is two thousand, five hundred (2,500) students, with five hundred and ninety one (591) faculty and staff. This would require one thousand and three hundred ninety four (1,394) parking spaces. The Lynchburg College Master Plan provides one thousand, seven hundred and fourteen (1,714) parking spaces, three hundred and twenty (320) more than required.
- The Greater Lynchburg Transit Company Bus Route 8 stops directly in front of the entrance to campus at 1501 Lakeside Drive.

8. **Stormwater Management.** New impervious area for the Thompson building addition does not exceed the one thousand (1,000) square foot threshold. The addition will be developed over current impervious area. The proposed foundation plantings around the Thompson addition will provide new low maintenance greenspace which will result in less runoff and an improved stormwater quality benefit from the site.

The press box will have a footprint of two hundred and forty (240) square feet. New impervious area for the press box does not exceed the one thousand (1,000) square foot threshold. As such, a stormwater management plan to address water quantity and quality will not be required for the construction.

9. **Emergency Services.** The City's Fire Marshal had no comments regarding the conditional use permit.

The City Police Department had no comments regarding the conditional use permit.

10. **Impact.** The proposed development will allow for a three thousand (3,000) square foot addition to Thompson Hall which will include two (2) classrooms and seven (7) offices. In order to have more resident space, the college has planned to relocate faculty offices that are currently in a duplex on campus at 1501 Lakeside Drive, originally 340 A and B College Street. These office facilities will be accommodated for in the new addition to Thompson Hall. The construction of a four hundred and eighty (480) square foot press box at Fox Field will enhance Lynchburg College's facilities for the baseball teams. Traffic, parking, stormwater management and emergency services concerns have all been addressed to the satisfaction of City staff and the result is a project that would fit into the fabric of the existing campus.

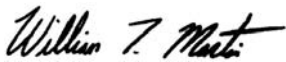
11. **Technical Review Committee.** The Technical Review Committee (TRC) reviewed the preliminary site plan on January 2, 2008. Comments related to the proposed use were minor in nature and have or will be addressed by the developer prior to final site plan approval.

VI. PLANNING DIVISION RECOMMENDATION

Based on the preceding Findings of Fact, the Planning Commission recommends to City Council approval of Lynchburg College's petition for a conditional use permit (CUP) at 1501 Lakeside Drive to allow construction of a building addition and a press box on Lynchburg College property subject to the following condition:

- 1. The property will be developed in substantial compliance with the "CUP Plan for Lynchburg College" dated December 14, 2007 and received on January 11, 2008.**

This matter is respectfully offered for your consideration.



William T. Martin, AICP
City Planner

pc: Mr. L. Kimball Payne, III, City Manager
Mr. Walter C. Erwin, City Attorney
Ms. Charlene B. Montford, Director of Community Development
Mr. J. Lee Newland, City Engineer
Ms. Cynthia L. Kozierow, Lynchburg Police Department
Battalion Chief Greg Wormser, Fire Marshal
Mr. Gerry L. Harter, Traffic Engineer
Mr. Robert Drane, Building Commissioner

Mr. Keith Wright, Zoning Official
Mr. Robert S. Fowler, Zoning Administrator
Mr. Kent L. White, Senior Planner
Mrs. Erin B. Hawkins, Environmental Planner
Mr. John C. Lewis, Lynchburg College

VII. ATTACHMENTS

- 1. Vicinity Zoning Pattern**
- 2. Vicinity Proposed Land Use**
- 3. Watershed Location Map**
- 4. Site Plan**
- 5. Stormwater Narrative**
- 6. Limits of Construction**
- 7. Landscape Site Plan**
- 8. Architectural Elevations**

MINUTES OF THE JANUARY 23, 2008 PLANNING COMMISSION MEETING (MINUTES HAVE NOT BEEN APPROVED):

a. Petition of Lynchburg College for a conditional use permit to amend the existing master plan and allow the construction of a press box and an office/classroom addition at 1501 Lakeside Drive.

Mr. Martin addressed the commissioners with the following comments. The last conditional use permit amendment to the master plan by Lynchburg College was approved in June 2006 by City Council. This is a fairly minor revision to the master plan, including a place for a press box that is internal to the campus and a very small building addition to an existing building. There was an informational meeting held on January 10 and no one attended it other than people from Lynchburg College.

The petition is in compliance with the city's *Comprehensive Plan* and the *Future Land Use Map*, which recommends an institutional land use for the area. The Planning Division recommends approval of the conditional use permit.

Mr. John Lewis, Associate Vice President for Lynchburg College, came forward to speak on behalf of the petition. He mentioned that Dave Fisher, the Director of Physical Plant, was present to answer any technical questions. Mr. Lewis said they are very excited about this project, particularly the addition to the Education classroom building. They see it as solving several problems. They need more office space for faculty and larger classrooms. Currently, they are using some resident space for offices, but they need to reclaim it for resident space. The press box is for the baseball program.

Mr. Lewis mentioned that what they had submitted initially was one of two options. One of the contractors had suggested another option and Mr. Fisher provided copies of that proposed site plan for the commissioners' review.

Chair Hamilton asked for anyone else to speak in favor of the petition and no one came forward. She asked for anyone to speak in opposition to the petition and no one came forward. She closed the public hearing portion of the petition.

Commissioner Swienton had a question for Mr. Martin. Where there is parking close to the road, he saw a sign that said "No Parking. Fire Lane." Commissioner Swienton wanted to know if the Fire Marshal was aware that was a parking lane, what triggered that to be a fire lane in the first place and is it still required to be one?

Mr. Martin stated that the plan had been reviewed by the Fire Marshal and he had no comments. Commissioner Swienton asked if they normally do site visits or do they just look at a layout? Mr. Martin said that typically every Technical Review Committee (TRC) member does a site visit.

Commissioner Barnes mentioned that the TRC did raise the issue of stormwater. He thinks that is pretty well taken care of but mentioned that the stormwater from the press box discharges directly into College Lake. He wanted to know if they would be limiting the use of fertilizer and pesticides. Mr. Fisher said that he would assume that they would be. Mr. Fisher mentioned that the press box is only 240 square feet. Chair Hamilton asked Mr. Martin if Erin Hawkins had any concerns. Mr. Martin stated that the proposed building addition is going on already existing impervious area and the press box is well below the 1,000 square foot threshold for a stormwater management plan, so there were no concerns about either.

Commissioner Swienton commented that it was very easy to drive around campus with the new signs they had installed. He asked Mr. Martin to have the Fire Marshal look at the fire lane one more time to see if there was any merit to his concern. He asked that Mr. Martin have them double check it before City Council.

Commissioner Worthington made the following motion, which was seconded by Commissioner Oglesby and passed by the following vote:

"That the Planning Commission recommends to City Council approval of Lynchburg College's petition for a conditional use permit (CUP) at 1501 Lakeside Drive to allow construction of a building addition and a press box on Lynchburg College property subject to the following condition:

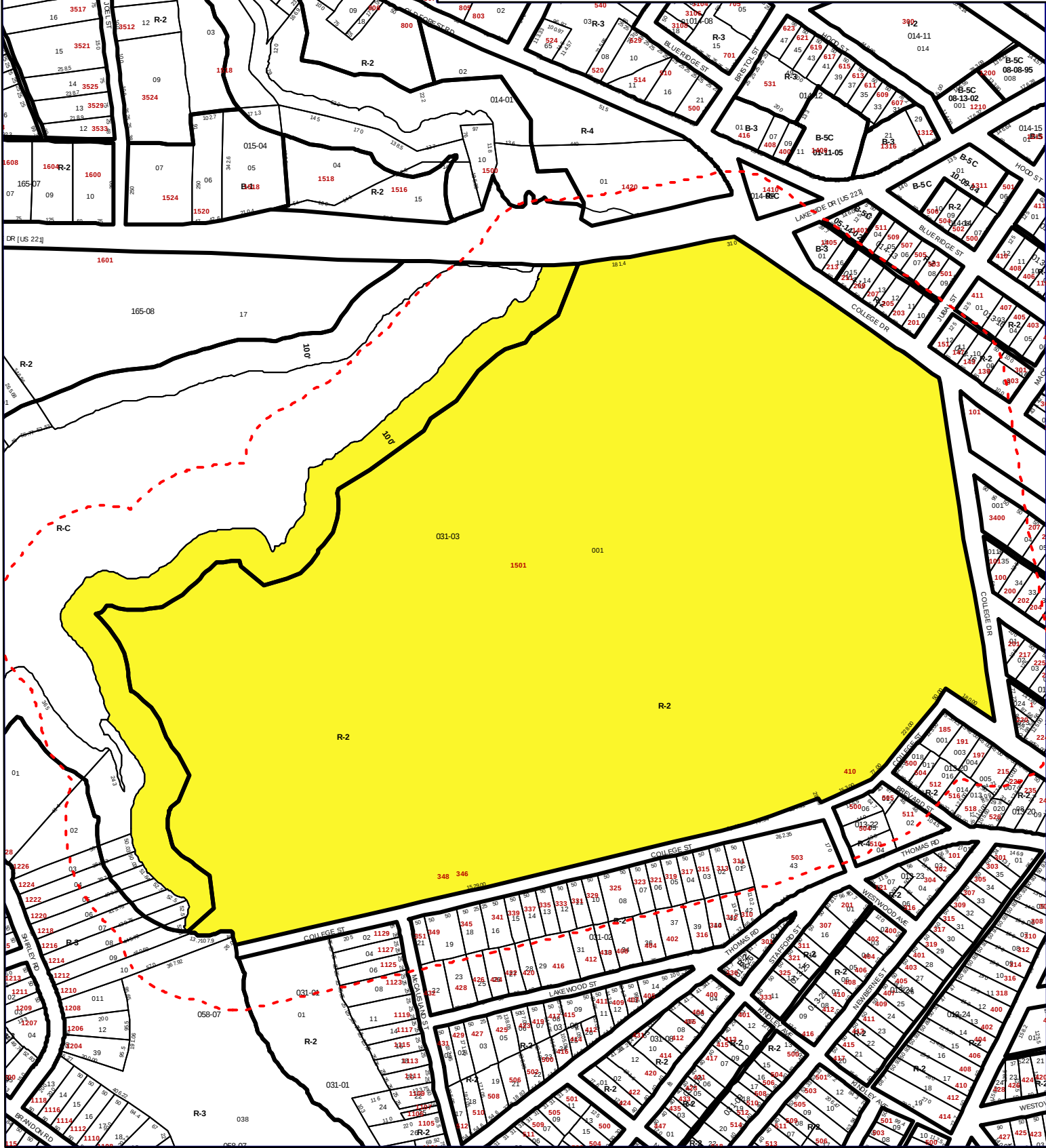
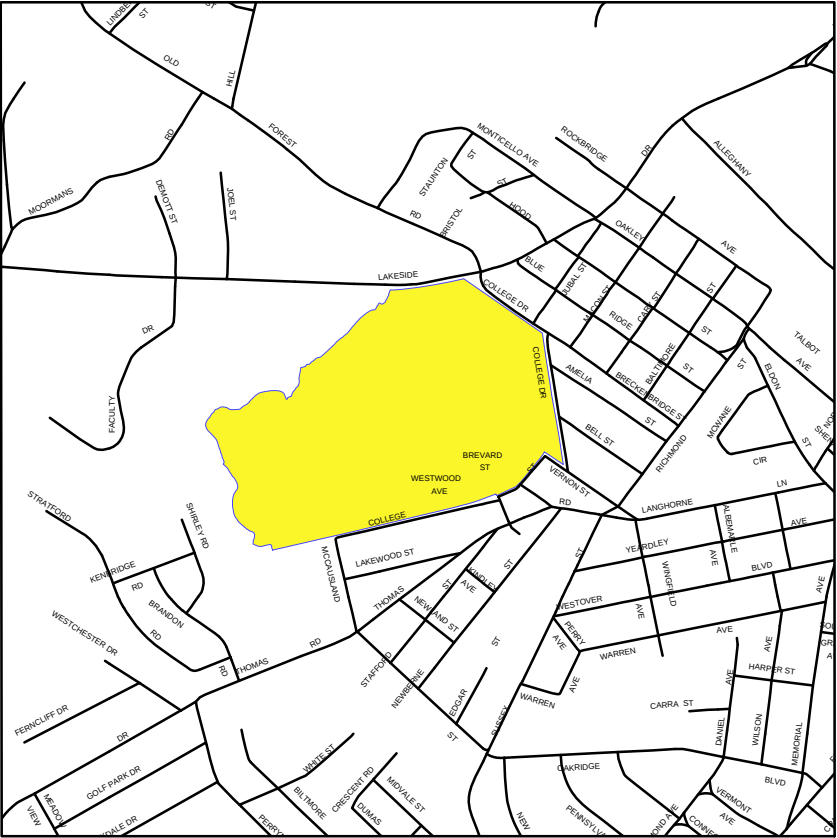
1. The property will be developed in substantial compliance with the "CUP Plan for Lynchburg College" dated December 14, 2007 and received on January 11, 2008."

AYES:	Barnes, Hamilton, Hannon, Oglesby, Swienton and Worthington	6
NOES:		0
ABSTENTIONS:		0
ABSENT:	Sale	1

LYNCHBURG COLLEGE
1501 Lakeside Drive
Map # 031-03-001
Conditional Use Permit Request
Petitioner: Lynchburg College

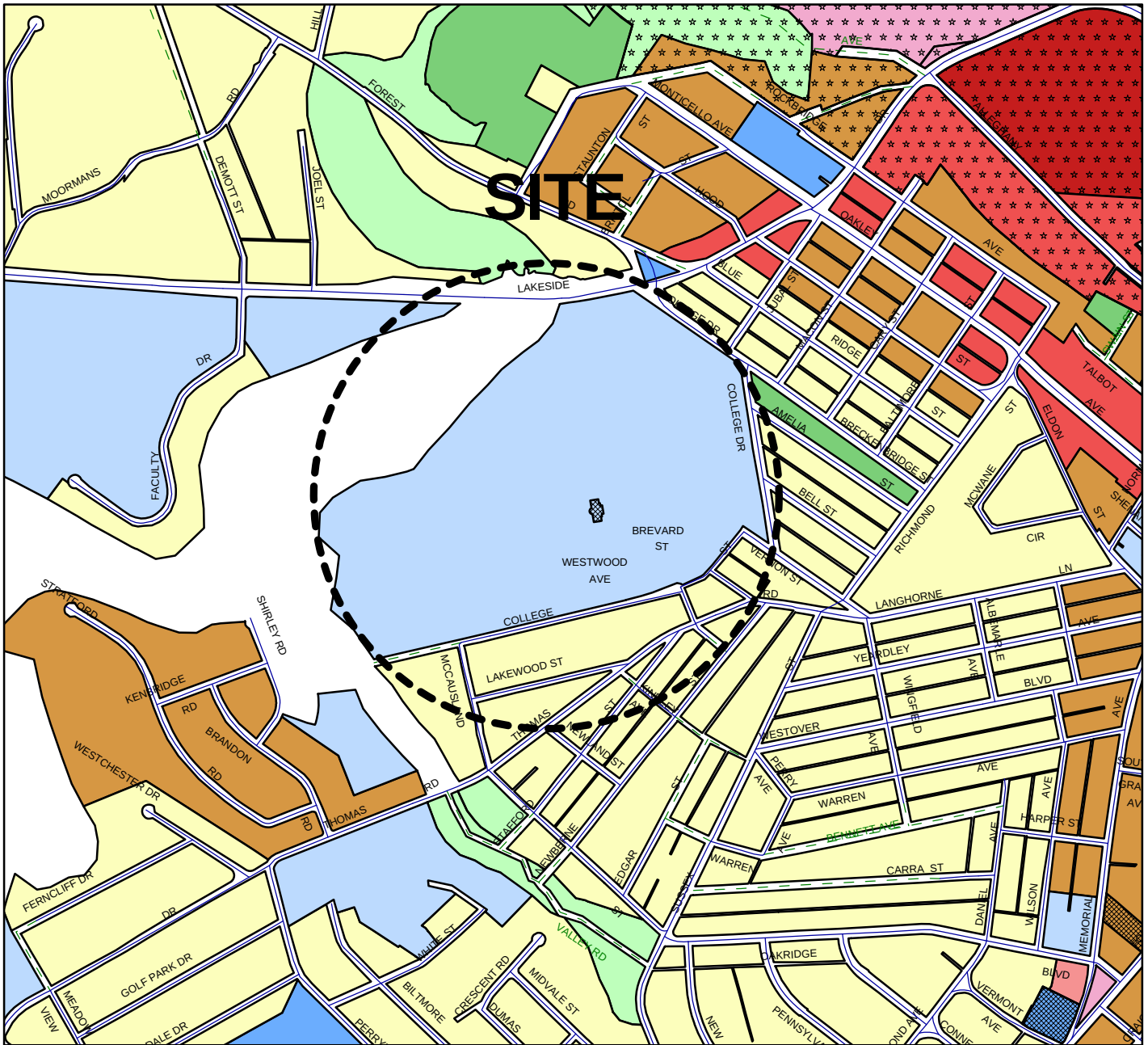
MAP PREPARED BY
THE DEPARTMENT OF COMMUNITY PLANNING & DEVELOPMENT

 Subject Property
 200 ft Radius



LYNCHBURG COLLEGE CUP ADJOINING OWNERS

PIN	OWNER	LOCADDR
1316001	GETHSEMANE BAPTIST CHURCH TRS	411 BLUE RIDGE ST
1316003	GETHSEMANE BAPTIST CHURCH TRS C/O CYNTHIA DUCK	407 BLUE RIDGE ST
1316007	HOWARD JAMES R & LILA F	301 MACON ST
1316008	HOWARD JAMES R & LILA F	303 MACON ST
1316009	ADAMS INVESTMENT PROPERTIES LLC	139 BRECKENBRIDGE ST
1316010	COBB ERNEST R & LORRAINE T C/O LORRAINE T COBB	143 BRECKENBRIDGE ST
1316011	CRANNEY ERIK A	147 BRECKENBRIDGE ST
1316012	DUDLEY BRUCE D	151 BRECKENBRIDGE ST
1317001	CITY OF LYNCHBURG C/O STEVE LAWSON	101 BRECKENBRIDGE ST
1318001	LYNCHBURG COLLEGE	3400 COLLEGE DR
1318004	TAYLOR POLLY W	207 AMELIA ST
1318005	LYNCHBURG COLLEGE	209 AMELIA ST
1318011	LYNCHBURG COLLEGE	101 COLLEGE DR
1318031	LYNCHBURG COLLEGE	214 BELL ST
1318032	WHITE ROBERT H	204 BELL ST
1318033	MCCRAY DARNELL M & TRACY D	202 BELL ST
1318034	RUSSELL TERRY H & KAREN S RUSSELL SCOTT P	200 BELL ST
1318035	JONES JACK M & ANN F	100 BELL ST
1319001	LYNCHBURG COLLEGE	201 BELL ST
1319002	LYNCHBURG COLLEGE	217 BELL ST
1319003	EVANS PHUC THI C/O LISA ANN EVANS	225 BELL ST
1319004	JONES JACK M & ANN F JONES JACK M JR	235 BELL ST
1319005	JONES JACK M & ANN F	245 BELL ST
1319006	POWELL DANIEL W JR	257 BELL ST
1319020	LINDSAY MELVIN T	234 VERNON ST
1319021	LYNCHBURG COLLEGE	224 VERNON ST
1319023	INVESTACORP LLC	220 VERNON ST
1319024	LYNCHBURG COLLEGE	1 COLLEGE DR
1320001	LYNCHBURG COLLEGE	185 VERNON ST
1320003	LYNCHBURG COLLEGE	191 VERNON ST
1320004	CAVALIERE GREGORY W	197 VERNON ST
1320005	LYNCHBURG COLLEGE	215 VERNON ST
1320007	LYNCHBURG COLLEGE	225 VERNON ST
1320008	LYNCHBURG COLLEGE	235 VERNON ST
1320013	LYNCHBURG COLLEGE	518 BREVARD ST
1320014	LYNCHBURG COLLEGE	516 BREVARD ST
1320016	LYNCHBURG COLLEGE	512 BREVARD ST
1320017	LYNCHBURG COLLEGE	504 BREVARD ST
1320018	LYNCHBURG COLLEGE	500 BREVARD ST
1322001	LYNCHBURG COLLEGE	505 BREVARD ST
1322002	LYNCHBURG COLLEGE	511 BREVARD ST
1322004	LP APARTMENTS LLC	510 WESTWOOD AVE
1322005	LYNCHBURG COLLEGE	504 WESTWOOD AVE
1322006	LYNCHBURG COLLEGE	500 WESTWOOD AVE
1401001	LYNCHBURG COLLEGE	1420 LAKESIDE DR
1401004	CITY OF LYNCHBURG C/O STEVE LAWSON	1410 LAKESIDE DR
1413001	HAWK DOROTHY P	1405 LAKESIDE DR
1413002	OGLESBY R SCHAEFER	1401 LAKESIDE DR
1413004	OGLESBY R SCHAEFER	511 BLUE RIDGE ST
1413005	SPRADLEY JOSHUA JR & GOODE HELEN A	509 BLUE RIDGE ST
1413006	DAVIS NEALY C & DAVIS MILDRED F	507 BLUE RIDGE ST
1413007	RAMSEY M DOUGLAS & LINDA H	505 BLUE RIDGE ST
1413008	PRICE MAEBELL	503 BLUE RIDGE ST
1413009	GARNER JAMES M	501 BLUE RIDGE ST
1413010	COBB E R & LORRAINE T C/O LORRAINE T COBB	201 COLLEGE DR
1413011	HARRIS PETER V	203 COLLEGE DR
1413012	LYNCHBURG COLLEGE	205 COLLEGE DR
1413013	LYNCHBURG COLLEGE	207 COLLEGE DR
1413014	JONES REGINA W	209 COLLEGE DR
1413015	LYNCHBURG COLLEGE	211 COLLEGE DR
1413016	LYNCHBURG COLLEGE	213 COLLEGE DR
3101001	THOMAS ROAD BAPTIST CHURCH	606 THOMAS RD
3101002	LYNCHBURG COLLEGE	1129 MCCAUSLAND ST
3101004	LYNCHBURG COLLEGE	1127 MCCAUSLAND ST
3101006	LYNCHBURG COLLEGE	1125 MCCAUSLAND ST
3101008	LYNCHBURG COLLEGE	1123 MCCAUSLAND ST
3102001	SIMOPOULOS KANELLA K IRREVOCABLE TR	311 COLLEGE ST
3102002	SIMOPOULOS KANELLA K IRREVOCABLE TR	313 COLLEGE ST
3102003	CARPENTER WILLIAM A JR & HAZEL A	315 COLLEGE ST
3102004	LYNCHBURG COLLEGE	317 COLLEGE ST
3102005	LYNCHBURG COLLEGE	319 COLLEGE ST
3102006	LYNCHBURG COLLEGE	321 COLLEGE ST
3102007	MAY DANIEL S & ROSE W	323 COLLEGE ST
3102008	LYNCHBURG COLLEGE	325 COLLEGE ST
3102010	LYNCHBURG COLLEGE	329 COLLEGE ST
3102011	LYNCHBURG COLLEGE	331 COLLEGE ST
3102012	LYNCHBURG COLLEGE	333 COLLEGE ST
3102013	LYNCHBURG COLLEGE	335 COLLEGE ST
3102014	LYNCHBURG COLLEGE	337 COLLEGE ST
3102015	LYNCHBURG COLLEGE	339 COLLEGE ST
3102016	LYNCHBURG COLLEGE	341 COLLEGE ST
3102018	LYNCHBURG COLLEGE	345 COLLEGE ST
3102019	LYNCHBURG COLLEGE	349 COLLEGE ST
3102021	LYNCHBURG COLLEGE	351 COLLEGE ST
3102022	LYNCHBURG COLLEGE	432 LAKEWOOD ST
3102023	LYNCHBURG COLLEGE	428 LAKEWOOD ST
3102025	LYNCHBURG COLLEGE	426 LAKEWOOD ST
3102026	LYNCHBURG COLLEGE	424 LAKEWOOD ST
3102027	HARPER ELEANOR K & TERRY G	422 LAKEWOOD ST
3102028	LYNCHBURG COLLEGE	420 LAKEWOOD ST
3102029	LYNCHBURG COLLEGE	416 LAKEWOOD ST
3102031	SCHOMAKER ROBERT J & MARGARET S	412 LAKEWOOD ST
3102033	HATCH PATRICIA L	410 LAKEWOOD ST
3102034	DREWRY EVERETT D & JEAN S	408 LAKEWOOD ST
3102036	LYNCHBURG COLLEGE	404 LAKEWOOD ST
3102037	LYNCHBURG COLLEGE	402 LAKEWOOD ST
3102039	LYNCHBURG COLLEGE	316 LAKEWOOD ST
3102040	SCHOMAKER ROBERT J & MARGARET	314 LAKEWOOD ST
3102041	LYNCHBURG COLLEGE	312 LAKEWOOD ST
3102042	LYNCHBURG COLLEGE	310 LAKEWOOD ST
3102043	LYNCHBURG COLLEGE	503 WESTWOOD AVE
3103001	LYNCHBURG COLLEGE	1501 LAKESIDE DR
5807001	LYNCHBURG COLLEGE	1228 SHIRLEY RD
5807002	LYNCHBURG COLLEGE	1226 SHIRLEY RD
5807003	DALTON MARK A	1224 SHIRLEY RD
5807004	WADE BOBBY C & JUDY ANN	1222 SHIRLEY RD
5807005	YOUNG WAYNE L & DOLLIE A	1220 SHIRLEY RD
5807006	BAILEY RICHARD L	1218 SHIRLEY RD
5807007	TYREE PROPERTIES LLC	1216 SHIRLEY RD
5807008	BRAUD LURLINE W	1214 SHIRLEY RD
5807009	TYREE PROPERTIES LLC	1212 SHIRLEY RD
5807010	PHELPS CHARLES A & NANCY L	1210 SHIRLEY RD
5807038	THOMAS ROAD BAPTIST CHURCH	608 THOMAS RD
16501001	LYNCHBURG COLLEGE	1701 LAKESIDE DR
16508017	LYNCHBURG COLLEGE	1601 LAKESIDE DR
Owner	LYNCHBURG COLLEGE	1601 LAKESIDE DR
Petitioner	LYNCHBURG COLLEGE	1601 LAKESIDE DR
Representative	JOHN LEWIS C/O LYNCHBURG COLLEGE	1601 LAKESIDE DR

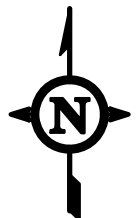


LYNCHBURG COLLEGE

1501 LAKESIDE DRIVE

LAND USE PLAN

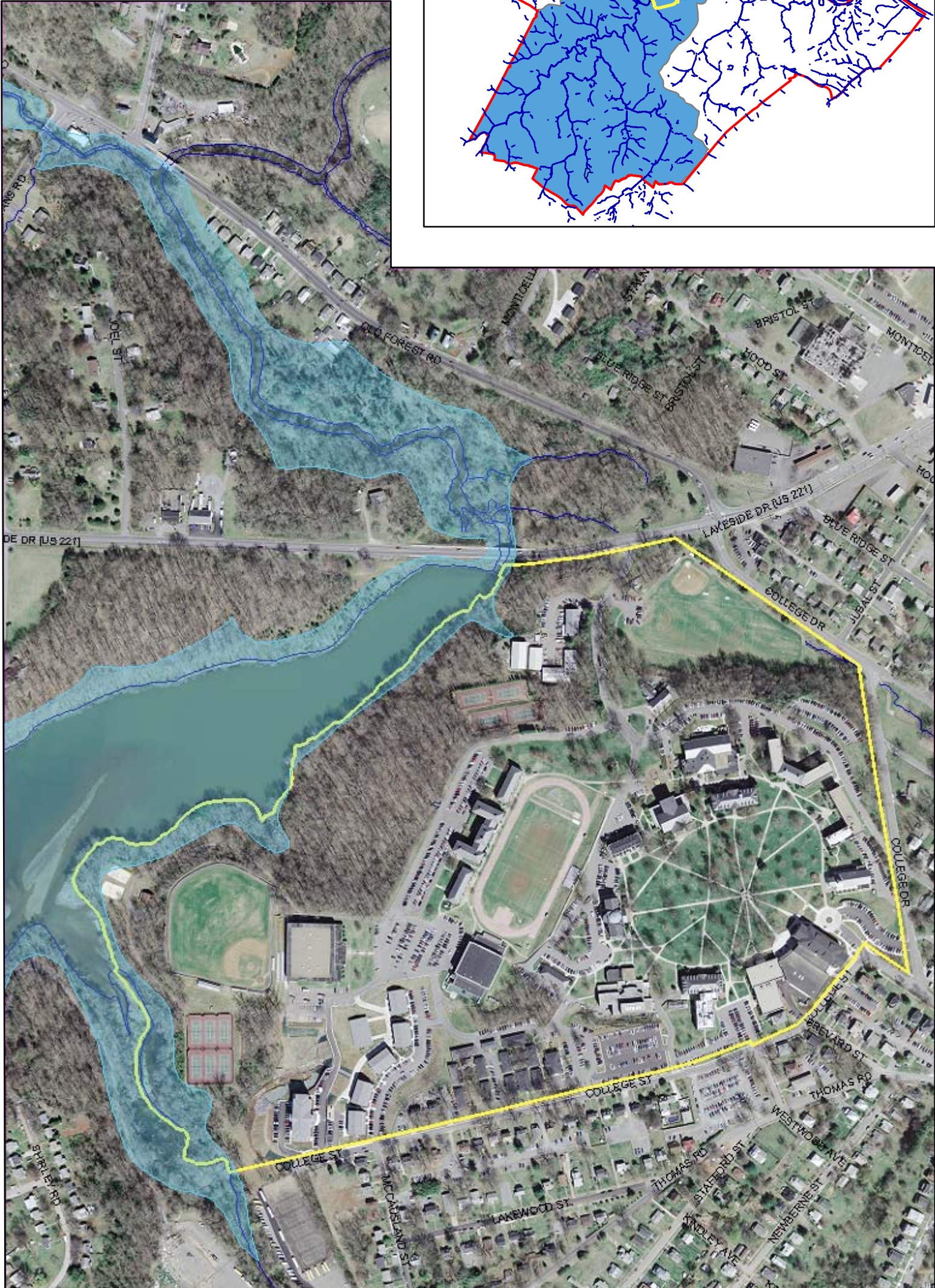
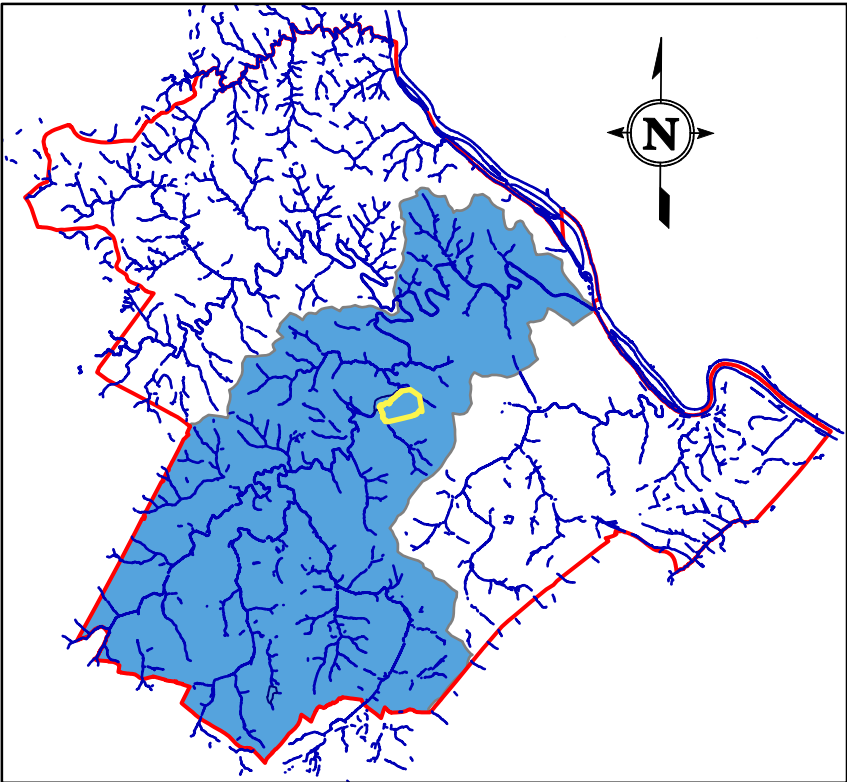
- Public Parks
- Resource Conservation
- Public Use
- Institution
- Downtown
- Office
- Employment 1
- Employment 2
- Neighborhood Commercial
- Community Commercial
- Regional Commercial
- Low Density Residential
- Medium Density Residential
- High Density Residential
- Traditional Residential
- LocalHistoricDistrict
- MixedLandUse



Lynchburg College Master Plan Amendment
Watershed Location Map

Legend

- Project Site
- Corporate Limit
- Blackwater Creek Watershed
- 100 Year Floodplain



**Lynchburg College
Master Plan Amendment
Response to TRC Comments
1-11-2008**

E and S #2 Overview of Stormwater Drainage-Thompson Addition

The proposed Thompson Education building addition will replace an existing landscape strip, sidewalk and paved parking spaces. The remaining asphalt parking area will be removed and become green space. The existing green buffer with shrubs on the College Street side will not be disturbed. Based upon the preliminary design there will not be a loss of total green space. The storm water from the roof gutters will connect to the existing underground storm water system for the building. The new green space will drain across the same surfaces as the previous parking spaces by sheet flow.

E and S #3- Stormwater Runoff- Thompson Addition

The Thompson Education building addition and the existing building storm water piping discharges into the wet weather stream below the building. This wet weather stream collects storm water from the College Street and Westwood Avenue drainage area upstream of Thompson Education building. The wet weather varies in width, depth and rate of fall on the way to discharge into an arm of College Lake.

E and S #2- Overview of Stormwater Drainage- Press Box

The proposed baseball field press box will be approximately 12' x 20' and will replace the existing structure which is 8' x 16'. The storm water will be collected by gutters and downspouts which will discharge on the area behind the structure. This storm water will sheet flow to the existing drainage swale behind the building.

E and S #3 -Stormwater Runoff- Press Box

The existing conveyance swale behind the proposed press box collects all the slope surface area behind the press box and the area between the existing press box and behind the brick wall in the direction of the home team dugout. This swale extends to an asphalt ditch which discharges into a grated inlet and pipe. This pipe discharges into an asphalt paved ditch above the tennis courts and then discharges into a wet weather stream near the tennis court. This wet weather stream discharges into an arm of College Lake.

LYNCHBURG COLLEGE Revised Master Plan for Conditional Use Permit

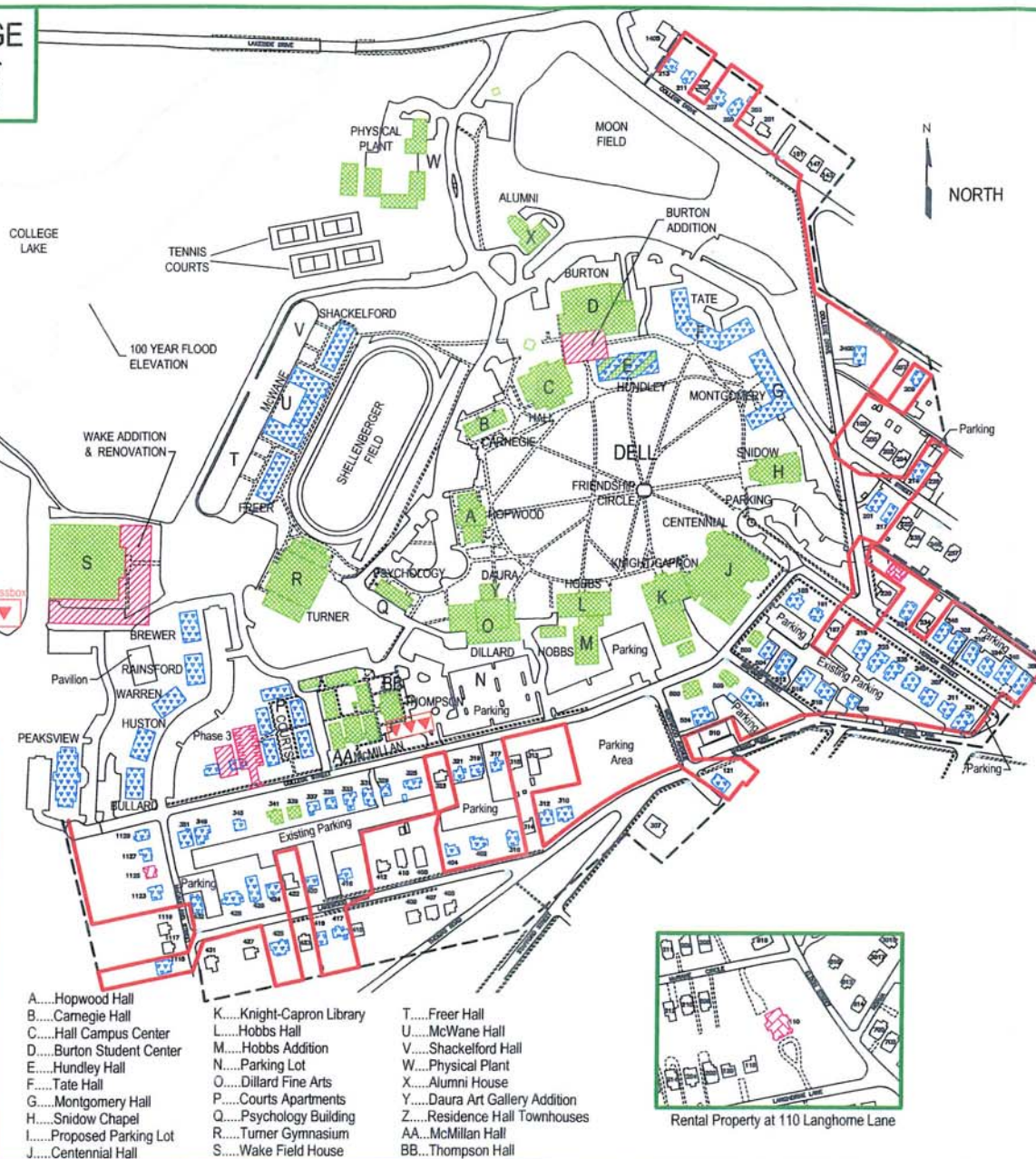
RECEIVED
JAN 11 2008
COMMUNITY
DEVELOPMENT

INDEX

- Limit of the College's long-term interest
- Property boundary line
- 100 Year Flood Elevation
- College Owned Classroom/Office
- LC Rental Property
- College-owned student housing
- Privately owned
- Under Construction
- Future Construction
- Pending Purchases
- Current Request for Conditional Use Permit
- Existing Fire Hydrants

SCALE
50' 100' 150' 200' 250' 300'

Revised: December 14, 2007



- | | | |
|-----------------------------|-----------------------------|----------------------------------|
| A.....Hopwood Hall | K.....Knight-Capron Library | T.....Freer Hall |
| B.....Carnegie Hall | L.....Hobbs Hall | U.....McWane Hall |
| C.....Hall Campus Center | M.....Hobbs Addition | V.....Shackelford Hall |
| D.....Burton Student Center | N.....Parking Lot | W.....Physical Plant |
| E.....Hundley Hall | O.....Dillard Fine Arts | X.....Alumni House |
| F.....Tate Hall | P.....Courts Apartments | Y.....Daura Art Gallery Addition |
| G.....Montgomery Hall | Q.....Psychology Building | Z.....Residence Hall Townhouses |
| H.....Snidow Chapel | R.....Turner Gymnasium | AA.....McMillan Hall |
| I.....Proposed Parking Lot | S.....Wake Field House | BB.....Thompson Hall |
| J.....Centennial Hall | | |



Rental Property at 110 Langhome Lane

APPROVED 1989-2006:

- Dell Renovations
- Entrance Road & Physical Plant Parking
- Science Building Addition
- Daura Art Gallery Addition
- Residential Properties - Student Housing
- Hobbs Hall Renovation
- 512 Brevard - Student Housing
- 511 Brevard - Student Housing
- 215 Vernon - Student Housing
- Turner Gym Additional and Shelter
- Physical Plant Storage Building
- 504 Brevard - Student Housing
- 245 Vernon - Student Housing
- 341 College - Temporary Offices;
- Then Student Housing
- Hall Center - Classrooms/Offices
- 207 College - Student Housing
- 516 Brevard - Student Housing
- 319 College - Student Housing
- 321 College - Student Housing
- 325 College - Student Housing
- 339 College - Student Housing
- Residence Hall Townhouses - Phase 1
- 424 Lakewood - Student Housing
- 312 Lakewood - Student Housing
- 420 Lakewood - Student Housing
- 425 Lakewood - Student Housing
- 504 Westwood - Student Housing
- Centennial Hall (Educational Building)
- 316 Lakewood - Student Housing
- 426 Lakewood - Student Housing
- 191 Vernon - Student Housing
- 225 Vernon - Student Housing
- 235 Vernon - Student Housing
- 246 Vernon - Student Housing
- 302 Vernon - Student Housing
- 310 Vernon - Student Housing
- 311 Vernon - Student Housing
- 331 Vernon - Student Housing
- 348 Vernon - Student Housing
- Residence Hall Apartments (Phase 2)
- 201 Bell - Student Housing
- 224 Vernon - Student Housing
- 350 Vernon - Student Housing
- 1123 McCausland - Student Housing
- 121 Thomas - Student Housing
- 310 Lakewood - Student Housing
- 416 Lakewood - Student Housing
- 432 Lakewood - Student Housing
- 214 Bell - Student Housing
- 404 Lakewood - Student Housing
- 428 Lakewood - Student Housing
- 185 Vernon - Student Housing
- 307 Vernon - Student Housing
- 209 Amelia - Student Housing
- 324 Vernon - Student Housing
- 518 Brevard - Student Housing
- 317 College - Student Housing
- 217 Bell - Student Housing
- 402 Lakewood - Student Housing
- 417 Lakewood - Student Housing
- 419 Lakewood - Student Housing
- 1115 McCausland - Student Housing

CURRENT REQUEST

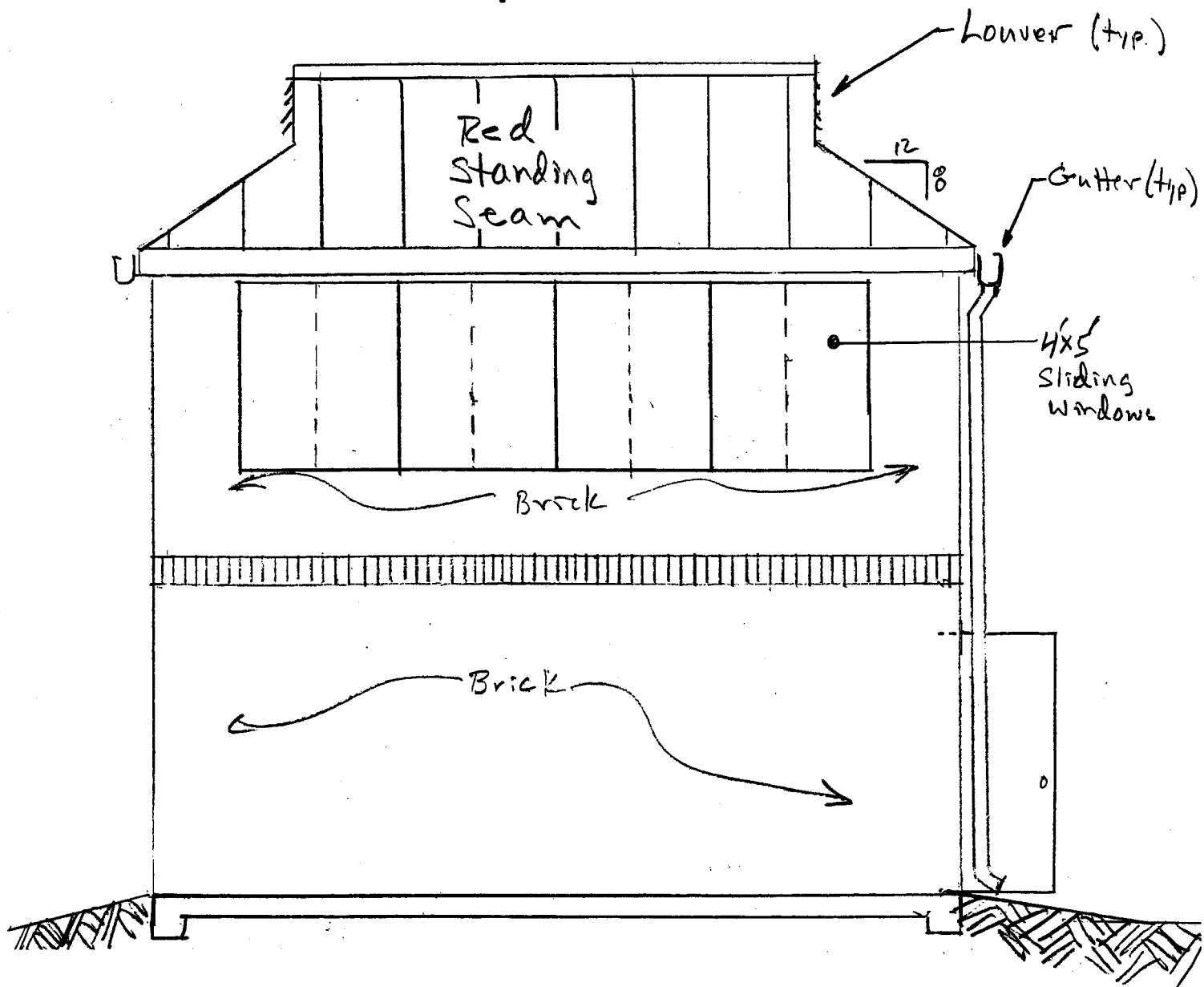
- Thompson Addition
- Fox Baseball Field Press Box

FUTURE CONSTRUCTION:

- Burton Student Center Addition/Renovation
- Wake Field House Addition/Renovation
- Residence Hall Townhouses - Phase 3
- (Demolish 346 & 348 College St.)

1 OF 4

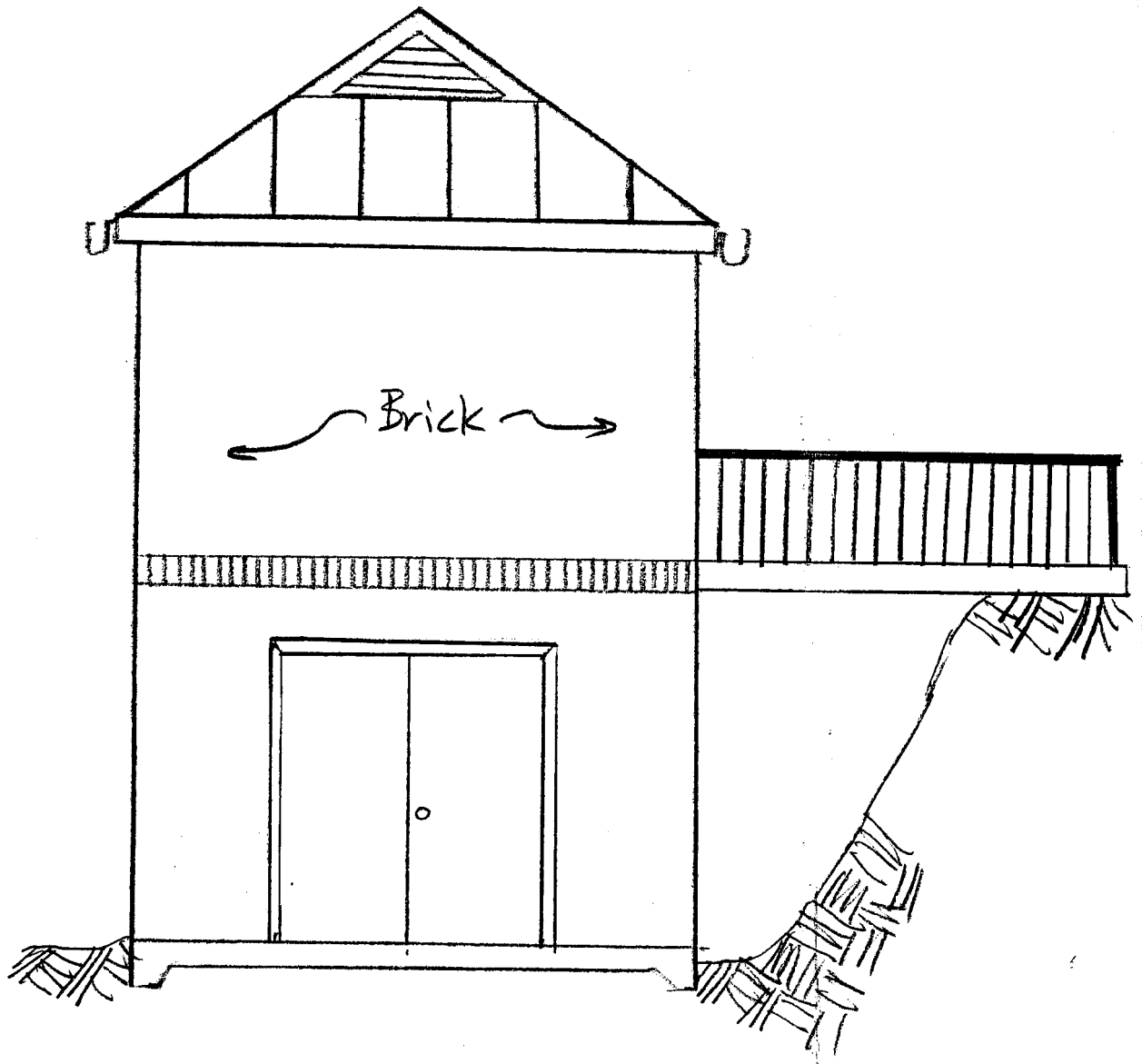
FOX FIELD

PRESS BOX & STORAGEFRONT ELEVATION $\frac{1}{4}$ " ScaleNotes:

- ① The 100 year flood plain and the floodway boundary will not be impacted by this project. The building is approximately 40' above the 100 year flood plain.
- ② The water surface elevation at the property lines on College Lake will not be impacted by this project.
- ③ This project requires no new City Water or Sewer connections.

LYNCHBURG COLLEGE
PRESS BOX

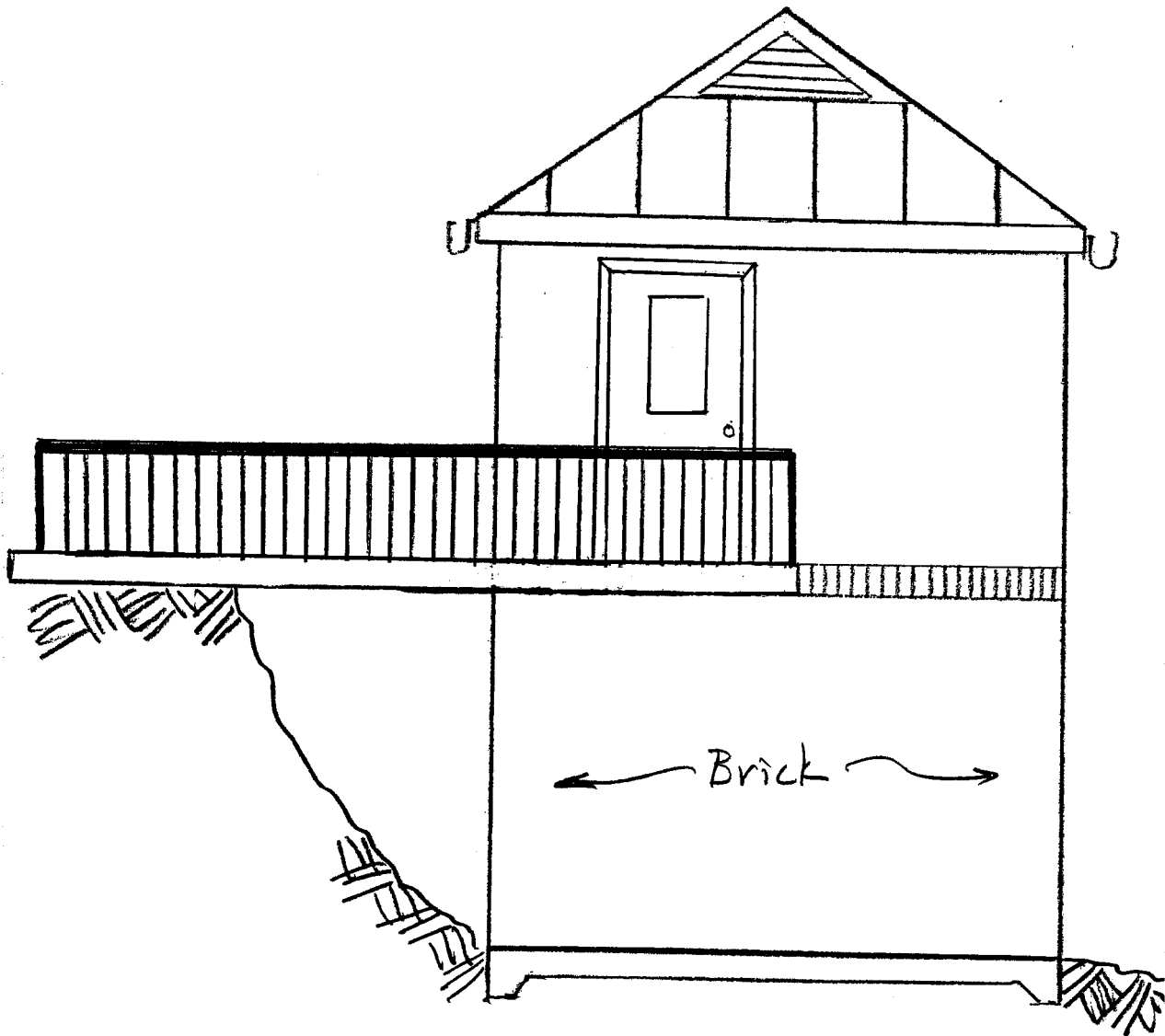
2 OF 4



RIGHT ELEVATION

LYNCHBURG COLLEGE
PRESS BOX

3 OF 4

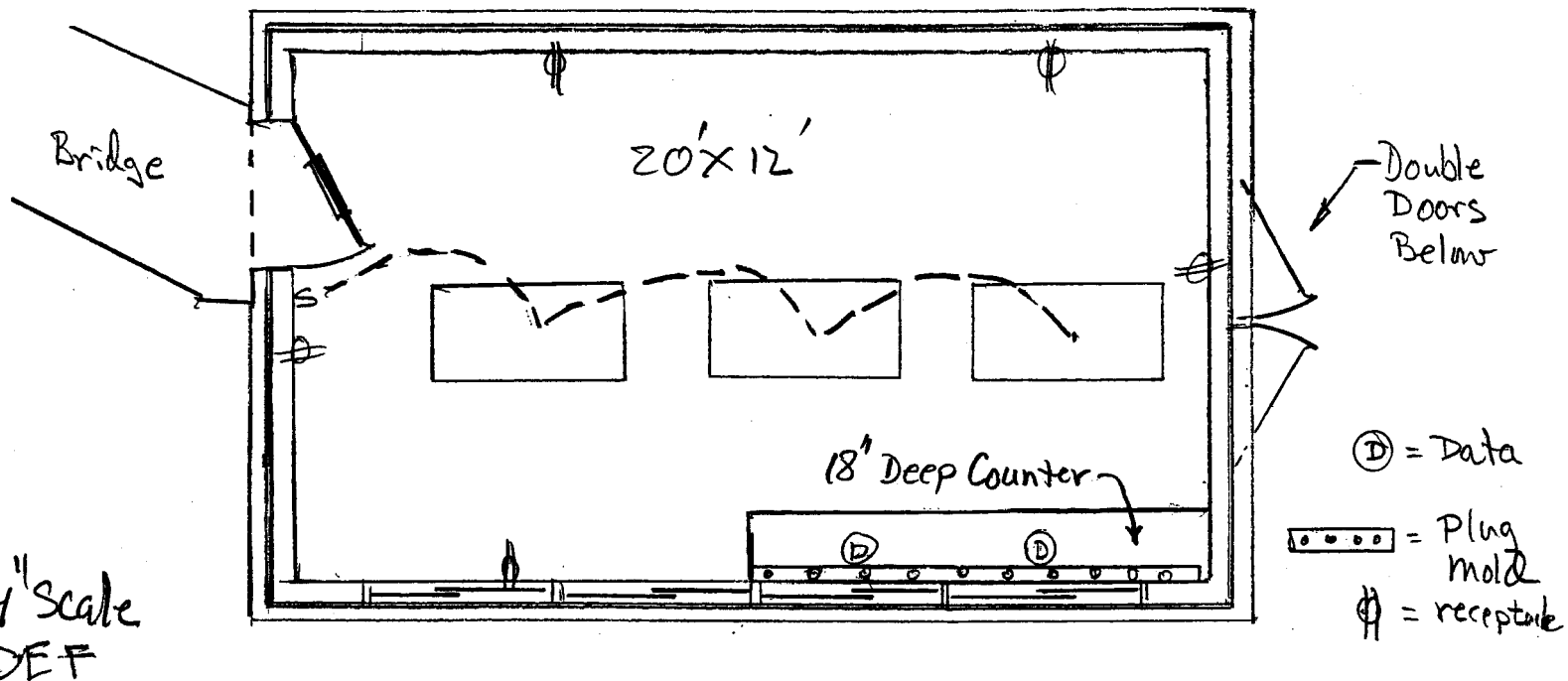


LEFT ELEVATION

1/4" Scale

LYNCHBURG COLLEGE PRESS BOX

4 OF 4

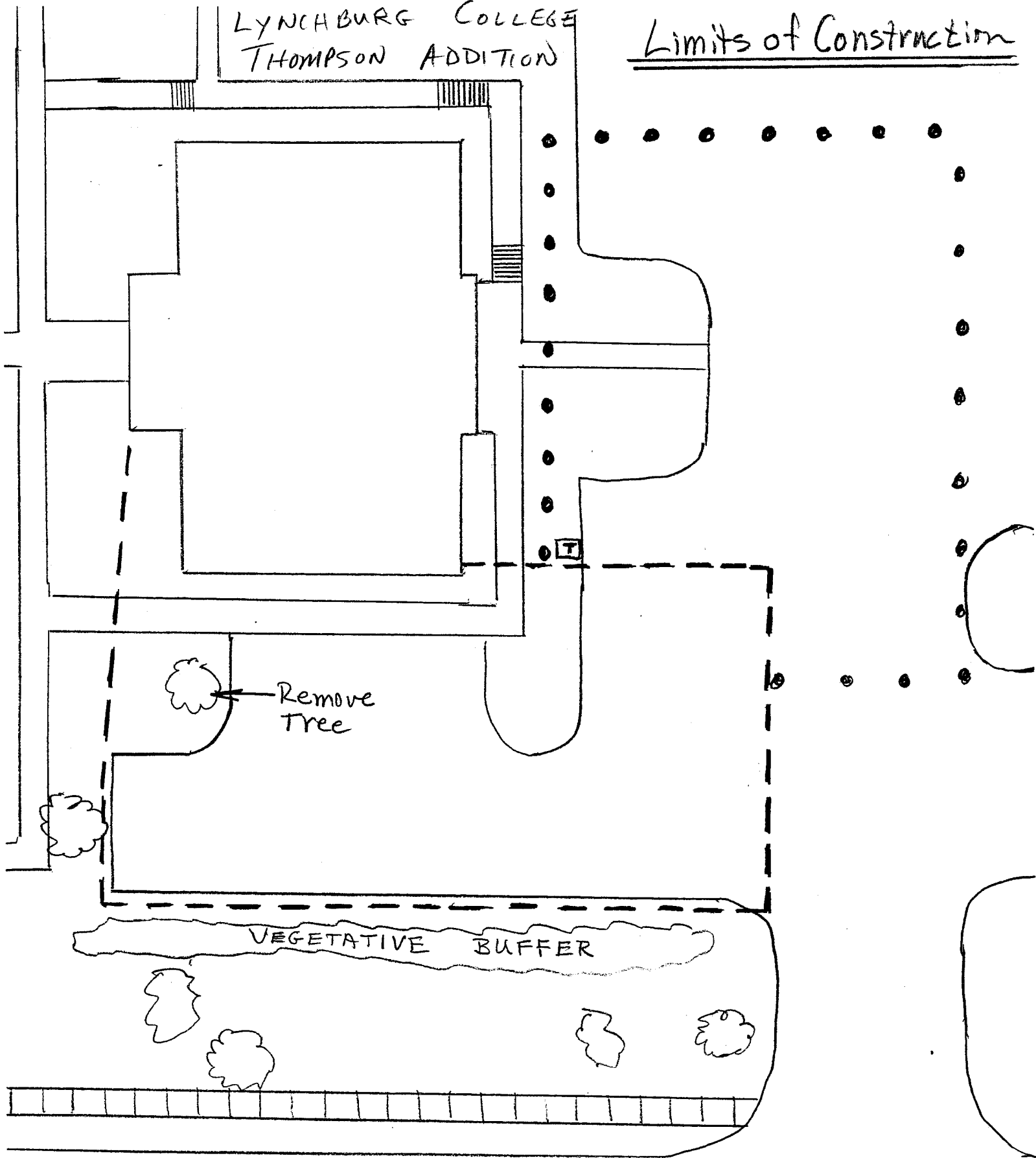


PLAN VIEW

1/4" Scale

LYNCHBURG COLLEGE
THOMPSON ADDITION

Limits of Construction



COLLEGE STREET

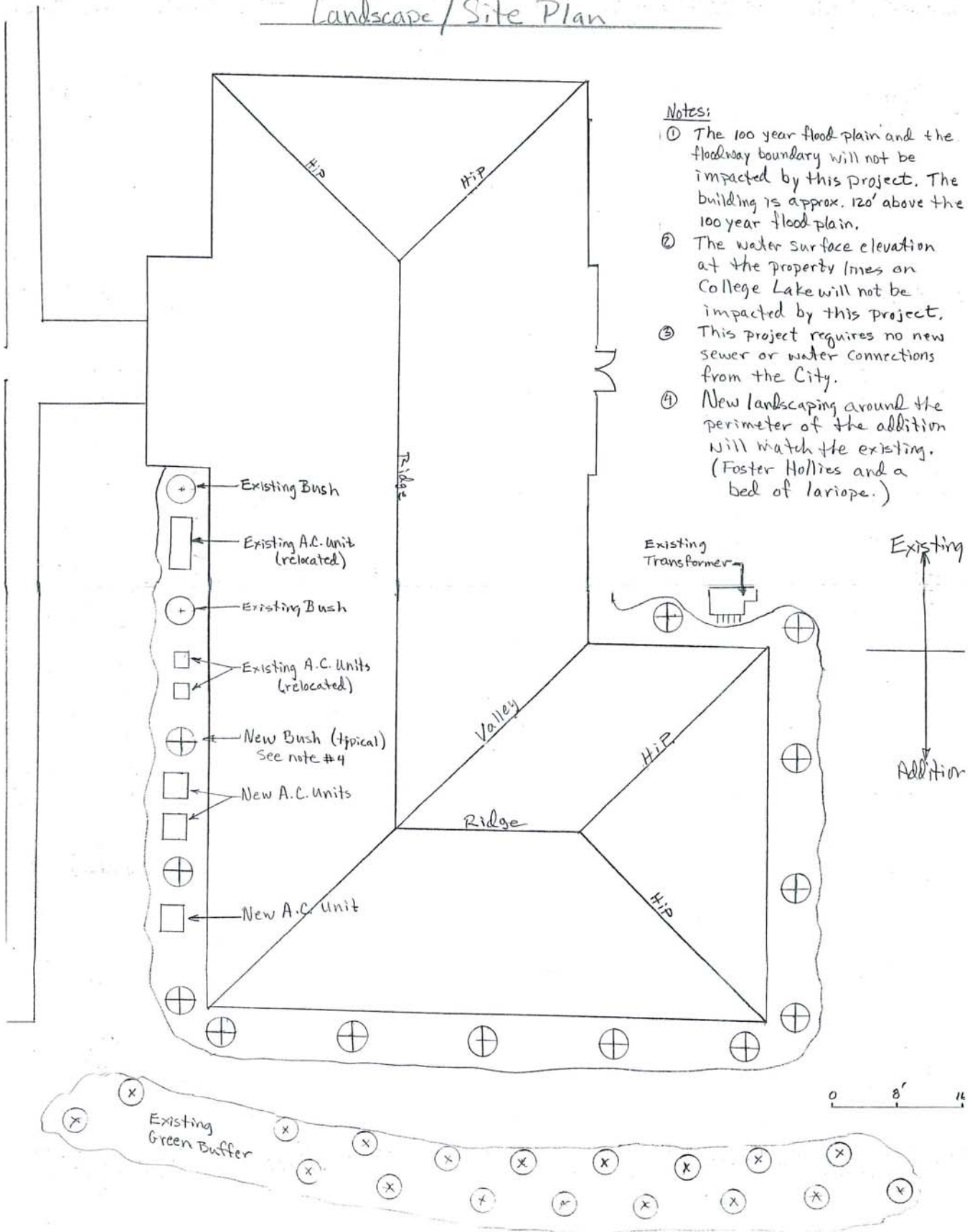
1" = 20'

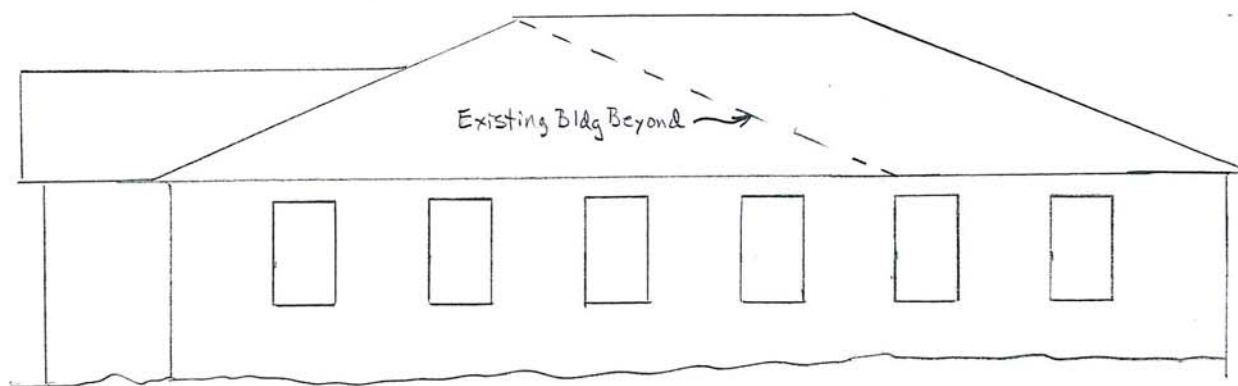
Legend:

Limits of construction

.....
Limits of Contractor Staging Area

Landscape / Site Plan

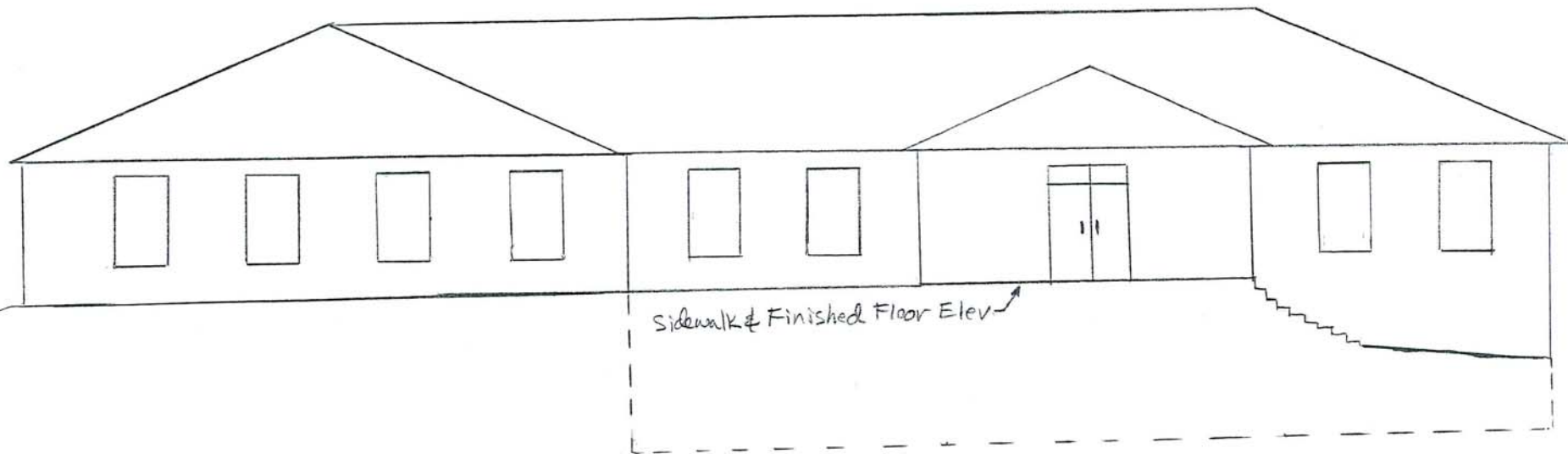
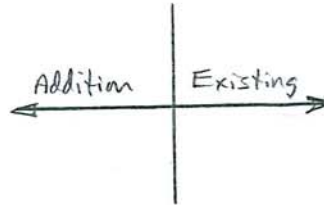




THOMPSON ADDITION
LYNCHBURG COLLEGE

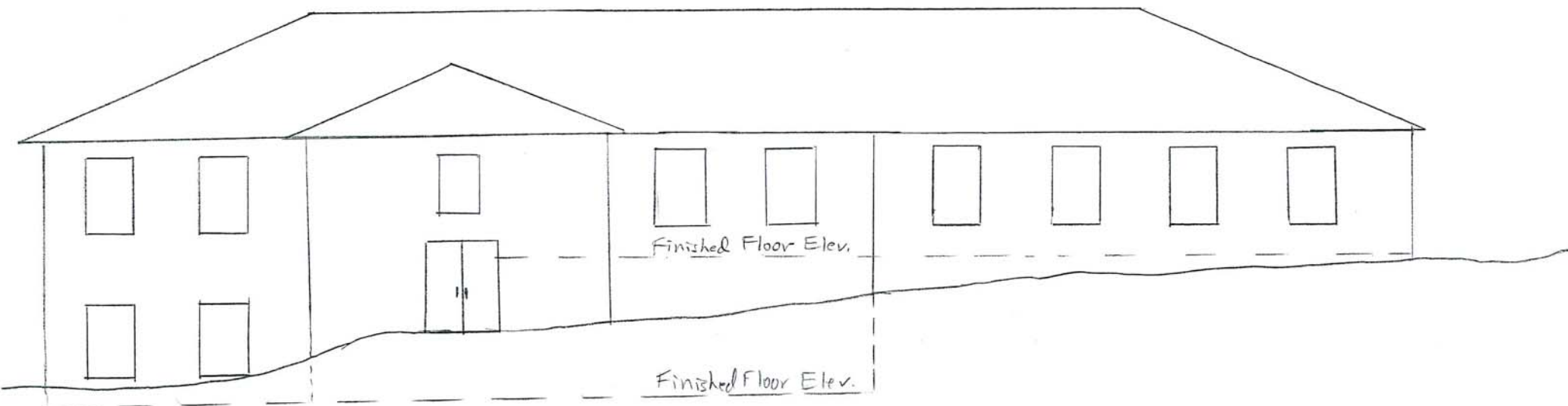
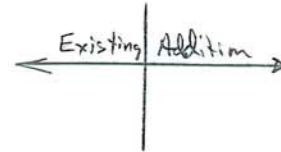
RIGHT ELEVATION

FACES COLLEGE STREET



THOMPSON ADDITION
LYNCHBURG COLLEGE

REAR ELEVATION
FACES PARKING LOT



THOMPSON ADDITION
LYNCHBURG COLLEGE

FRONT ELEVATION

FACES McMILLAN NURSING

LYNCHBURG CITY COUNCIL
Agenda Item Summary

MEETING DATE: February 12, 2008		AGENDA ITEM NO.: 7
CONSENT:	REGULAR: X	CLOSED SESSION: (Confidential)
ACTION: X	INFORMATION:	
<u>ITEM TITLE:</u> CONDITIONAL USE PERMIT (CUP) – Cornerstone Traditional Neighborhood Development (TND) Master Plan Amendment – Cornerstone TND - Greenview Drive		

RECOMMENDATION: Approval of the requested conditional use permit.

SUMMARY: JBO, LLC is petitioning for a conditional use permit to amend the Cornerstone Traditional Neighborhood Development (TND) Master Plan approved by City Council on June 27, 2006. The amendment includes the construction of one public street (Ridgeline Lane), one private street (Meridian Street), changes in the location of open space within certain blocks, and changes to the distribution of residential units. The amendment would not exceed the one thousand (1,000) residential units and two hundred thousand (200,000) square feet of commercial space originally approved by City Council; however, the housing mix would change to provide for six hundred (600) condominiums, two hundred and fifty (250) townhouses and one hundred and fifty (150) single-family detached homes, which is slightly different than what was originally approved. The amendment would also slightly increase the amount of parks, squares and open space to thirty-five and one tenth (35.1) acres. The Planning Commission recommended approval of the conditional use permit because:

- Petition agrees with the *Comprehensive Plan* which recommends a mixed use development for the property.
- Petition agrees with the *Zoning Ordinance* in that a TND is a permitted use in an R-1, Single-Family Residential District upon approval of a conditional use permit by City Council.
- The request would not increase the maximum net density of one thousand (1,000) units.
- The proposed streets are “internal” to the development and would not connect to any existing City streets.
- The proposed streets would not infringe on the required twenty-five (25) foot buffer area.
- The proposed streets are in keeping with the “TND Block Illustrative – Neighborhood Edge,” as included in the approved Design Guidelines.

PRIOR ACTION(S):

January 23, 2008: Planning Division recommended approval of the conditional use permit petition. Planning Commission recommended approval (5-1-1; Abstention – Swienton, Absent - Sale) of the conditional use permit with the following conditions:

1. The property shall be developed in substantial compliance with the submitted master plan entitled “Cornerstone Conditional Use Permit Street Additions” dated January 23, 2008 and prepared by Guffey Warner & Associates Engineers and Surveyors, and Perkins & Orrison Engineers, Planners and Surveyors.
2. All conditions of Resolution #R-06-075, approved by City Council on June 26, 2006, will remain in effect for the Cornerstone Traditional Neighborhood Development.

- December 11, 2007: The Planning Division requested the consent of City Council that the addition of three (3) streets to the sketch plan was in keeping with the intent of the CUP approved June 27, 2006. At this meeting, City Council decided (6-1) that the addition of three new streets was a significant change in the Cornerstone TND Master Plan, and the petitioner should resubmit a CUP application to amend the Master Plan.
- November 13, 2007: City Council took no action on the proposed dedication and naming of one (1) public street and the naming of two (2) private streets.
- November 7, 2007: The Windsor Hills Neighborhood Association represented by Phyllis C. Katz, Attorney, Sands, Anderson, Marks & Miller, submitted an "Appeal of actions of City Planner/Planning Commission Cornerstone TND" to the Lynchburg Board of Zoning Appeals.
- October 10, 2007: The Planning Division gave an affirmative decision that the proposed streets are in keeping with the intent of City Council Resolution #R-06-075. The Planning Division recommended approval of the proposed street dedication and naming of one (1) public street and naming of two (2) private streets. The Planning Commission recommended approval of the street dedication and naming (6-1).
- August 20, 2007: The Technical Review Committee (TRC) members Gerry Harter, Transportation Engineer, Greg Wormser, Fire Marshal's Office, the Emergency Communications Administrator and the Lynchburg Post Office Customer Services Manager found that the proposed street names do not conflict with any existing street names.
- June 27, 2006: City Council approved Resolution #R-06-075 creating the Cornerstone Traditional Neighborhood Development.

FISCAL IMPACT: N/A

CONTACT(S):

Charlene Montford/ 455-3902; Tom Martin/ 455-3909

ATTACHMENT(S):

- Resolution
- PC Report
- PC Minutes
- Vicinity Zoning Pattern
- Vicinity Proposed Land Use
- Watershed Location Map
- Proposed Cornerstone TND Plan – Street Additions
- Cornerstone TND Plan – April 24, 2006 (approved as part of Resolution #R-06-075)
- City Erosion and Sediment Control Inspection Log and Enforcement Actions
- Speaker Sign-Up sheet

REVIEWED BY: lkp

RESOLUTION

A RESOLUTION GRANTING A CONDITIONAL USE PERMIT TO AMEND THE CORNERSTONE TRADITIONAL NEIGHBORHOOD DEVELOPMENT MASTER PLAN IN A R-1, LOW DENSITY SINGLE-FAMILY RESIDENTIAL DISTRICT LOCATED AT 401 CORNERSTONE STREET AND 100, 200, AND 300 CAPSTONE DRIVE.

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF LYNCHBURG that the petition of JBO, LLC for a conditional use permit for use of the property at 401 Cornerstone Street and 100, 200 and 300 Capstone Drive to amend the Cornerstone Traditional Neighborhood Development (TND) Master Plan approved by City Council on June 27, 2006 to include the construction of one public street (Ridgeline Lane), one private street (Meridian Street), changes in the location of open space within certain blocks and changes to the distribution of residential units be, and the same is hereby, approved subject to the following conditions:

1. The property shall be developed in substantial compliance with the submitted master plan entitled "Cornerstone Conditional Use Permit Street Additions" dated January 23, 2008 and prepared by Guffey Warner & Associates Engineers and Surveyors, and Perkins & Orrison Engineers, Planners and Surveyors.
2. All conditions of Resolution #R-06-075, approved by City Council on June 26, 2006, will remain in effect for the Cornerstone Traditional Neighborhood Development.

Adopted:

Certified:

Clerk of Council

012L

The Department of Community Development
City Hall, Lynchburg, VA 24504

434-455-3900

To: Planning Commission
From: Planning Division
Date: January 23, 2008
Re: **CONDITIONAL USE PERMIT (CUP): Cornerstone Traditional Neighborhood Development (TND) Master Plan Amendment – Cornerstone TND – Greenview Drive**

I. PETITIONER

JBO, LLC, 113 Goldenrod Place, Lynchburg, VA 24502

Representative: Norman B. Walton, Jr., Project Manager, Perkins & Orrison, 20436 Lynchburg Highway, Unit I, Lynchburg, VA 24502

II. LOCATION

The subject properties include four (4) tracts totaling sixty (60) acres located at 401 Cornerstone Street and 100, 200 and 300 Capstone Drive.

Property Owner: JBO, LLC, 113 Goldenrod Place, Lynchburg, VA 24502

III. PURPOSE

The purpose of this petition is to amend the Cornerstone Traditional Neighborhood Development (TND) Master Plan approved by City Council on June 27, 2006. The amendment includes the construction of one public street (Ridgeline Lane), one private street (Meridian Street), changes in the location of open space within certain blocks and changes to the distribution of residential units. The amendment would not exceed the one thousand (1,000) residential units and two hundred thousand (200,000) square feet of commercial space originally approved by City Council; however, the housing types would change to provide for six hundred (600) condominiums, two hundred and fifty (250) townhouses and one hundred and fifty (150) single-family detached homes, which is slightly different than what was originally approved. The amendment would also slightly increase the amount of parks, squares and open space to thirty-five and one tenth (35.1) acres.

IV. SUMMARY

- Petition agrees with the *Comprehensive Plan* which recommends a mixed use development for the area.
- Petition agrees with the *Zoning Ordinance* in that a TND is a permitted use in an R-1, Single-Family Residential District upon approval of a conditional use permit by the City Council.

V. FINDINGS OF FACT

- 1. Comprehensive Plan.** The *Comprehensive Plan 2002-2020* recommends a "Mixed Use" for the subject property. These areas do not fit into any single use category as they are planned for a mix of uses carefully designed so as to mitigate any potential land use conflicts. The *Comprehensive Plan* specifically states that the Greenview Planned Development Area (PDA) "should offer a mix of housing types at a maximum residential density of twelve (12) dwelling units per acre. A commercial area should not be required for this PDA, but if requested, it should be small, at the neighborhood or convenience commercial scale, since there are ample commercial areas along Timberlake Road. Traditional Neighborhood Development (TND) principles will apply. Pedestrian/bicycle connections to Timberlake Road should be provided through medium and/or high density residential areas north of Greenview PDA and via the Resource Conservation Area shown on the *Future Land Use Map*. **(page 4.21)**

2. Zoning. The subject property was annexed into the City in 1976. The existing R-1, Low-Density, Single-Family Residential and R-C, Conservation District zoning was established in 1978 with the adoption of the City's current Zoning Ordinance. Traditional Neighborhood Developments are permitted uses in these districts upon approval of a conditional use permit by the City Council and provided that the intent and objectives of the *Zoning Ordinance* are met. The City Council approved a TND for the subject property on June 27, 2006.

Section 35.1-43.5, Traditional Neighborhood Developments, states "it is the intent of the traditional neighborhood development (TND) section to provide opportunities for the creation of new neighborhoods designed along the traditions of small town and urban neighborhood development prevalent in the United States from colonial times until the 1940's. These design traditions created communities that fostered strong connections between people as they lived, worked, shopped, learned, recreated and worshiped. Because TNDs are tightly knit and incorporate an integrated mix of uses, they do not meet the development standards of the city's existing zones. Therefore, this TND section is provided to offer a flexible set of land use and design regulations based on performance standards that will allow traditional neighborhood development subject to site-specific city review. Where TNDs are deemed appropriate by the City Council, all dimensional specifications, setback, buffering, and landscaping requirements, and location of parking facilities and recreation facilities prescribed elsewhere in this ordinance are herein replaced by an approval process in which the approved TND plan and design guidelines become the basis for continuing land use controls".

3. **Board of Zoning Appeals (BZA).** The Zoning Official has determined that no variances will be needed for the proposed rezoning.
4. **Surrounding Area.** There have been several items requiring City Council approval in the immediate area:
 - On June 27, 2006, City Council approved the conditional use permit petition of JBO, LLC at 1207 and 1226 Greenview Drive for the construction of a Traditional Neighborhood Development.
 - On February 13, 2001, City Council approved the conditional use permit petition of American Legion Post 16 at 1301 Greenview Drive to allow the construction of a building addition.
 - On August 10, 1999, City Council approved the rezoning petition of Gerald and Deborah Maxey to rezone eight tenths (0.8) acre at 794 Leesville Road from B-3, Community Business District (Conditional) to B-1, Limited Business District (Conditional) to allow a counseling service.
 - On April 13, 1999, City Council denied the rezoning petition of Calla Forlines Mounts and Jo Anne Carter to rezone two and six tenths (2.6) acre at 794 Leesville Road and Greenview Drive from R-1, Low-Density, Single-Family Residential District and B-3, Community Business District (Conditional) to B-3, Community Business District (Conditional) to allow the construction of a convenience store.
 - On January 12, 1993, City Council approved the rezoning petition of Lowes Home Centers, Inc. to rezone sixteen (16) acres at 8208, 8216, 8300, 8308 and 8312 Timberlake Road and 1012 Greenview Drive from B-1, Limited Business District and B-3, Community Commercial District to B-5, General Business District (Conditional) to allow the construction of a home improvement center, restaurant and associated parking.
 - On September 12, 1989, City Council approved the rezoning petition of Hunter Associates, Inc. to rezone four tenths (0.4) acre at 795 Leesville Road from R-1, Low-Density, Single-Family Residential District to B-1, Limited Business District to allow the construction of an office building.

- On October 13, 1987, City Council approved the rezoning petition of Glenn and Jo Anne Carter to rezone three and five tenths (3.5) acres at 794 Leesville Road from R-1, Low-Density, Single-Family Residential District to B-3, Community Business District (Conditional) to allow a nursery expansion.
- On August 12, 1986, City Council approved the conditional use permit petition of Berean Baptist Church at 1400 Greenview Drive to allow the construction of a church building and parking area.
- On May 14, 1985, City Council approved the conditional use permit petition of CHA Construction Company off Timberlake Road (Golden Pond) to allow the construction of a recreation center and parking area within the 100 year floodway.
- On November 8, 1983, City Council approved the rezoning petition of Andrew Ellett to rezone one and two tenths (1.2) acres at 797 and 799 Leesville Road from R-1, Low Density, Single-Family Residential District to B-3, Community Business District (Conditional) to allow the installation of gasoline pumps and the sale of gasoline.
- On June 28, 1983, City Council approved the conditional use permit petition of Rainbow Church of God at 1227 Greenview Drive to allow the construction of a sanctuary.

5. Site Description. The subject properties include Blocks J, N, O, P, Q, and R of the Cornerstone Traditional Neighborhood Development; these areas have been graded as part of an approved Bulk Grading Plan. The westernmost property is crossed by Dreaming Creek from north to south. A portion of the property adjacent to Dreaming Creek is located within the one hundred (100) year flood zone.

Adjacent properties within the Cornerstone TND include Blocks A, B, C, D, E, F, G, H, I, K, L and M. Site plans are currently under review for Blocks A, B, C, D, G, L and M. Much of the infrastructure has been approved and installed for the balance of the project, with Blocks H and I currently under construction.

The TND is bordered to the northeast by a single-family neighborhood (Windsor Hills), to the southeast by an institutional use (Berean Baptist Church) to the southwest by a mixture of institutional uses (Tree of Life Ministries, Greenview Church of God and American Legion Post #16) townhomes and single-family residences and to the northwest by commercial, townhomes and single-family residences.

6. Proposed Use of Property. The proposed amendment includes the construction of one public street (Ridgeline Lane) as part of Blocks P and Q and one private street (Meridian Street) within Blocks N and O. Ridgeline Street and Meridian Street (within Block O) would serve single-family detached homes while the addition of Meridian Street in Block N would allow for the construction of townhouses. The amendment would also change the location of open space within Blocks O and P that would ultimately increase the parks, squares, and open space from thirty-three and seven tenths (33.7) acres to thirty-five and one tenth (35.1) acres for the overall development. While the maximum one thousand (1,000) residential units remain unchanged, the amendment proposes to alter the approved unit mix, as follows:

	Residential Units Approved June 26, 2006	Residential Units Proposed January 23, 2008
Multi-Family	600	600
Single-Family Attached	300	250
Single-Family Detached	100	150

The total one thousand (1000) units remain in compliance with the requirements of City Code Section 35.1-43.7, Permitted uses in traditional neighborhood developments, and with City Council Resolution #R-06-075 (which originally approved the Cornerstone Traditional Neighborhood Development).

- 7. Traffic and Parking.** The proposed plan amendment provides for the construction of an internal public street and private street. The original TND plan indicated six (6) new connections to Greenview Drive and pedestrian/ bicycle connections to two (2) existing stub streets at the northeastern side of the property. The connections to the two (2) existing stub streets would remain pedestrian and bicycle connections only. The intersection at Lighthouse Drive/Cornerstone Street and Greenview Drive will still be signalized and serve as the main entrance into the development. The City's Transportation Engineer had no comments about the proposed addition of the internal streets.

Parking for the development is currently managed in the form of on street parking along the streets within the proposed development and off street parking lots as described within the approved design guidelines. Approved parking standards will not be altered.

- 8. Stormwater Management.** A stormwater management and erosion sediment control plan is required for each block within the development. Stormwater quantity for the development is addressed by the use of TND stormwater ponds integrated into the overall design of the TND. The quality of the stormwater will be managed within each block through the use of Best Management Practices and/or Low Impact Development practices designed to remove pollutants from the runoff before it reaches Dreaming Creek. The proposed plan amendment will not alter the approved stormwater management strategy for the Cornerstone TND; however, the addition of greenspace will provide a slight decrease in the stormwater volume and improve stormwater quality.

- 9. Emergency Services.** The Fire Marshal had no comments regarding the proposed plan amendment.

The Lynchburg Police Department had no comments about the addition of the two streets, the modification of housing types or the addition of open space.

- 10. Impact.** The City's *Comprehensive Plan* and *Future Land Use Map* recommend a "Residential, Mixed Use" for the subject property to be developed as a TND with a mix of housing types of up to twelve (12) units per acre. The plan also states that if a commercial area is requested, it should be small (at the neighborhood convenience scale). TNDs and amendments to those plans are permitted upon approval of a conditional use permit (CUP) by the City Council. If approved, the amended master plan and the originally approved design guidelines essentially become the zoning for the subject property. The amended plan and design guidelines would go far beyond any aesthetic control that could be regulated under the *Zoning Ordinance*.

The proposed construction of the new streets, alteration to the housing types and increase in greenspace would result in minimal impacts to the surrounding area and the development as a whole. Traffic, parking, stormwater management and emergency services concerns have all been addressed to the satisfaction of City staff and the result is a project that would fit into the fabric of the existing TND. In addition:

- The request follows the *Comprehensive Plan*, which recommends a mixed use development for the area.
- The request would not increase the maximum net density of one thousand (1,000) units.
- The proposed streets are "internal" to the development and would not connect to any existing City streets.
- The proposed streets would not infringe on the required twenty-five (25) foot buffer area.

- The proposed streets are in keeping with the "TND Block Illustrative – Neighborhood Edge," as included in the approved Design Guidelines.

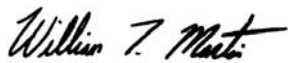
11. Technical Review Committee. The Technical Review Committee (TRC) reviewed the amendment to the master plan for the proposed TND on January 2, 2008. The TRC noted only minor revisions which have been addressed within the concept plan. Individual projects will be required to be reviewed by the Design Review Board for the Cornerstone TND (created by Resolution #R-06-075) and the TRC prior to any permits being issued.

VI. PLANNING DIVISION RECOMMEND MOTION:

Based on the preceding Findings of Fact, the Planning Commission recommends to City Council approval of the conditional use permit petition of JBO, LLC for the amendment to the Master Plan to allow additional streets in the Traditional Neighborhood Development (TND) at 401 Cornerstone Street and 100, 200 and 300 Capstone Drive subject to the following conditions:

- 1. The property shall be developed in substantial compliance with the submitted master plan entitled "Cornerstone Conditional Use Permit Street Additions" dated January 23, 2008 and prepared by Guffey Warner & Associates Engineers and Surveyors, and Perkins & Orrison Engineers, Planners and Surveyors.**
- 2. All conditions of Resolution #R-06-075, approved by City Council on June 26, 2006, will remain in effect for the Cornerstone Traditional Neighborhood Development.**

This matter is respectfully offered for your consideration.



William T. Martin, AICP
City Planner

pc: Mr. L. Kimball Payne, III, City Manager
Mr. Walter C. Erwin, City Attorney
Ms. Charlene B. Montford, Director of Community Development
Mr. J. Lee Newland, City Engineer
Ms. Cynthia L. Kozierow, Lynchburg Police Department
Battalion Chief Greg Wormser, Fire Marshal
Mr. Gerry L. Harter, Traffic Engineer
Mr. Robert Drane, Building Commissioner
Mr. Keith Wright, Zoning Official
Mr. Robert S. Fowler, Zoning Administrator
Mr. Kent L. White, Senior Planner
Mrs. Erin B. Hawkins, Environmental Planner

Mr. Norm Walton, Perkins and Orrison, Representative,
Mr. Mark Borel, JBO, LLC, Applicant

VII. ATTACHMENTS

- 1. Vicinity Zoning Pattern**
- 2. Vicinity Proposed Land Use**
- 3. Watershed Location Map**
- 4. Proposed Cornerstone TND Plan – Street Additions**
- 5. Cornerstone TND Plan – April 24, 2006 (approved as part of Resolution #R-06-075)**
- 6. City Erosion and Sediment Control Inspection Log and Enforcement Actions**

MINUTES OF THE JANUARY 23, 2008 PLANNING COMMISSION MEETING (MINUTES HAVE NOT BEEN APPROVED):

b. Petition of JBO, LLC for a conditional use permit at 401 Cornerstone Street and 100, 200 and 300 Capstone Drive to amend the existing master plan and allow the construction of a public street, the construction of a private street, changes to the location of various open space areas and changes to number of single-family attached, single-family detached and multifamily housing units within the Cornerstone Traditional Neighborhood Development (TND) in an R-1, Single-Family Residential District and R-C, Conservation District.

Before the public hearing started, Commissioner Swienton read the following statement: "I sought an opinion from the City Attorney, Mr. Walter Erwin, regarding the conflict that I might have and it is ironic that the integrity of the process has the possibility of overriding the action of seeking the truth regarding the developers' representations and citizen concerns. Based upon the advice of the City Attorney, I will remove myself from these proceedings for today and view them at a later date." At this time, Commissioner Swienton removed himself physically from the proceedings.

Mr. Martin addressed the commissioners with the following comments. The petition before them is proposing to amend the existing master sketch plan, adding one public street (Ridgelawn Lane), one private street (Meridian Street) and amending the unit mix of the proposed residential units and slightly increasing the amount of park squares and open space. The original master sketch plan was approved on June 27, 2006. The petition does agree with the City's *Comprehensive Plan* and *Future Land Use Map*, which recommends a mixed-use development for the subject property. The proposed amendments would not alter the maximum 1, 000 residential units approved by City Council. The proposed streets are internal to the development and would not connect to any streets external to the development. There will no infringement on the 25-foot buffer required by the June 27, 2006 approval. The proposed amendments are in compliance with the Cornerstone Design Guidelines approved by the City Council on June 27, 2006. The Planning Division does recommend approval of the conditional use permit petition.

Mr. Jeff Allen and Mr. Mark Borel of JBO, LLC, came forward to speak in favor of the petition. He introduced other members of their team, Norm Walton and Trent Warner who represent the two engineering firms, his son Marcus Borel and others who were present to answer any technical questions.

Mr. Jeff Allen mentioned that the streets were always included as part of the plan. At the time they brought their original plan, there was a serious question regarding connectivity between Cornerstone and the adjacent neighborhood. Until a decision could be reached on whether or not there would be a connection, the immediate order of the streets could not be designed. Once that issue was decided by City Council, they immediately designed the streets. What they are proposing today is virtually identical to what they had proposed originally and this was shown on the site plans submitted to the Planning Commission and available to the public for today's meeting.

Mr. Allen also commented that they did not try to circumvent the public hearing process. They followed the same procedure they had followed when two streets were added to the Wyndhurst community. Mr. Allen and Mr. Borel understand City Council's decision that they need to amend their original CUP and that is why they are here today.

As to the density issue, they listened to the Planning Commissioner's comments from the original public hearing that they wanted to see more single-family detached housing as opposed to townhouses. So they have taken one and a half lots and converted what that had anticipated to be townhouses into single-family detached. There are now fifty more single-family houses and fifty less townhouses.

Mr. Borel pointed out the new single-family housing and new green spaces on the site plan. He commented that over fifty percent of the development is now either green space or single-family

detached housing. They also changed the six-story buildings that were approved to a maximum of three-stories. These buildings were approved to be fifty percent apartments, but they have zero apartments. They are 100 percent condominiums. He also pointed out that there will now be 150 single-family homes that backs up to Windsor Hills. The least dense area in the development aside from the park is the single-family area that backs up to Windsor Hills.

Mr. Borel also mentioned that the city owns the right-of-way to the connecting roads to Moreview Drive. Neither the Cornerstone development or the City want them connected at this time, but if for some reason, connectivity has to take place in the future, the City has the right-of-way.

Mr. Borel also mentioned that there are over 2,000 trees being planted, over 10,000 shrubs and have put in their own wetlands. They are putting in over a mile of paved walking trails open to the city.

At this point, Chair Hamilton asked for anyone else present to speak in favor of the petition, and Mr. Robert Dawson of 4407 Boonsboro Road, came forward. His firm, Dawson, Ford Garbee & Company has been retained to do the overall marketing of Cornerstone. He wanted to compare this housing to other types of housing like this, such as Wyndhurst. He first mentioned that he is very proud to report that Lynchburg is one of only three localities in Virginia that did not experience depreciation last year.

With regard to Wyndhurst, there is a six-month supply of resale townhomes. There is a three-month supply of single-family homes. They are not experiencing a slump in the market in the price range that Cornerstone is within. To give them an understanding, if you reference this to the 24551 zip code, typically there is an eighteen-month supply. Mr. Dawson feels that there is a great need for the type of housing Cornerstone will provide, and he thinks that the developers have done a sensational job. It is amazing to have a community that has fifty percent green space. He also likes the number of trees and shrubs and the fact that they have reduced the number of stories in the condominium buildings.

Mr. Curtis McCormick of 1103 Moreview Drive came forward to speak in favor of the petition. He has 300 feet that runs beside Cornerstone on the southeast side. He is not objecting to this development. Everything that has happened to them, they have corrected. He has had dirt and rocks in his yard, but he has always felt that problems present opportunities to fix problems and meet people and make friends. He and his wife have lived at this address since 1977. The developers have done everything that they said they were going to do. He has no problem with the development whatsoever.

Mr. O. J. Misjuns of 1611 Enterprise Drive came forward next to speak in favor of the petition. He is part of a group that owns the 16-lot subdivision that they are developing by right across from the park. They purchased the land after they saw the plan for the park and they are very excited about being a part of that community. The park will be a great amenity to them and to the city. Whenever they saw the plats that they have seen through the whole process, they have seen those roads on them in some way or another from the beginning. If those roads were not allowed, what it would create for the community and the city would not be good.

Mr. Kevin Foster of Foster Construction came forward to speak in favor of the petition. He is in favor of the project for a lot of reasons. It creates a job for him and he likes working in the city of Lynchburg. He lives in Amherst but has a secondary residence in Wyndhurst. His company is working on 128 jobs in Cornerstone and he is excited about the single-family homes being built there. The more single-family we can get, he is on board because that is primarily what his company does.

At this point, Chair Hamilton asked for anyone present to speak in opposition to the petition. Mr. Albert Billingsly came forward to speak as the representative for the neighbors that have concerns about this development. He lives at 1115 Moreview Drive and is president of the Windsor Hills Neighborhood Association. He said that today is about more than just adding two more roads. He thanked the commissioners for their bold move that they made in 2006 when they recommended that the roads

through Windsor Hills would be open only to pedestrian and bicycle use. He is asking them today to take another bold move and that is to remove the twelve (12) houses that are adjoining Moreview Drive that are violating the original CUP. After this is taken care of, there are other items from the developer that they can support.

Mr. Billingsly pointed out that the ranges that were originally approved by City Council for each type of housing in the development. All of those added up to 1,000, but each type had a range. The range for single-family detached was 50 to 100. The overall layout submitted on October 10, 2007's public hearing showed 112 single-family detached houses, which is a 12 percent violation of the original CUP. If the roads had been approved by City Council, there would have been 12 percent more single-family houses than had been originally approved. This fact was discovered by the neighborhood committee, and they decided to take action and filed an appeal with the Board of Zoning Appeals. Greater density should equate to them a great buffer.

Another problem that concerns them with density is the height of the houses. They would like the maximum height allowed to be changed to a maximum of two stories.

The neighbors have had to endure problems that no one should have to endure. Only twenty percent of the land was to be uncovered at one time and ground cover put on before the next twenty percent was uncovered. Unfortunately, this was not the case, as fifty to sixty percent of the land was uncovered before anything was done. Work stoppages have had to be issued to get them to put some form of cover down.

In closing, Mr. Billingsly asked them again to remove the 12 houses that are in violation of the original CUP.

Dr. Tom Shahady from Lynchburg College came forward with some questions. He is not opposed to development. It is absolutely essential for the economic viability of Lynchburg. He also very much appreciates the amount of resources a developer puts into environmental controls. What he wanted to propose though is that we have a working, functional stormwater system in place. Although the change they are asking for in their footprint does not really make an impact on stormwater management, he would like to see an evaluation of the functioning stormwater system in place before City Council makes their decision. He pointed out that the *Comprehensive Plan* clearly states that environmental analysis should be used to modify, redesign or replan entirely proposed developments to ensure the City's environmental health. According to the City Code, they are required to submit annual reports on the functioning of the stormwater system and maintenance logs on these detention facilities. He did not see this information with the packet and would really like to see it. He would recommend to the commissioners to at least look at this before making their decision.

At this time, Chair Hamilton asked for those who were in opposition to this petition to stand, and one person stood. She asked for those in support of this petition to stand, and ten people stood in support of the petition.

Mr. Borel asked how long he had to respond to these comments and was told three minutes. He wanted Mr. Warner to respond to the stormwater issue and he would respond to the density issue. He explained that they are not increasing the density. They are removing fifty townhomes and replacing them with fifty single-family homes. That is good for the community. It lessens the density of development within the neighborhood.

Mr. Trent Warner came forward to address some of the concerns. He explained that when they came with the original plan, they had not done the design. They had done the blocks and the blocks were developed by hand. They then took that handdrawn diagram and put it to CAD and tried to make

things fit. The roads have been in there though since 2006. All the stormwater quality and quantity calculations have included those roads. The widening of Greenview Drive was accounted for as well.

Chair Hamilton asked Mr. Billingsly if he would like to come back up and address any of these comments. He reiterated that it comes down to the fact that they were over the limit of single-family detached homes when they tried to bring this before Council before. They can support more single-family homes, but not more packed into the same area. He thinks that the density in that area is up to seven per acre, much more dense than he believes you should have right behind their neighborhood.

Chair Hamilton closed the public hearing portion and opened it up to questions from the commissioners. Commissioner Barnes wanted to be sure that he understood the nature of Mr. Billingsly's objection. He wanted to be sure that what he objects to is that they are putting the homes on smaller lots. Mr. Billingsly said that was correct. Commissioner Barnes asked him how he feels that these single-family homes will negatively affect him and his neighbors. Mr. Billingsly said that it is an issue of noise and lights and the new roads that they are trying to get approved. He thinks that if they had seen these roads originally, they would have fought harder for more buffer space and less density. They also object to their being 112 homes in an area that was designed for a maximum of 100 homes.

Commissioner Barnes said that he understands that they have increased the number of single-family detached homes, but he does not quite understand how that negatively impacts his quality of life. He said that if they are three-story and there are five of them right behind his house, that is quite a bit of a difference from maybe two that are two-story. It is a visual thing. He thinks that if you have a home, that you should have a yard. Maybe that isn't the way people do it anymore. He thinks that this might make these temporary homes because people will want to move somewhere where they have a bigger yard. They want this community to turn out to be a stable one, but when they see more and more houses squeezed into the same area, it raises concern.

Commissioner Barnes asked Mr. Borel and Mr. Allen to address the issue of one to three stories. Where are they thinking of putting the three-story houses? Mr. Borel said that they are selling lots to builders, so they do not know for sure. He also explained that there is a difference between what they call a story and what Inspections calls a story. In Wyndhurst, there are two-story homes with a finished attic, so is that a two-story house or a three-story house? He does not think that there are any plans to build a three-story home with a roof on top, but he is not sure how they clarify that. He does not believe there are any at Wyndhurst that meet that definition. Mr. Allen also pointed out that it is virtually impossible to put a three-story plus a roof house on a narrow lot. Mr. Borel does not anticipate any three-story building being built anywhere in the single-family area.

Commissioner Barnes also asked him to compare the Cornerstone lot sizes to those in Wyndhurst to give Mr. Billingsly some idea as to the amount of turnover he might be able to expect. Mr. Borel pointed out on the site plan that between one connector road and the other connector road, they back up to twelve homes. They have thirteen homes that back up to their twelve. They have purposely designed the lots so that you get pie-shaped lots so the rear yards are wider than the front yard. As far as turnover is concerned, these are homes that people can afford and they will be quality homes. He cannot imagine anyone buying any of these homes and only staying a year. A person might buy here because this is a progressive neighborhood with a great design and he feels that he can buy and sell quicker.

Commissioner Hannon asked what the average lot size is. Mr. Borel said that the average lot size would be fifty feet wide and a hundred feet deep. That might sound small, but the whole thing behind a TND is smaller yards clustered with common green spaces. They have thirty-five acres with a mile of jogging trails, a fenced in playground, volleyball, outdoor grills and a pavilion. Commissioner Hannon asked for clarification that in order to get their fifty percent of green space, the lots have had to get

smaller. Commissioner Worthington commented that this is what he has seen being done in Northern Virginia.

Chair Hamilton asked Mr. Martin to explain the differences in the plan that was submitted in 2006 and the one being submitted now in terms of what the neighbors on Moreview Drive are seeing. She is talking about the number of backs of homes that are facing Moreview Drive now as opposed to what they approved in 2006. Mr. Martin explained that the plan that was approved by City Council in June 2006 was a sketch plan. What is at issue here is that you cannot separate this sketch plan and Design Guidelines that you also approved. The Design Guidelines set things like minimum and maximum heights, the minimum and maximum front setbacks and how much yard area there had to be per lot. It also gave illustrative designs for the different areas. When this came before Planning Commission in October, it was processed as a street dedication, explained the issues to the Planning Commission, and they felt that this was in compliance with the plan by a 6 to 1 vote. That was sent to City Council and they did not affirm Planning Commission's decision and that is why we are here today.

Mr. Martin commented that until a plan has a final signature on it, it is not approved. So Mr. Martin does not think that saying that there is 12 extra units there is really justifiable because they were never approved. The obvious difference between the two plans is that there is a street there. The Planning Division has tried to point out if that those streets are not there to serve the lots, there is no way you can develop the area with the small lot concept of a TND. The twenty-five foot buffer has not changed, a little bit of the green spaces has changed and the unit mix has changed. The total density has not changed. It is Mr. Martin's opinion that the amount of units that would have been adjacent to the existing neighborhood would not have changed.

Chair Hamilton asked Mr. Martin if he could address the grading and what was going on at that time environmentally and the stormwater issue. Mr. Martin stated that the Planning Division is a plan approval division; they are not an enforcement division. When the original plan was approved, it was approved as five phases with fifteen to twenty acres being denuded at one time. At some point in time, that was not adhered to and he really cannot respond to that any further.

Commissioner Barnes commented that for the record he wanted to scold the grader. The commissioners received the record of complaints and stop work orders and it is not acceptable. Mr. Borel commented that the grader is present and if they have any questions, he could share that with them. The commissioners said that they have the record and did not have any questions for him.

Commissioner Barnes wanted to know about Meridian Street and how the parking will be handled for that street. Mr. Borel answered that each of the blocks has an alley behind it with the option of either building a driveway and garage or having a driveway. All the housing has individual parking requirements that have to be adhered to, so when they submit a particular block for review, the parking issues will be addressed.

Commissioner Barnes also commented that the original plan showed Blocks A, B, C & D were designated as commercial employment. On the current plan, the only commercial part of that is a central street and the outside parts are residential condominiums. Mr. Borel explained that is where they put some of the condominiums so that they could reduce the height of some of the buildings. They also had a concern and reduced the amount of commercial, since the commercial part of Wyndhurst is not doing very well. They also will only have the first level as retail and the second floor as condominiums.

Chair Hamilton asked Mr. Borel to talk about the green space and who will maintain the park. He pointed out on the site plan the part that is along the Dreaming Creek Corridor that will be donated to the city for a city park. They will also be paying for the park improvements. It is a passive park with over a mile of paved trails and bridges. There is a gazebo under construction. They are also putting in a rather elaborate playground for children up to age 12 and another fenced-in area for kickball or frisbee.

Mr. Allen mentioned that there will also be access to the park from Greenview Drive as part of the widening of Greenview Drive. It will also have ADA accessibility.

Chair Hamilton asked for any comments from the commissioners and Commissioner Worthington stated that he is in favor of the petition and of the project itself. If people want houses on large lots, then the price of the home and lot will be higher than this type of project can provide.

Commissioner Oglesby thought that they had gone above and beyond what they needed to do. She likes the amount of green space and thinks that the plan turned out well.

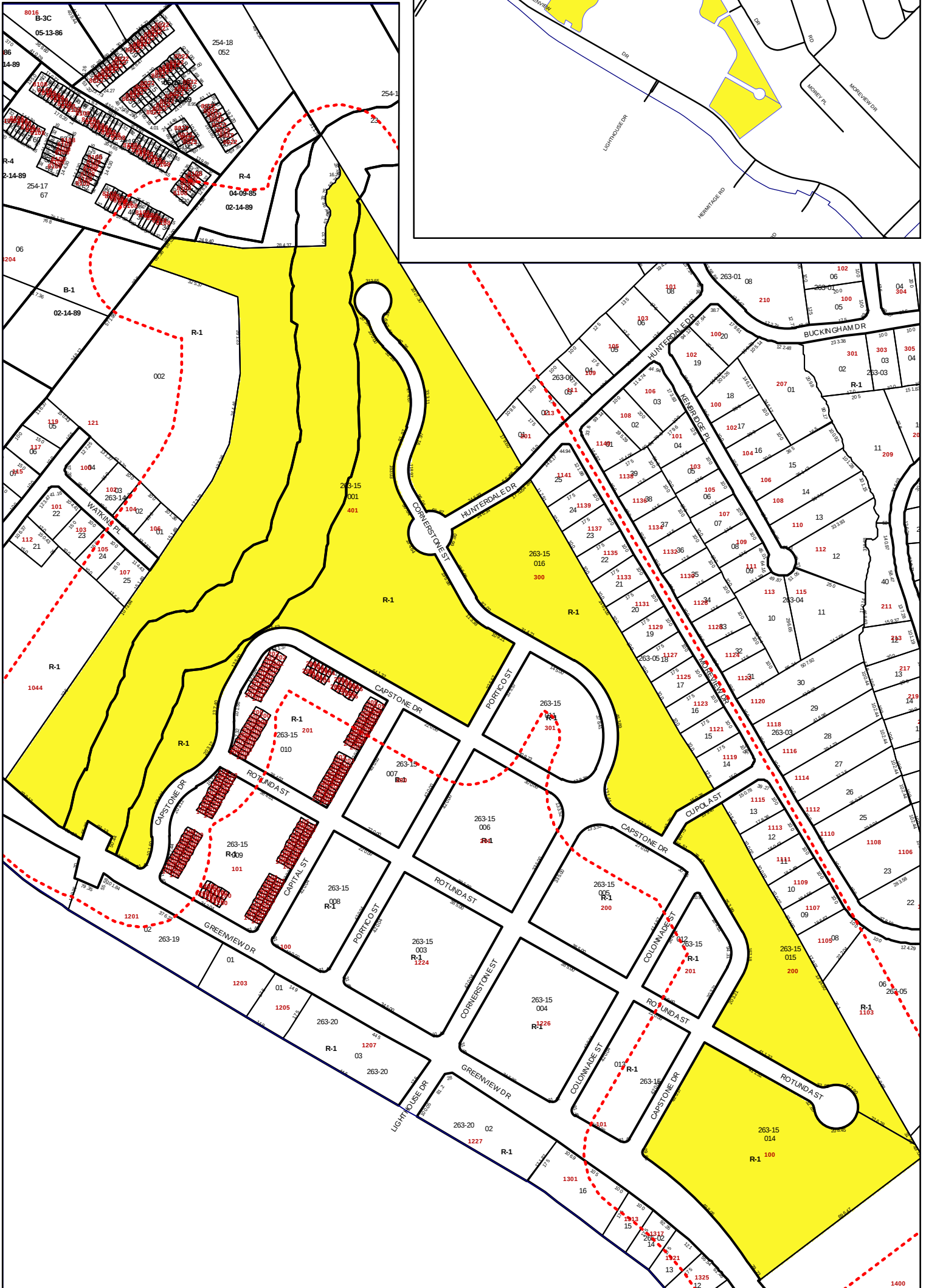
Commissioner Barnes said that he is prepared to vote. His questions have basically been answered. He wanted to address Dr. Shahady's concern in that with the changes to the type of housing, the amount of stormwater will certainly not increase. With the increase in green space, it may actually decrease. He is in favor of the petition.

Chair Hamilton said that she is excited about the park. She hopes that once this development is built and maintained, that it will be a comfortable place for neighbors to enjoy and it will be a community that will be a positive place for those who live in and around it. Nothing in great detail has changed for her in terms of the plan.

Commissioner Worthington made the following motion, which was seconded by Commissioner Barnes and passed by the following vote:

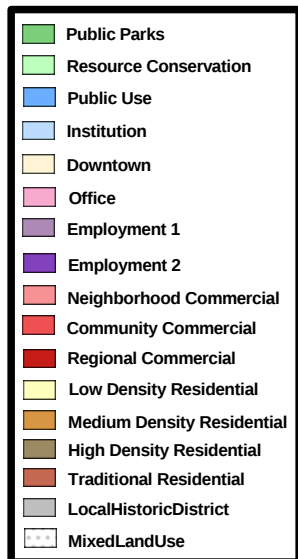
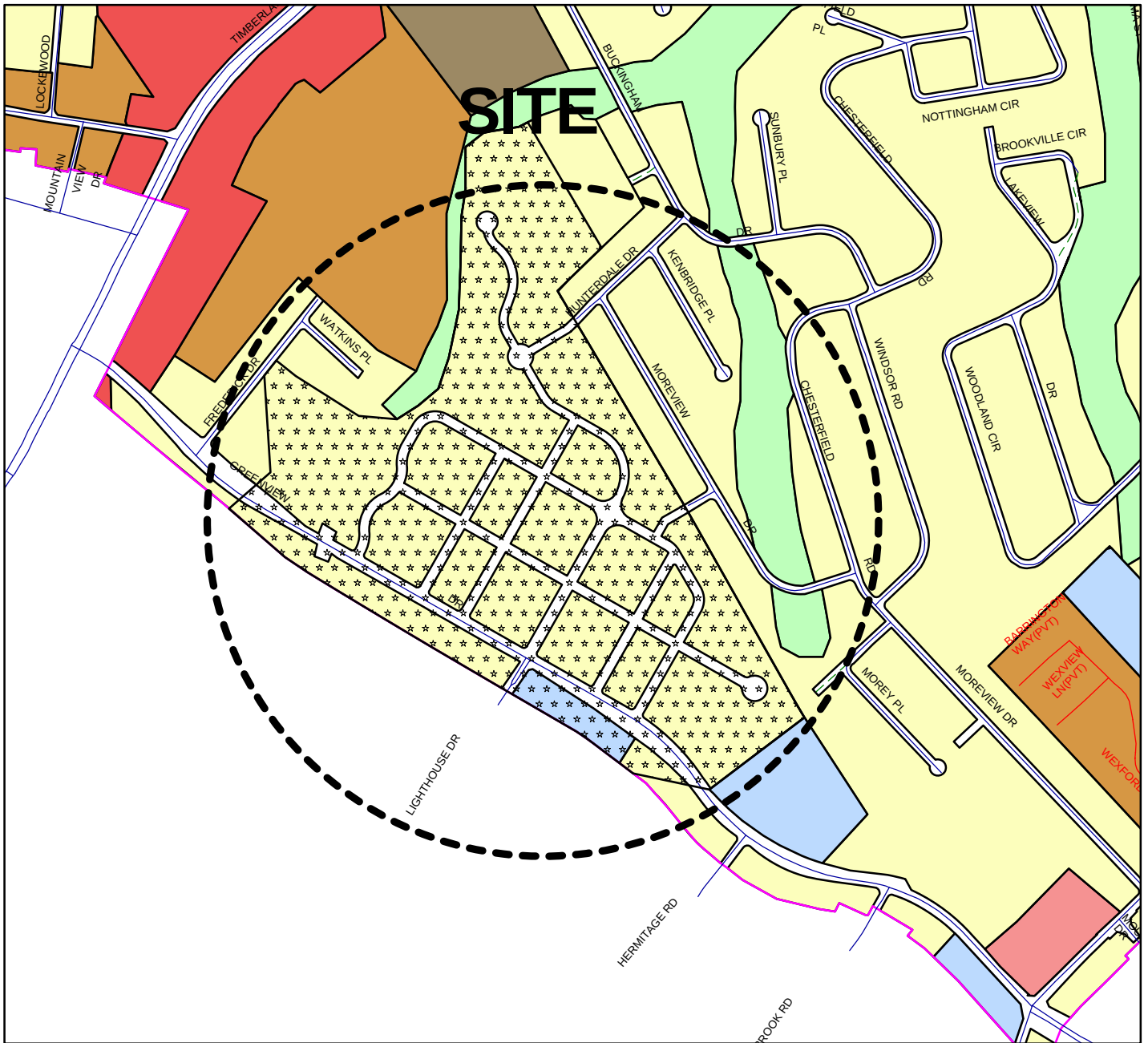
AYES:	Barnes, Hamilton, Hannon, Oglesby and Worthington	5
NOES:		0
ABSTENTIONS:	Swienton	1
ABSENT:	Sale	1

CORNERSTONE
100, 200, 300 Capstone Drive, 401 Cornerstone Street
Map # 263-15-001, 014/016
Conditional Use Permit Request
Petitioner: JBO, LLC



CORNERSTONE CUP ADJOINING OWNERS		
PN#	OWNER	LOCADOR
25413023	HANH ALFRED R	7906 TIMBERLAKE RD
25417029	TOWNS ELMER R & TOWNS STEPHEN T	8108 TIMBERLAKE RD 158
25417029	G & J PROPERTIES INC	8108 TIMBERLAKE RD 158
25417031	BARTLELL THOMAS J & LISA L	8108 TIMBERLAKE RD 160
25417032	LEGISTON ROBIN L	8108 TIMBERLAKE RD 162
25417033	WOOD TERRELL D & RITA P	8108 TIMBERLAKE RD 164
25417034	OSPHARD JORGE & YOUNG KIMBERLY A	8108 TIMBERLAKE RD 166
25417035	G & J PROPERTIES INC	8108 TIMBERLAKE RD 168
25417035	WHEATON DAVID P	8108 TIMBERLAKE RD 161
25417037	LLOYD BETTY B	8108 TIMBERLAKE RD 159
25417038	G & J PROPERTIES INC	8108 TIMBERLAKE RD 157
25417039	CLARK JANET R	8108 TIMBERLAKE RD 155
25417040	RUSSELL CLIFFORD W & EDITH W	8108 TIMBERLAKE RD 153
25417041	FRANKLIN EDGAR M III	8108 TIMBERLAKE RD 151
25417042	G & J PROPERTIES INC	8108 TIMBERLAKE RD 149
25417067	GOLDEN POND HOMEOWNERS ASSOCIATION	8108 TIMBERLAKE RD
25418052	KNOXWOOD TOWNHOMES PROPERTY OWNERS ASSOCIATION	8022 HUNTERDALE DR
26305006	MCCORMICK CURTIS W & EVELYN C	1103 MOREVIEW DR
26305008	MAYS STEWART M & ANGELA M	1105 MOREVIEW DR
26305009	BURFORD GARLEEN W	1107 MOREVIEW DR
26305010	WYATT KEVIN D	1109 MOREVIEW DR
26305011	BARRICK ALAN K & FRANCES H	1111 MOREVIEW DR
26305012	WHITE HARRY V III & SYLVIA J	1113 MOREVIEW DR
26305013	ELLINGSLEY ALBERT L & LISA C	1115 MOREVIEW DR
26305014	KIEPER JAMES G & SANDRA S	1119 MOREVIEW DR
26305015	VAGI J J & JOANNE M	1121 MOREVIEW DR
26305016	GREARD DENNIS W & MARGARET F	1122 MOREVIEW DR
26305017	WEAVER ELIZABETH M	1125 MOREVIEW DR
26305018	MITCHELL BOYD H & CHRISTINE H	1127 MOREVIEW DR
26305019	KERNIS JOHN W III & BRENDA G	1129 MOREVIEW DR
26305020	SWENTON GERARD E & MARIN A	1131 MOREVIEW DR
26305021	SAPTA JOSEPH J & SUSAN E	1132 MOREVIEW DR
26305022	PARKER HOUSTON W & HARRY E	1135 MOREVIEW DR
26305023	CONNER WILLIAM D II & SUSAN E	1137 MOREVIEW DR
26305024	VAN RAYMOND D JR & PAMELA J	1139 MOREVIEW DR
26305025	LARIVIERE DENNIS C & JUDI M	1141 MOREVIEW DR
26306001	PULTZ JEFFREY S & TERRI L	201 HUNTERDALE DR
26306002	CABLE LARRY A & JOYCE A	113 HUNTERDALE DR
26306003	TEUFEL SHARON R	111 HUNTERDALE DR
26307001	GOFF VIRGINIA S	1037 MOREY PL
26307002	LOWES CHRISTOPHER R & AMEE E	1035 MOREY PL
26313006	PADGETT CHARLIE A & CHERYL	8024 TIMBERLAKE RD
26314001	BLACKWELL DAVID C & BETTY M	105 WATKINS PL
26314002	FCB LLC	104 WATKINS PL
26314018	KEELING CECIL H & BARBARA T	104 GREENVIEW DR
26314024	TINSLEY GARY L	105 WATKINS PL
26314025	MARTIN JIMMY T & CAROLYN S	107 WATKINS PL
26315001	3BO LLC	401 CORNERSTONE ST
26315002	GREENVIEW ESTATES DEVELOPMENT LLC	121 FREDERICK DR
26315006	3BO LLC	201 CORNERSTONE ST
26315006	3BO LLC	201 CORNERSTONE ST
26315007	3BO LLC	201 CAPITAL ST
26315009	AK&BO LLC	101 CAPITAL ST
26315010	MADDOX & SON CONSTRUCTION INC	201 CAPITAL ST
26315011	3BO LLC	301 CORNERSTONE ST
26315012	3BO LLC	201 CAPSTONE DR
26315013	3BO LLC	101 CAPSTONE DR
26315014	3BO LLC	100 CAPSTONE DR
26315015	3BO LLC	200 CAPSTONE DR
26315016	3BO LLC	300 CAPSTONE DR
26315017	MADDOX & SON CONSTRUCTION INC	200 CAPSTONE DR 182
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26315199	MADDOX & SON CONSTRUCTION INC	200 CAPSTONE DR 364
26315200	MADDOX & SON CONSTRUCTION INC	200 CAPSTONE DR 365
26318001	TREE OF LIFE PENTECOSTAL HOLINESS CHURCH TRUSTEES	1101 GREENVIEW DR
26319002	MICHAEL ROBERT L & PHYLIS C TRS	1201 GREENVIEW DR
26320009	SILBY EDWARD A & BETSY B	1333 GREENVIEW DR
26320010	BURLEY EMMETT B & VINN W	1325 GREENVIEW DR
26320011	SAUNDERS CLARENCE B & FRANCES B	1325 GREENVIEW DR
26320013	SAUNDERS CLARENCE B & FRANCES B	1321 GREENVIEW DR
26320014	SAUNDERS C B & FRANCES B	1317 GREENVIEW DR
26320015	CHEATHAM JOHN T & JOYCE W	1313 GREENVIEW DR
26320016	AMERICAN LEGION POST #18 TRUSTEES	1301 GREENVIEW DR
26320017	BREHAN BAPTIST CHURCH TRS	1400 GREENVIEW DR
26324011	HUFFMAN WILLIAM D & BRENDA C	1434 GREENVIEW DR

Danef
3BO LLC
Applicant
Representative NORM WALTON PERKINS & ORRISON
Campbell County PAUL HARVEYDEPT OF COMMUNITY DEVELOPMENT



CORNERSTONE

401 CORNERSTONE STREET

100, 200, 300 CAPSTONE DRIVE

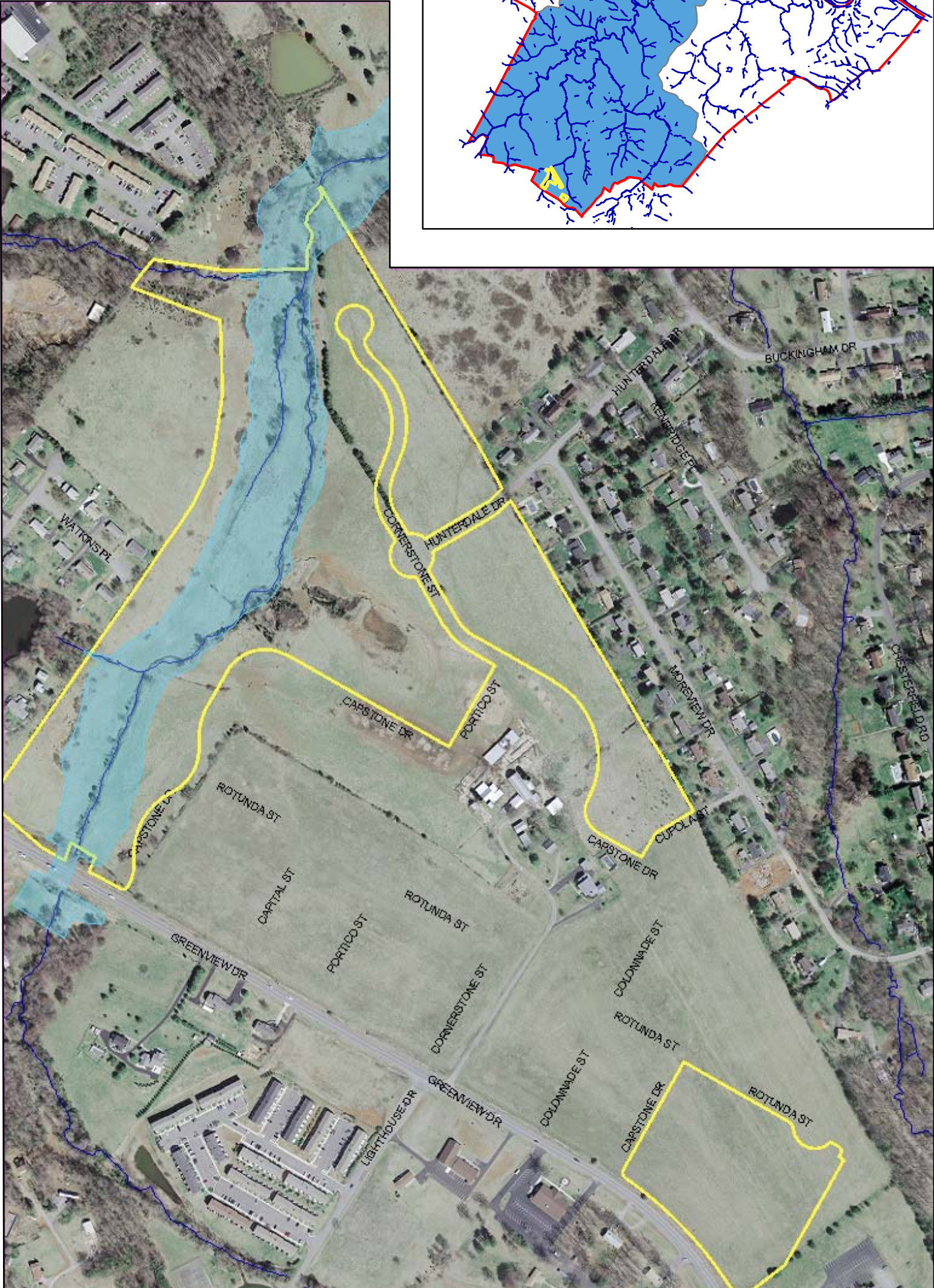
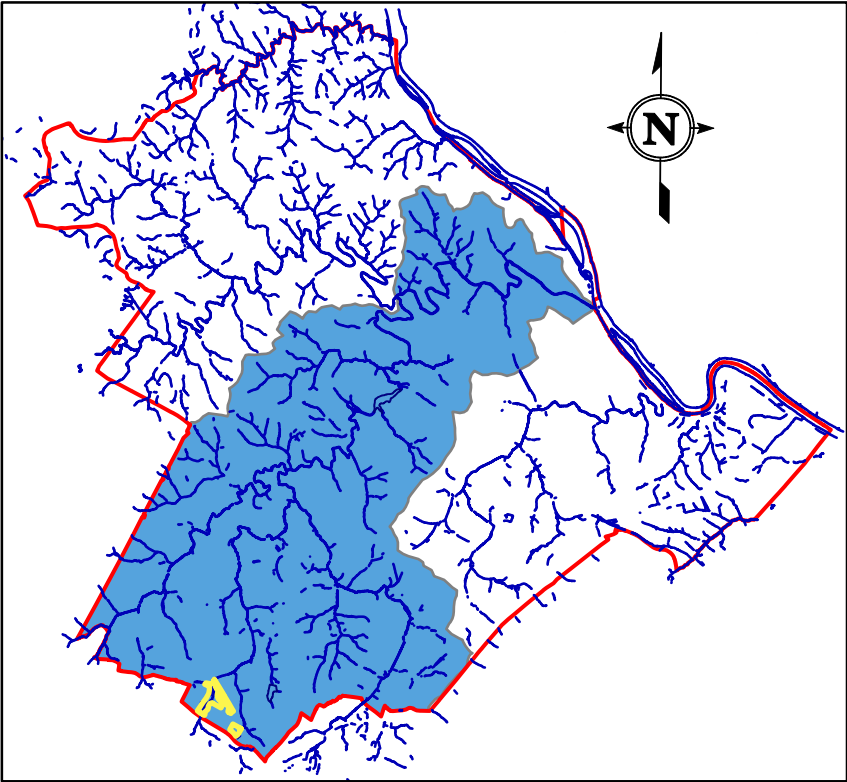
LAND USE PLAN



Cornerstone - Additional Streets
Watershed Location Map

Legend

- Project Site
- Corporate Limit
- Blackwater Creek Watershed
- 100 Year Floodplain Proposed 2008

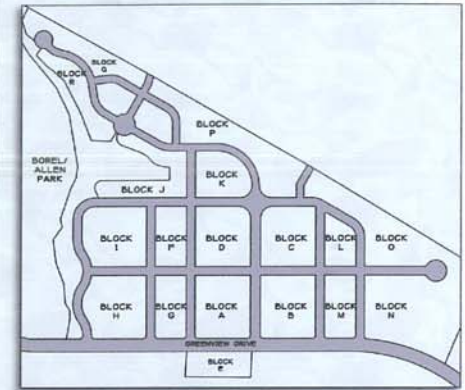


Cornerstone

A Community for the Modern Lifestyle



BUILDING KEY



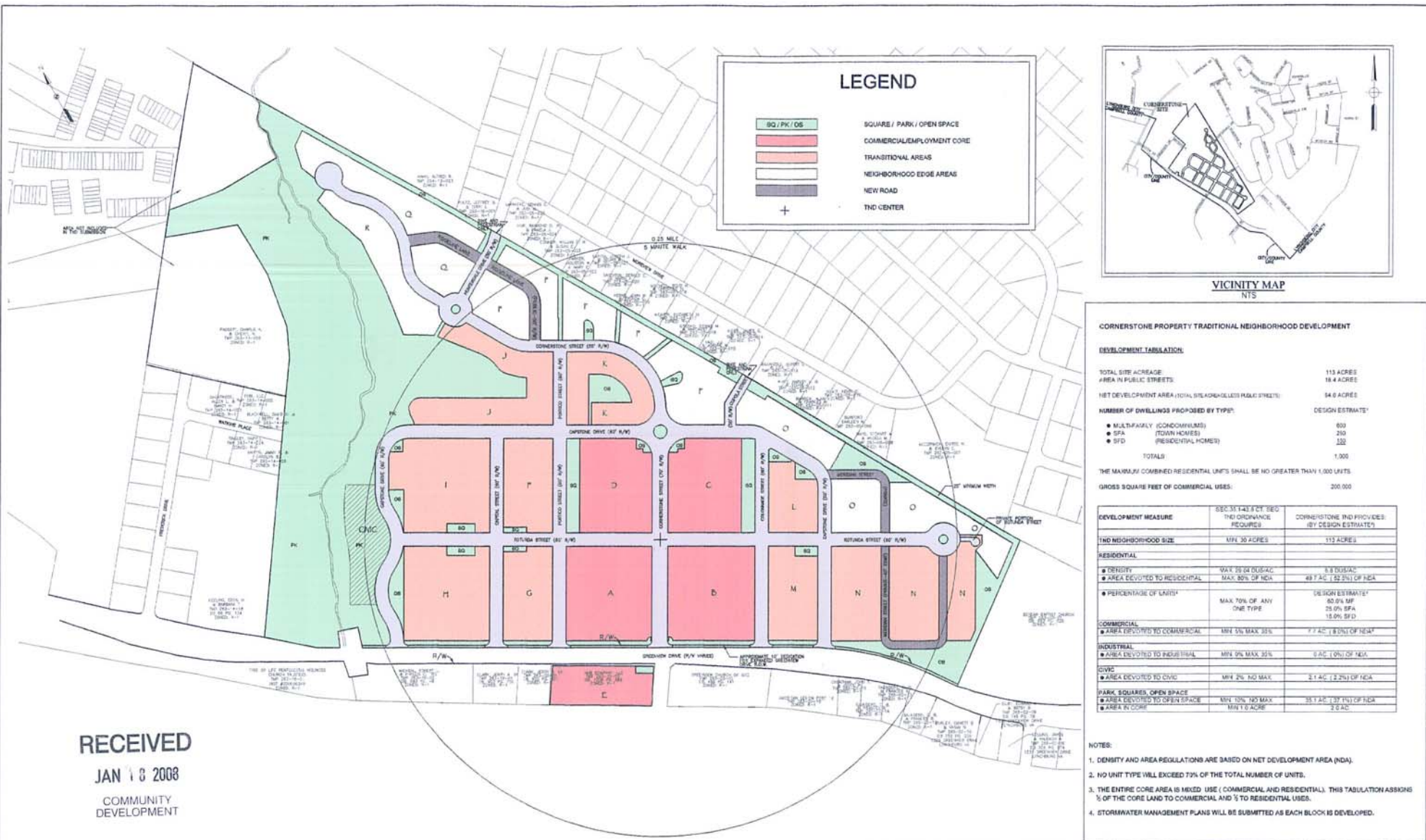
BLOCK KEY

RECEIVED

JAN 11 2008

COMMUNITY
DEVELOPMENT

NOTE: THIS PLAN IS CONCEPTUAL IN NATURE AND IS SUBJECT TO CHANGE



RECEIVED

JAN 13 2008

COMMUNITY
DEVELOPMENT

IF THIS DRAWING IS A REDUCTION
GRAPHIC SCALE MUST BE USED

NO.	REVISION	BY	DATE



**GUFFEY
WARNER &
ASSOCIATES**
ENGINEERS & SURVEYORS
21 TIMBER OAK CT - SUITE B
OAKDALE CIRCLE
LYNCHBURG, VA 24502
PHONE: 434-239-0000
FAX: 434-239-0001

DRAWN BY:
JLM
REVIEWED BY:
TJM
PROJECT NO.:
000108
FILE NAME:
CUP STREET ADD
SCALE:
GRAPHIC

PROJECT:
Cornerstone
JBO, LLC.
LYNCHBURG, VIRGINIA
TITLE: **CONDITIONAL USE PERMIT
STREET ADDITIONS**

DATE:
1-23-08
DRAWING NO.:
C-1
SHEET NUMBER:
1 OF 1



VICINITY MAP
NTS



PROPOSED STREETS

- MERIDIAN STREET (PRIVATE)
- RIDGELINE LANE (PUBLIC)

RECEIVED

JAN 11 2008

COMMUNITY
DEVELOPMENT

**PERKINS
ORRISON**
ENGINEERS ■ PLANNERS ■ SURVEYORS

2008 LYNCHBURG INDUSTRIAL UNIT 1, LYNCHBURG, VIRGINIA 24002
PHONE: 434-525-8680 FAX: 434-239-8271
EMAIL: info@perkins-orrison.com

**GURFEY
WARNER &
ASSOCIATES**
ENGINEERS & SURVEYORS

21 TIMBER OAK CT - SUITE B
OAKDALE CIRCLE
LYNCHBURG, VA 24002
PHONE: 434-235-8000
FAX: 434-235-8001



MARK	DATE	DESCRIPTION
ISSUE:	1/10/06	
CONTOUR INTERVAL:	2'	
DESIGNED BY:	NBW	
DRAWN BY:	JAC	
CHECKED BY:	NBW	
SHEET TITLE		
EXHIBIT DRAWING SHOWING PROPOSED PUBLIC STREETS		
C-100		
DATE	06208	SHEET NO. 1 OF 1



C Commercial / Employment Core
T Transitional Areas
E Neighborhood Edge Areas

- + TND Center
- square Square / Park / Open Space
- * Optional Civic Use Site
- SFD Single Family Detached Residential
- SFA Single Family Attached Residential
- MF Multifamily Residential
- CMX Retail / Restaurant / Office

THE FOLLOWING USES SHALL BE ALLOWED IN THE APPROVED ZONING: A-CONDITIONAL USE PERMIT: ARTS & CRAFTS SHOPS, COMMERCE, RECREATION ESTABLISHMENTS, OUTDOOR RESTAURANTS, TOURIST HOMES OR BED & BREAKFASTS, VETERINARY HOSPITALS AND WITHOUT OUTDOOR KIDNABLE, GOLF CARTS, CHAIRS OR OTHER PLACES OF WORSHIP, CLASSES & TRAINING, ORGANIZATIONS, COMMUNITY SWIMMING POOLS, GROUP HOME, LIBRARY, MUSEUM OF ART GALLERY, PUBLIC OR COMMUNITY RECREATIONAL FACILITIES NOT DESIGNED FOR PROFIT, NURSING HOME, HOSPITAL, LAUNCH FACILITIES, AND PUBLIC CENTER.

TAX PARCEL 263-20-003-
HAB COMPANY, LLC OWNER
TO BE INCLUDED IN IND

APPROXIMATE 10' DEDICATION FOR
EXPANDED GREENVIEW DRIVE
R.O.W.

Development Projects: Traditional Neighborhood Development		
Development Characteristics		
Total net acreage:		113.0 acres
Area to be developed:		12.7 acres
Net development area:		100.3 acres
Analysis of Development Use Based on "Typical"		
• Multifamily:	75%	85%
• SFA:	20%	20%
• Office:	5%	5%
• Total:	100%	100%
Green Space Port of Commercial Use:	100.00%	200.00%
Development Measures		
Section 164.03, Act 1143 (Ordinance 1997-10)		Commission TDR Provisions
TDR Use/Transfer Limit:	From 100% to 100%	44.4% limit
Residential:		
• Min. 2424 sq. ft.	6.7% to 15.5% density	
• Area converted to use limited:	82.3 to 84.3% of NDA	
• percentage of units:	100% of units	
• Min. 10% of any use type:	44.4% to 67.4% of NDA	
• Min. 10% of any use type:	20.0% to 24.4% of NDA	
• Min. 10% of any use type:	7.1 to 8.9% of NDA	
Commercial:		
• Area converted to commercial:	Min. 0% to Min. 30%	0 to 15.4% of NDA
Industrial:		
• Area converted to industrial:	Min. 0% to Min. 30%	0 to 69.5% of NDA
Office:		
• Area converted to office:	Min. 0% to Min. 30%	3.3 to 12.1% of NDA
Parks, recreation, open space:		
• Area converted to open space:	Min. 0% to Min. 30%	3.3 to 12.1% of NDA
• Min. 10% of any use type:	Min. 10% of any use type	27.4%
Notes:		
1. Density and acreage values are based on net development area (NDA).		
2. The number of units is based on the proposed lot breakdown and density.		
3. The number of units is based on the proposed lot breakdown and density.		
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Traditional Neighborhood Development

Lynchburg, Virginia

sympoetica

Community Planners & Designers
www.symbiotica.net

Hurt & Proffitt, Inc.
Engineers

IBO, LLC

Developer

Date: April 24, 2006

Note:
Site property boundary and topography
reprinted, permission by Hunt & Fortney.

For concept planning purposes only.
Not for construction.



January 23, 2008

PLEASE PRINT

[illegible]

Cornerstone Traditional Neighborhood Development
Erosion and Sediment Control Enforcement Action Summary

The City of Lynchburg approved the Cornerstone TND's bulk grading plan on October 17, 2006 that permitted the development to be graded in twenty (20) acre phases. The following is a summary of the enforcement actions that were cited against the development for erosion and sediment control violations:

- On January 3, 2007, the City's Erosion and Sediment Control Inspector responded to an illicit discharge complaint for the dewatering of an existing sediment basin. The inspector failed the erosion control practice because the basin's riser had not been installed. The practice was approved on January 16, 2007 due to the installation of the riser.
- On April 3, 2007, the City's Erosion and Sediment Control Inspector cited the project's Responsible Land Disturber (RLD) for exceeding the limits of the approved phased grading plan. The additional disturbed area and drought conditions resulted in tracking and dust control complaints from the adjacent neighbors. The petitioner developed a Corrective Action Plan for the stabilization of the phases and the City approved the completion of the plan work on April 26, 2007.
- On August 1, 2007, the City's Erosion and Sediment Control Inspector issued a Notice to Comply to seed denuded areas that were "at grade" for the project and failing perimeter control measures. The denuded areas were seeded and mulched and perimeter measures re-installed on August 10, 2007.
- On September 7, 2007, the City's Erosion and Sediment Control Inspector issued a Notice to Comply for the stabilization of multiple blocks, repair of perimeter measures and dust control. The original Notice to Comply deadline was extended from September 18th to October 1st to allow the RLD to implement plan changes for perimeter measures. On October 1, 2007, the City's Erosion and Sediment Control Inspector issued a Stop Work Order for failing to stabilize the blocks within the allotted time. On October 4, 2007 the City's inspector lifted the Stop Work Order due to compliance with the original Notice to Comply.
- On October 17, 2007, the City's Erosion and Sediment Control Inspector issued a Notice to Comply for the re-stabilization of Blocks F, G, P, O and R, as well as portions of C and D. Notices were also issued for Blocks H and I for the installation of construction entrances and dust control measures. On October 26, the City's inspector noted that a portion of the Notice to Comply had been addressed; however, significant storm events had prevented the balance of the corrective action from being completed and caused additional measures to fail. On October 31, 2007, the Notice to Comply was lifted due compliance with all items noted within the Notice to Comply and the subsequent October 26th inspection. The inspector noted a rapid response time in the repair work during the final inspection.

City staff continues to monitor the development and, since the stabilization of the dormant blocks, the development has not been cited during the past three (3) months.

1/18/2008
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City of Lynchburg

Page 1

INSPECTION ACTIVITY REPORT

Permit No. COM07-0538

Site Address 101 CAPITAL ST

Applied	10/4/2007	Applicant	MAY BROS INC	Lot
Approved	10/4/2007	Owner	JBO, LLC	Block
Issued	10/4/2007	Contractor	MAY BROS INC	Tract
Parent Permit		Description	Land Disturbance - Cornerstone Blk H - Condominium	
		Notes		

Scheduled	Completed	Tvpe	Inspector	Result	Remarks	Inspector's Comments
10/18/2007	10/18/2007	E&S Measures	JMD	Partial Approval	see notes	NTC issued for Block H for CE issues and dust control.... Site brought in compliance same day.... Main CE was installed and should not have been cited, while a secondary entrance was blockaded immediately after the contractor was notified....
10/25/2007	10/25/2007	E&S Measures	JMD	Approved		
11/9/2007	11/9/2007	E&S Measures	JMD	Approved		
11/23/2007	11/23/2007	E&S Measures	JMD	Approved		
12/7/2007	12/7/2007	E&S Measures	JMD	Approved		
12/21/2007	12/21/2007	E&S Measures	JMD	Approved		
1/4/2008	1/4/2008	E&S Measures	JMD	Approved		
1/18/2008		E&S Measures	JMD			

1/18/2008
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Page 1

City of Lynchburg
INSPECTION ACTIVITY REPORT

Permit No. COM07-0539

Site Address 201 CAPITAL ST

Applied 10/4/2007	Applicant MADDOX CONSTRUCTION INC	Lot
Approved 10/4/2007	Owner JBO, LLC	Block
Issued 10/4/2007	Contractor MADDOX CONSTRUCTION INC	Tract
Parent Permit	Description Land Disturbance - Cornerstone Blk I - Condominium	
	Notes	

Scheduled	Completed	Type	Inspector	Result	Remarks	Inspector's Comments
10/18/2007	10/18/2007	E&S Measures	JMD	Failed	see notes	NTC issued for Block I for the following issues: CE's not installed per plan; road cleanup; and dust control... deadline of 10/25 for compliance....
10/25/2007	10/25/2007	E&S Measures	JMD	Partial Approval	see notes	recent rains have made site improvements impossible.... NTC deadline extended 1 week.....
11/9/2007	11/9/2007	E&S Measures	JMD	Approved	see notes	all NTC issues have been addressed....
11/23/2007	11/23/2007	E&S Measures	JMD	Approved		
12/7/2007	12/7/2007	E&S Measures	JMD	Approved		
12/21/2007	12/21/2007	E&S Measures	JMD	Approved		
1/4/2008	1/4/2008	E&S Measures	JMD	Approved		
1/18/2008		E&S Measures	JMD			

City of Lynchburg
INSPECTION ACTIVITY REPORT

Permit No. COM06-0601

Site Address 1226 GREENVIEW DR

Applied 10/25/2006	Applicant MAY BROS INC	Lot
Approved 10/25/2006	Owner LLC JBO	Block
Issued 10/25/2006	Contractor MAY BROS INC	Tract
Parent Permit	Description Land Disturbance - Cornerstone TND Bulk Grading Plan	
	Notes bulk grading plan for the site.	

(10/25/2006 09:35 SDL) Disturbancing 87.1 acres o.k. per Erin Hawkins.

Scheduled	Completed	Type	Inspector	Result	Remarks	Inspector's Comments
11/8/2006	11/8/2006	E&S Measures	JMD	Approved	see notes	equipment onsite, but no work started...
11/17/2006	11/17/2006	E&S Measures	JMD	Approved		
1/3/2007	1/3/2007	E&S Measures	JMD	Partial Approval	see notes	received a phone complaint today regarding discharge issues from Phase 1 of this project.. will inspect to verify...
1/5/2007	1/5/2007	E&S Measures	JMD	Failed	see notes	Inspection to verify recent complaint proved illicit discharge from the site while pumping down a sediment basin from P11. 1.. Pumping activity stopped until required dewatering device could be acquired.. will reinspect first part of the week to see if this works...
1/9/2007	1/9/2007	E&S Measures	JMD	Partial Approval	see notes	Dewatering device has been installed; however, it does appear that sediment is still leaving site... Site meeting has been requested with the contractor, owner, & engineer for tomorrow morning...
1/10/2007	1/10/2007 AM	E&S Measures	JMD	Approved	see notes	Site meeting conducted this morning with the contractor, developer, & engineer.... conclusion of this meeting is that while the site has dirty water leaving site, the bulk of the sediment is being contained in the dewatering device..
1/11/2007	1/11/2007 PM	E&S Measures	JMD	Failed	see notes	Received call from DEQ this afternoon- DEQ stopped the pumping activity onsite this afternoon and is calling the water entering the creek illicit discharge.. we have contacted Borel, May Bros, and the engineer to figure out a way to pump elsewhere...everyone has been advised that it is in everyone's best interest to keep DEQ out of this any further and come up with a solution soon. They have also been advised that should they continue to pump, a stop work order may have to be issued...
1/16/2007	1/16/2007	E&S Measures	JMD	Approved	see notes	riser structure has been installed...
1/19/2007	1/19/2007	E&S Measures	JMD	Partial Approval	see notes	contacted by phone by concerned citizen- complaint called in by "Farmville" office of EPA, which does not exist- citizen complained of tracking... tracking is present out of the Ph. 3 entrance..
1/30/2007	1/30/2007	E&S Measures	JMD	Approved	see notes	received anonymous call refereneing down SF visible from behind Lowes....
2/8/2007	2/8/2007	E&S Measures	JMD	Approved		
2/23/2007	2/23/2007	E&S Measures	JMD	Partial Approval	see notes	grade has been reached on a large portion of the site... stabilization required ASAP...
3/13/2007	3/13/2007	E&S Measures	JMD	Approved	see notes	Currently accessed phases are being stabilized.... will begin working between phasing to maximize fill/borrow areas...

INSPECTION ACTIVITY REPORT

4/3/2007	4/3/2007	E&S Measures	JMD	Failed	see notes	NTC issued for project 4/3/07.... site was exceeding phasing/stabilization guidelines set forth in the site plan... deadline of 4/6/07....dust control and CE reinstall required also
4/5/2007	4/5/2007	E&S Measures	JMD	Stop Work	see notes	Stop Work Order issued 4/5/07 for beginning work in phases 4 & 5 and not having substantial stabilization in any of the other phases...corrective action should consist of implementing items addressed in the NTC from the 4/3/07 and increasing amount of denuded area to be stabilized... Site was posted
4/9/2007	4/9/2007	E&S Measures	JMD	Partial Approval	see notes	Section 1 of SWO Corrective Action Plan followed for seeding... CE's and Water Truck to be completed 4/10 AM per convo with grading contractor and developer...Section 2 of SWO CAP may now commence...SWO will not be officially lifted until Section 2 is complied with....
4/11/2007	4/11/2007	E&S Measures	JMD	Partial Approval	see notes	Part 1 of 2 for Corrective Action Plan released... PH. 1 grading seeded and new phase grading plan approved...
4/26/2007	4/26/2007	E&S Measures	JMD	Approved		
5/10/2007	5/10/2007	E&S Measures	JMD	Approved	see notes	Final portion of CAP released... received fax of seeding work order from May Bros detailing over 40 acres of work... each phase to be seeded as it is closed out...
5/24/2007	5/24/2007	E&S Measures	JMD	Approved		
6/6/2007	6/6/2007	E&S Measures	JMD	Approved		
6/18/2007	6/18/2007	E&S Measures	JMD	Approved		
7/3/2007	7/3/2007	E&S Measures	JMD	Approved		
7/17/2007	7/17/2007	E&S Measures	JMD	Approved	see notes	calls have come in related to dust issues once again...meeting set up to discuss seeding areas at/near grade...
7/23/2007	7/23/2007	E&S Measures	JMD	Approved	see notes	met onsite with Steve St. John of May Bros.... The area immediately behind the Moreview Drive is at grade and will be seeded within 7-10 days... I encouraged Steve to meet the 7 day deadline for seeding areas at grade... Steve informed me that he was going to be reinstalling a couple areas of questionable SF and also voluntarily going into the creek to pull out an area of heavy sedimentation..
8/1/2007	8/1/2007	E&S Measures	JMD	Failed	see notes	NTC to be issued for seeding areas at grade, reinstalling construction entrances to prevent further tracking, and reinstall/repair of SF...also looks as if some offsite deposition of soil near the floodplain needs to be taken care of... I will notify the contractor by certified mail...NTC to be mailed by Friday, August 3, 2007...deadline for NTC will be 8/10/07....
8/10/2007	8/10/2007	E&S Measures	JMD	Approved	see notes	area at grade immediately behind moreview dr. properties was seeded and mulched..
8/24/2007	8/24/2007	E&S Measures	JMD	Partial Approval	see notes	received email from concerned citizen on 8/17 regarding dust issues...contacted contractor and told to increase watering of areas both in and out of construction area.. regular inspection revealed part of phase v (Block J) SF and diversion not installed correctly...
8/31/2007	8/31/2007	E&S Measures	JMD	Partial Approval	see notes	Some areas onsite look to be at grade and need to be stabilized....
9/7/2007	9/7/2007	E&S Measures	JMD	Failed	see notes	NTC issued for multiple block stabilization, CE reinstall, temp. stockpile stabilization, and more watering of site for dust suppression. Deadline of 9/18/07...

City of Lynchburg
INSPECTION ACTIVITY REPORT

9/24/2007	9/24/2007	E&S Measures	JMD	Failed	see notes	Original NTC not complied with as builder met with staff while I was on vacation and slight changes to the stabilization plan were made... New NTC was issued 9/24/07 for much of the same block stabilization and Phase V (Block J) SF and diversion install...deadline of 10/1/07...
10/1/2007	10/1/2007	E&S Measures	JMD	Stop Work	see notes	SWO verbally issued 10/1/07...Hard copy in the mail... Site failed to meet stabilization requirements set forth in the NTC... While SWO is in effect, only stabilization work can take place; no other sitework is allowed...
10/2/2007	10/2/2007	E&S Measures	JMD	Stop Work	see notes	Site did not meet compliance deadline for a 2nd straight day... SWO remains in effect...
10/3/2007	10/3/2007	E&S Measures	JMD	Approved	see notes	SWO ordered lifted after requirements of NTC were met... temporary stabilization on blocks noted in the NTC... contractor and developer notified of the release effective 10/4/07 A.M.
10/17/2007	10/17/2007	E&S Measures	JMD	Failed	see notes	NTC issued for: Restabilization of blocks F, G, & P; Stabilize portion of Blocks C & D that are at grade; stabilize blocks O & R; prevent tracking by reinstalling/installing CEs where applicable....deadline of 10/25/07...
10/26/2007	10/26/2007	E&S Measures	JMD	Partial Approval	see notes	Rainfall over last 48 hrs has prevented NTC work to be complete... Rainfall over past 24 hrs has been intense and has caused the following issues onsite- Blowout of SB outfall in Phase I (McCormick plan), numerous SF blowouts over entire site, slope failure across street from Block H behind the infrastructure work...Site visit to be conducted early next week to decide enforcement procedure...
10/31/2007	10/31/2007	E&S Measures	JMD	Approved	see notes	Sitework to repair damages from storm rapidly repaired.... site considered in compliance at this time....
11/14/2007	11/14/2007	E&S Measures	JMD	Approved		
11/28/2007	11/28/2007	E&S Measures	JMD	Approved		
12/13/2007	12/13/2007	E&S Measures	JMD	Approved	see notes	received anonymous call regarding wind-blown dust overnight.... will continue to monitor....
12/27/2007	12/27/2007	E&S Measures	JMD	Approved		
1/10/2008		E&S Measures	JMD			



THE CITY OF LYNCHBURG, VIRGINIA

Zoning/Neighborhood Services Division – Erosion & Sediment Control

City Hall, 900 Church Street
Lynchburg, Virginia 24504 • (434) 455-3900
FAX • (434) 845-7630

April 3, 2007

Notice To Comply:

Cornerstone TND

Based on a meeting regarding this project on April 3, 2007 the following violations were discovered and need to be corrected immediately:

- Current grading exceeds phasing requirements which required stabilization of one phase before proceeding into another. Seed and mulch all denuded areas which lie outside of current open phase. Before proceeding into next phase, the E&S Inspector must approve stabilization in accordance with the site plan.
- Minor tracking onto Greenview Dr. Re-install construction entrances to prevent tracking.
- Dust clouds have been seen recently and are a potential hazard. Please water down the site as necessary to prevent dust from becoming airborne.

The deadline for this Notice to Comply is 4/6/2007. Failure to comply with this Notice will result in a Stop Work Order and bond revocation. Thank you in advance for your co-operation. If you have any questions, please call this office at (434) 455-3892.

Sincerely,

Jake Dorman
Erosion and Sediment Control Inspector

COPY



THE CITY OF LYNCHBURG, VIRGINIA

Community Planning and Development
Neighborhood Services Division

City Hall, 900 Church Street, P.O. Box 60
Lynchburg, Virginia 24505 • (434) 455-3900
FAX • (434) 845-7630

Stop Work Order

Project Name: CORNERSTONE

Site Address: 1226 Greenview Dr. Site Supervisor: MAY Bros

Inspected By: Jake Dorman Inspection Date: 4/5/07

Written/Verbal Notification Given to: _____

The above-referenced project is in violation of the City of Lynchburg's Erosion & Sediment Control Ordinance.

- ☐ A "Notice to Comply" was issued on _____. Corrective measures specified for compliance were not performed.
- ☐ No site plan/land-disturbing permit exists for the site.
- ☒ The violation is grossly affecting or presents an imminent and substantial danger of causing harmful erosion of lands or sediment deposition in waters within the watersheds of the Commonwealth.

The following items must be corrected prior to commencing any land disturbing activity on site:

- Outside Phasing requirements
- Stabilize Ph. IV

This order requires that all land-disturbing activities on the project site cease until the specified violations are corrected. Failure to begin work to correct these violations by 4/6/07 will result in additional legal action by the City of Lynchburg. Upon completion of the corrective actions, the Owner or Site Supervisor must contact the Erosion Control Inspector to schedule a follow-up inspection and release of the order prior to resuming work on the site.

Erosion Control Inspector: [Signature]

Program Administrator: [Signature]



THE CITY OF LYNCHBURG, VIRGINIA

Zoning/Neighborhood Services Division – Erosion & Sediment Control

City Hall, 900 Church Street
Lynchburg, Virginia 24504 • (434) 455-3900
FAX • (434) 845-7630

April 6, 2007

Corrective Action Plan:

Cornerstone TND

Based on a site meeting at the project location on April 6, 2007 the following corrective action plan was discussed and agreed upon. This corrective action is broken down into multiple sections to facilitate stabilization of some areas and minimize further land disturbance.

Section 1:

- a) Contractor will seed and mulch 90% of Phase 1 on Monday, April 9, 2007.
- b) Contractor will straw a 100- yard buffer behind the homes along Moreview Dr. in Phases 4 & 5 to stabilize this area and help with dust prevention. No other work is permitted in Phases 4 & 5 at this time.
- c) Contractor will maintain a working water truck onsite and spray down buffer area before applying straw; as well as, water down the site as needed once work recommences.
- d) Contractor will reinstall all 3 open construction entrances and set up staging areas for work vehicles to park. This should prevent tracking and also help minimize dust disturbance.
- e) This work must be approved by City E&S inspector before any further work can be continued. Stop Work Order will be partially removed once this portion of corrective action is approved.

Approximate Acreage to be stabilized = ~ 10-12 acres

Section 2:

- a) Remaining 10% of Phase 1 will be placed at lower end of Phase 2; this will bring entire phase to grade. Upper end of Phase 2 will remain denuded, but will not be actively graded. Within 1 week of completion of active grading of lower end of Phase 2, entire phase will be stabilized.
- b) Phase 3 is approximately 1 foot off grade and needs to be brought down to proper elevation. This work can be accomplished within 1 week and entire phase will be stabilized.
- c) This work must be approved by City E&S Inspector before Stop Work Order will be officially lifted.

Approximate Acreage to be stabilized = ~ 20 – 30 acres

The City of Lynchburg E & S Inspector is advising the owner and/or contractor to contact the engineer and submit plan addendum(s) detailing new construction sequence and phasing requirements. The addendum(s) should split up the grading areas into more manageable phases; as well as, maintain the maximum disturbed acreage per phase at ~ 20 acres.

Each stage of this Stop Work Order Corrective Action Plan must be approved by the City of Lynchburg E & S Inspector prior to commencement of any further grading activity. Failure to comply with this Corrective Action Plan will result in the City of Lynchburg pursuing further action against the owner and/or contractor. Please contact this office at (434) 455- 3892 if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'JD', is written over the closing 'Sincerely,'.

Jake Dorman
Erosion and Sediment Control Inspector



THE CITY OF LYNCHBURG, VIRGINIA

Zoning/Neighborhood Services Division – Erosion & Sediment Control

City Hall, 900 Church Street
Lynchburg, Virginia 24504 • (434) 455-3900
FAX • (434) 845-7630

August 3, 2007

Notice To Comply:

Cornerstone TND

Based on a site visit to this project on August 3, 2007 the following violations were discovered and need to be corrected immediately:

- Areas at final grade need to be stabilized immediately with temporary or permanent seed mix.
- Construction entrances need to be reinstalled per site plan.
- Channel behind properties along Moreview Drive between stub streets to be inspected for correct installation and grades in accordance with the approved site plan.

The deadline for this Notice to Comply is 8/10/2007. Failure to comply with this Notice will result in a Stop Work Order and bond revocation. Thank you in advance for your co-operation. If you have any questions, please call this office at (434) 455-3892.

Sincerely,

Jake Dorman
Erosion and Sediment Control Inspector



THE CITY OF LYNCHBURG, VIRGINIA

Zoning/Neighborhood Services Division – Erosion & Sediment Control

City Hall, 900 Church Street
Lynchburg, Virginia 24504 • (434) 455-3900
FAX • (434) 845-7630

September 7, 2007

Notice To Comply:

Cornerstone TND

Based on a recent site visit to the project location the following issues regarding erosion and sediment control need to be addressed:

- Stabilize proposed Block "J" basin, slopes, and areas outside of the ROW that are at grade
- Stabilize proposed Blocks "N & O" outside of the ROW's
- Reinstall/clean construction entrances
- During drought conditions, driving lanes through jobsite should be watered regularly to keep equipment from kicking up dust
- Should temporary stockpiles be denuded for longer than 7 more days, temporary stabilization is required

The deadline for this Notice to Comply is 9/18/2007. Failure to comply with this Notice will result in a Stop Work Order and bond revocation. Thank you in advance for your co-operation. If you have any questions, please call this office at (434) 455-3892.

Sincerely,

Jake Dorman
Erosion and Sediment Control Inspector



THE CITY OF LYNCHBURG, VIRGINIA

Zoning/Neighborhood Services Division – Erosion & Sediment Control

City Hall, 900 Church Street
Lynchburg, Virginia 24504 • (434) 455-3900
FAX • (434) 845-7630

September 24, 2007

Final Notice To Comply:

Cornerstone TND

Based on a recent site visit to the project location the following issues regarding erosion and sediment control need to be addressed:

- Stabilize Blocks "L", "M", "N", "F", & "G" to prevent wind erosion and dust problems.
- Install Silt Fence and Diversions in original Phase V (Block "J") as shown on approved grading plan. Immediately stabilize slopes and sediment basin in this Phase.

The deadline for this Final Notice is 10/1/07. Failure to comply will result in a Stop Work Order being issued for the project.

Thank you in advance for your co-operation. If you have any questions, please call this office at (434) 455-3892.

Sincerely,

Jake Dorman
Erosion and Sediment Control Inspector



THE CITY OF LYNCHBURG, VIRGINIA

Community Planning and Development
Neighborhood Services Division

City Hall, 900 Church Street, P.O. Box 60
Lynchburg, Virginia 24505 • (434) 455-3900
FAX • (434) 845-7630

Stop Work Order

Project Name: CORCORAN TND
Site Address: 1226 Greenview Dr Site Supervisor: JBO, LLC + May Bros
Inspected By: Jake Dorman Inspection Date: 10/1/07
Written/Verbal Notification Given to: JBO LLC + May Bros

The above-referenced project is in violation of the City of Lynchburg's Erosion & Sediment Control Ordinance.

- ☒ A "Notice to Comply" was issued on 9/24/07. Corrective measures specified for compliance were not performed.
- ☐ No site plan/land-disturbing permit exists for the site.
- ☐ The violation is grossly affecting or presents an imminent and substantial danger of causing harmful erosion of lands or sediment deposition in waters within the watersheds of the Commonwealth.

The following items must be corrected prior to commencing any land disturbing activity on site:

No sitework other than stabilization can take place while SWO is in effect

Stabilize site in accordance with 9/24 Notice to Comply

This order requires that all land-disturbing activities on the project site cease until the specified violations are corrected. Failure to begin work to correct these violations by 10/8/07 will result in additional legal action by the City of Lynchburg. Upon completion of the corrective actions, the Owner or Site Supervisor must contact the Erosion Control Inspector to schedule a follow-up inspection and release of the order prior to resuming work on the site.

Erosion Control Inspector: [Signature]

Program Administrator: [Signature]

7000 1670 0010 3338 5934

CERTIFIED MAIL RECEIPT
(Domestic Return Receipt Coverage Provided)

OCT 09 2007

Postmark: **ROANOKE VA OCT 02 2007**

Postage	COMMUNITY DEVELOPMENT
Certified Fee	2.65
Return Receipt Fee (Endorsement Required)	2.15
Restricted Delivery Fee (Endorsement Required)	4.10
Total Postage & Fees	\$ 9.31

Sent To: **JBO LLC**
Street, Apt. No., or PO Box No.: **104 Archway Ct**
City, State, ZIP+4: **Lynchburg VA 24502**

USPS-24022

SENDER

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

JBO, LLC
104 Archway Ct
Lynchburg VA 24502

ACTION ON DELIVERY

A. Received by (Please Print Clearly) B. Date of Delivery: **10/3/07**

C. Signature: *[Signature]* ☐ Agent ☐ Address

D. Is delivery address different from item 1? ☐ Yes ☐ No
If YES, enter delivery address below:

RECEIVED
OCT 11 2007

3. Service Type: **COMMUNITY DEVELOPMENT**
☒ Certified Mail ☐ Express Mail
☐ Registered ☒ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☒ Yes

2. Article Number (Copy from service label)
7000 1670 0010 3338 5934

PS Form 3811, July 1999 Domestic Return Receipt 102595-00-M-09



THE CITY OF LYNCHBURG, VIRGINIA

Zoning/Neighborhood Services Division – Erosion & Sediment Control

City Hall, 900 Church Street
Lynchburg, Virginia 24504 • (434) 455-3900
FAX • (434) 845-7630

October 17, 2007

Notice To Comply:

Cornerstone TND Block I

Based on a recent site visit to the project location the following issues regarding erosion and sediment control need to be addressed:

- Install Construction Entrance per site plan. Site access should be gained through the approved entrance and a plan addendum should be submitted for approval detailing the need for additional entrances.
- Site must be kept watered down during extended periods of little or no precipitation. Make arrangements to have the site watered down to prevent dirt from becoming airborne.

The deadline for this Final Notice is 10/25/07. Failure to comply will result in a Stop Work Order being issued for the project.

Thank you in advance for your co-operation. If you have any questions, please call this office at (434) 455-3892.

Sincerely,

Jake Dorman
Erosion and Sediment Control Inspector



THE CITY OF LYNCHBURG, VIRGINIA

Zoning/Neighborhood Services Division – Erosion & Sediment Control

City Hall, 900 Church Street
Lynchburg, Virginia 24504 • (434) 455-3900
FAX • (434) 845-7630

October 17, 2007

Notice To Comply:

Cornerstone TND Block H

Based on a recent site visit to the project location the following issues regarding erosion and sediment control need to be addressed:

- Install Construction Entrance per site plan. Site access should be gained through the approved entrance and a plan addendum should be submitted for approval detailing the need for additional entrances.
- Site must be kept watered down during extended periods of little or no precipitation. Make arrangements to have the site watered down to prevent dirt from becoming airborne.

The deadline for this Final Notice is 10/25/07. Failure to comply will result in a Stop Work Order being issued for the project.

Thank you in advance for your co-operation. If you have any questions, please call this office at (434) 455-3892.

Sincerely,

Jake Dorman
Erosion and Sediment Control Inspector

0017



THE CITY OF LYNCHBURG, VIRGINIA

Zoning/Neighborhood Services Division – Erosion & Sediment Control

City Hall, 900 Church Street
Lynchburg, Virginia 24504 • (434) 455-3900
FAX • (434) 845-7630

October 17, 2007

Notice To Comply:

Cornerstone TND

Based on a recent site visit to the project location the following issues regarding erosion and sediment control need to be addressed:

- Re-stabilize Blocks F & G with seed & mulch.
- Re-stabilize Block P with seed & mulch
- Stabilize portions of Blocks C & D that are now on grade with seed & mulch.
- Stabilize Blocks O & R with seed and mulch.
- Reinstall Construction Entrances to prevent tracking onto paved roadway.

The deadline for this Final Notice is 10/25/07. Failure to comply will result in a Stop Work Order being issued for the project.

Thank you in advance for your co-operation. If you have any questions, please call this office at (434) 455-3892.

Sincerely,

Jake Dorman
Erosion and Sediment Control Inspector

LYNCHBURG CITY COUNCIL

Agenda Item Summary

MEETING DATE: **February 12, 2008**

AGENDA ITEM NO.: 8

CONSENT:

REGULAR: **X**

CLOSED SESSION:
(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: **Comcast Cable Television Franchise**

RECOMMENDATION: After a public hearing adopt an ordinance awarding a cable television franchise to Comcast, allowing Comcast to provide cable television service in Lynchburg for a 15 year term.

Adopt an ordinance to repeal Chapter 12.1, Cable Television, of the City Code.

SUMMARY: Comcast has requested a cable television franchise in order to continue to provide cable television service in Lynchburg. The old franchise, originally signed in 1988, expired in 2003. Staff has negotiated a proposed franchise agreement with Comcast and recommends approval of this agreement. In addition, with the awarding of this franchise, Chapter 12.1 of the City Code, dealing with cable television, will become obsolete. It is recommended that this section of the City Code be repealed.

PRIOR ACTION(S): January 22, 2008, the proposed franchise agreement was reviewed with Council.

FISCAL IMPACT: None.

CONTACT(S): Walter Erwin 455-3973; Mike Goetz 455-6002

ATTACHMENT(S): Ordinance granting the franchise. Ordinance repealing Chapter 12.1 of the City Code. Agenda item summary from the January 22, 2008 work session. The Cable Television Franchise Agreement is available for review on the City's website or in the Clerk of Council's office.

REVIEWED BY: lkp

AN ORDINANCE GRANTING A CABLE TELEVISION FRANCHISE TO COMCAST OF GEORGIA/VIRGINIA, INC, d/b/a COMCAST TO OPERATE A CABLE TELEVISION SYSTEM WITHIN THE CITY OF LYNCHBURG

WHEREAS, pursuant to provisions of Article 1.2 of Title 15.2 of the Code of Virginia, no one may construct, install, maintain or operate a cable television system through, on, over, or under any public rights-of-way within the City without first having applied for and been granted a franchise by the City; and

WHEREAS, COMCAST would like to operate a cable television system within the City of Lynchburg; and

WHEREAS, COMCAST has asked that it be granted a franchise to operate a cable television system within the City and the City and COMCAST have negotiated a Cable Television Franchise Agreement, a copy of which is attached hereto; and

WHEREAS, a public hearing was held on February 12, 2008 on the issue of whether to enter into a Franchise Agreement with COMCAST; and

WHEREAS, notice of such public hearing for the proposed Franchise Agreement was advertised once a week for two successive weeks in a newspaper having general circulation in the City of Lynchburg; and

WHEREAS, at such public hearing there was an opportunity to consider economic consideration, the impact on private property rights, the impact on public convenience, the public need and potential benefit, and other relevant factors;

NOW, THEREFORE, BE IT ORDAINED, that the Lynchburg City Council, does hereby find that the public welfare will be enhanced by the grant of the franchise requested by COMCAST and it is in the best interest of the City to grant a Cable Television Franchise Agreement to COMCAST in accordance with the terms of the proposed Cable Television Franchise Agreement between the City and COMCAST, a copy of which is attached hereto; and it is

FURTHER ORDAINED that Lynchburg City Manager is authorized to sign such Cable Television Franchise Agreement and any other documents embodying the terms approved herein on behalf of the City; and it is

FURTHER ORDAINED that such Franchise shall be effective upon the date upon which it is signed by the City and COMCAST and shall extend for a term of fifteen (15) years beginning on February 13, 2008.

Adopted:

Certified:

Clerk of Council

011L1

AN ORDINANCE TO AMEND THE CODE OF THE CITY OF LYNCHBURG, 1981, BY REPEALING CHAPTER 12.1, CABLE TELEVISION, CONTAINING SECTIONS 12.1-1 THROUGH 12.1-66, THE REPEALED CHAPTER AND SECTIONS RELATING TO THE OPERATION OF CABLE TELEVISION SYSTEMS WITHIN THE CITY .

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 by repealing Chapter 12.1, Cable Television, containing Sections 12.1-1 through 12.1-66.
2. That this ordinance shall become effective upon its adoption.

Adopted:

Certified:

Clerk of Council

011L2

LYNCHBURG CITY COUNCIL

Agenda Item Summary

MEETING DATE: January 22, 2008, Work Session		AGENDA ITEM NO.: 4
CONSENT:	REGULAR: X	CLOSED SESSION:
ACTION:	INFORMATION: X	(Confidential)
<u>ITEM TITLE:</u> Proposed Comcast Cable Television Franchise		

RECOMMENDATION: None. For information only prior to the February public hearing.

SUMMARY:

Comcast has requested a cable television franchise in order to continue to provide cable television service in Lynchburg. The old franchise, originally signed in 1988, expired in 2003. City staff has reached agreement with Comcast on a proposed new franchise. The purpose of this report is to provide a summary of the major provisions of the proposed franchise. A public hearing is planned for the City Council meeting on February 12, 2008 in order for City Council to consider accepting this franchise agreement. In addition, once the franchise is awarded to Comcast, chapter 12.1 of the City Code will no longer be needed. A resolution to repeal this section of the City Code will be presented at the February 12, 2008 City Council meeting.

PRIOR ACTION(S): As noted above.

FISCAL IMPACT: None. Cable franchise fees once collected by the City have been replaced by the Communications Sales and Use Tax enacted by the General Assembly.

CONTACT(S):

Walter Erwin 455-3973
Mike Goetz 455-6002

ATTACHMENT(S):

Summary of Proposed Comcast Cable Television Franchise

In the interest of saving paper, a hard copy of the full text of the proposed franchise is not being provided with the paper Council Report. The full franchise document is available online at the City website or in the Clerk of Council's office.

REVIEWED BY: lkp

Summary of Proposed Comcast Cable Television Franchise

Background

The cable television system currently owned and operated by Comcast was acquired by Comcast from Adelphia in 2006 as part of Adelphia's corporate bankruptcy resolution. Comcast is currently operating in a holdover tenant status, abiding by the terms and conditions of a franchise that was signed in 1988 and that expired in 2003. Negotiations between Comcast and City staff began in earnest in the summer of 2007 and recently concluded with the development of a proposed franchise.

In 2006, the General Assembly passed legislation which allowed a cable company to obtain a franchise from the State, if they chose not to negotiate a franchise with the locality. Although Comcast chose to negotiate a franchise instead of obtaining the State franchise, the proposed franchise is heavily influenced by the requirements and conditions set out in the legislation.

Major Provisions of the Proposed Franchise

The most significant provisions of the proposed franchise are as follows:

GRANT OF AUTHORITY:

- The franchise is non-exclusive, meaning that other cable companies can obtain franchises to serve Lynchburg.
- The term of the proposed franchise is 15 years.

CONSTRUCTION AND MAINTENANCE:

- Comcast shall be required to provide advance notice of planned trimming of trees and shrubs in the public right-of-way (ROW), and to perform such trimming according to standards.
- Cable facilities will be required to be placed underground if all utilities are required to be underground.

SERVICE OBLIGATIONS:

- Cable service must be provided in areas that currently are not served when the residential density reaches 30 dwelling units per mile.
- The City may request that a subscriber survey be performed regarding the quality of service.
- The City has the right to hold performance evaluation sessions regarding Comcast's performance against the requirements of the franchise and the quality of their service.

PUBLIC, EDUCATIONAL, AND GOVERNMENT (PEG) CHANNELS:

- Comcast must have capacity on the system for up to three PEG channels. However, they are not required to provide any in-kind services or equipment to support these channels.
- On the effective date of the new franchise, the Education and Government channels are required to be operational. A Public Access channel will only be required to be operational when a Public Access producers' organization is operational and ready to broadcast their signal.
- These three PEG channels are required to be available on the most basic tier of service.
- The City may request up to three additional PEG channels, if the initial three channels are substantially utilized.

Summary of Proposed Comcast Cable Television Franchise

FRANCHISE FEES

- As required in the State's new Communications Sales and Use Tax (CSUT), cable franchise fees are now paid to the State and returned to the City as part of its share of the CSUT. Comcast will continue to pay 5% of their gross revenues attributable to cable television service.

CUSTOMER SERVICE STANDARDS and OVERSIGHT BY THE CITY

- Comcast will be required to meet the customer service standards recommended by the Federal Communications Commission (FCC). Significant standards include:
 - o When answering customer phone calls, wait time shall not exceed 30 seconds 90% of the time.
 - o Customers shall receive a busy signal less than 3% of the time.
 - o Standard installations shall be performed within seven business days of an order being placed.
 - o Repairs shall begin on outages no later than 24 hours after an outage becomes known.
- Comcast must provide performance reports on the above standards, as requested by the City.
- Comcast must respond to written billing complaints from customers within 30 days.

SYSTEM DESCRIPTION

- The cable system must be capable of carrying at least 100 channels.
- Power back-up capacity of up to 24 hours must be provided in the head-end and hubs in the system.
- One basic cable service outlet shall continue to be provided at no charge to every City and Schools location currently receiving such service; future new locations shall also receive one free service connection if located within 200 feet of the cable distribution system.
- An Emergency Alert System shall continue to be provided for use by the City in the event of an emergency.

ENFORCEMENT OF FRANCHISE

- The City may impose penalties for violations of the franchise, pursuant to a public hearing and an opportunity for Comcast to cure any violations.
- Liquidated damages for various types of violations are described, ranging from \$100 - \$500 per violation.

Prepared: January 9, 2008

CABLE FRANCHISE AGREEMENT

BETWEEN

THE CITY OF LYNCHBURG, VIRGINIA

AND

COMCAST OF GEORGIA/VIRGINIA, INC.

TABLE OF CONTENTS

SECTION 1 - DEFINITION OF TERMS	3
SECTION 2 - GRANT OF AUTHORITY	6
SECTION 3 – CONSTRUCTION AND MAINTENANCE OF THE CABLE SYSTEM	8
SECTION 4 - SERVICE OBLIGATIONS	11
SECTION 5 - PUBLIC, EDUCATIONAL AND GOVERNMENTAL ACCESS CHANNELS	12
SECTION 6 - COMMUNICATIONS TAX AND FRANCHISE FEES	14
SECTION 7 - CUSTOMER SERVICE STANDARDS; CUSTOMER BILLS; AND PRIVACY PROTECTION	15
SECTION 8 - OVERSIGHT AND REGULATION BY FRANCHISING AUTHORITY ..	18
SECTION 9 – TRANSFER OR CHANGE OF CONTROL OF CABLE SYSTEM OR FRANCHISE	21
SECTION 10 - INSURANCE AND INDEMNITY	22
SECTION 11 - SYSTEM DESCRIPTION AND SERVICE	25
SECTION 12 - ENFORCEMENT OF FRANCHISE.....	26
SECTION 13 - INSPECTION OF FACILITIES.....	31
SECTION 14 - MISCELLANEOUS PROVISIONS	31

CABLE FRANCHISE AGREEMENT

This Cable Franchise Agreement (hereinafter, the “Agreement” or “Franchise Agreement”) is made between the City of Lynchburg, VA, a political subdivision of the Commonwealth of Virginia (hereinafter, “City”) and Comcast of Georgia/Virginia, Inc. (hereinafter, “Franchisee”).

The City, having determined that the financial, legal and technical ability of the Franchisee is reasonably sufficient to provide the services, facilities and equipment necessary to meet the future cable-related needs of the community, desires to enter into this Franchise Agreement with the Franchisee for the construction, operation and maintenance of a Cable System on the terms and conditions set forth herein.

SECTION 1 - Definition of Terms

For the purpose of this Franchise Agreement, capitalized terms, phrases, words, and abbreviations shall have the meanings ascribed to them in the Code of Virginia, Article 1.2, § 15.2-2108.19, and the Cable Communications Policy Act of 1984, as amended from time to time, 47 U.S.C. §§ 521 et seq. (the “Cable Act”), unless otherwise defined herein.

1.1 “Act” means the Communications Act of 1934.

1.2 “Affiliate”, in relation to any Person, means another Person who owns or controls, is owned or controlled by, or is under common ownership or control with, such Person.

1.3 “Basic service tier” means the service tier that includes (i) the retransmission of local television broadcast channels and (ii) public, educational, and governmental channels required to be carried in the basic tier.

1.4 “Cable Operator” means any Person or group of Persons that (A) provides Cable Service over a Cable System and directly or through one or more affiliates owns a significant interest in such Cable System or (B) otherwise controls or is responsible for, through any arrangement, the management and operation of a Cable System. Cable Operator does not include a provider of wireless or direct-to-home satellite transmission service.

1.5 “Cable Service” means the one-way transmission to Subscribers of (i) video programming or (ii) other programming service, and Subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service. Cable service does not include any video programming provided by a commercial mobile service provider defined in 47 U.S.C. § 332(d).

1.6 “Cable System” or “System” means any facility consisting of a set of closed transmission paths and associated signal generation, reception and control

equipment that is designed to provide Cable Service that includes video programming and that is provided to multiple Subscribers within a community, except that such definition shall not include (i) a system that serves fewer than 20 Subscribers; (ii) a facility that serves only to retransmit the television signals of one or more television broadcast stations; (iii) a facility that serves only Subscribers without using any public right-of-way; (iv) a facility of a common carrier that is subject, in whole or in part, to the provisions of Title II of the Communications Act of 1934, 47 USC § 201 et seq., except that such facility shall be considered a Cable System to the extent such facility is used in the transmission of video programming directly to Subscribers, unless the extent of such use is solely to provide interactive on-demand services; (v) any facilities of any electric utility used solely for operating its electric systems; (vi) or any portion of a System that serves fewer than 50 Subscribers in any locality, where such portion is part of a larger System franchised in an adjacent locality; or (vii) an open video system that complies with § 653 of Title VI of the Communications Act of 1934, as amended, 47 U.S.C. § 573.

1.7 “Customer” or “Subscriber” means a Person or user of the Cable System who lawfully receives Cable Service therefrom with the Franchisee’s express permission.

1.8 “Effective Date” means the date on which this Cable Franchise Agreement, with any necessary executed signatures, is enacted into law.

1.9 “FCC” means the Federal Communications Commission or successor governmental entity thereto.

1.10 “Force majeure” means an event or events reasonably beyond the ability of Franchisee to anticipate and control. "Force majeure" includes, but is not limited to, acts of God, incidences of terrorism, war or riots, labor strikes or civil disturbances, floods, earthquakes, fire, explosions, epidemics, hurricanes, tornadoes, governmental actions and restrictions, work delays caused by waiting for utility providers to service or monitor or provide access to utility poles to which Franchisee’s facilities are attached or to be attached or conduits in which Franchisee's facilities are located or to be located, and unavailability of materials or qualified labor to perform the work necessary.

1.11 “Franchise” means the initial authorization, or renewal thereof, issued by the Franchising Authority, whether such authorization is designated as a franchise, agreement, permit, license, resolution, contract, certificate, ordinance or otherwise, which authorizes the construction and operation of the Cable System in the public rights-of-way.

1.12 “Franchise Agreement” or “Agreement” shall mean this Cable Franchise Agreement and any amendments or modifications hereto.

1.13 “Franchise Area” means the present legal boundaries of the City of Lynchburg, Virginia as of the Effective Date, and shall also include any additions thereto, by annexation or other legal means.

1.14 "Franchising Authority" means the City or the lawful successor, transferee, designee, or assignee thereof.

1.15 "Franchisee" shall mean Comcast of Georgia/Virginia, Inc.

1.16 "Gross revenue" means all revenue, as determined in accordance with generally accepted accounting principles, that is actually received by the cable operator and derived from the operation of the cable system to provide cable services in the franchise area; however, "gross revenue" shall not include: (i) refunds or rebates made to subscribers or other third parties; (ii) any revenue which is received from the sale of merchandise over home shopping channels carried on the cable system, but not including revenue received from home shopping channels for the use of the cable service to sell merchandise; (iii) any tax, fee, or charge collected by the cable operator and remitted to a governmental entity or its agent or designee, including without limitation a local public access or education group; (iv) program launch fees; (v) directory or Internet advertising revenue including, but not limited to, yellow page, white page, banner advertisement, and electronic publishing; (vi) a sale of cable service for resale or for use as a component part of or for the integration into cable services to be resold in the ordinary course of business, when the reseller is required to pay or collect franchise fees or similar fees on the resale of the cable service; (vii) revenues received by any affiliate or any other person in exchange for supplying goods or services used by the cable operator to provide cable service; and (viii) revenue derived from services classified as noncable services under federal law, including, without limitation, revenue derived from telecommunications services and information services, and any other revenues attributed by the cable operator to noncable services in accordance with rules, regulations, standards, or orders of the Federal Communications Commission.

1.17 "Ordinance" includes a resolution.

1.18 "Person" means any natural person or any association, firm, partnership, joint venture, corporation, or other legally recognized entity, whether for-profit or not-for-profit, but shall not mean the Franchising Authority.

1.19 "Public rights-of-way" (PROW or Public Way) means the surface, the air space above the surface, and the area below the surface of any public street, highway, lane, path, alley, sidewalk, boulevard, drive, bridge, tunnel, park, parkway, waterway, easement, or similar property in which the City or the Commonwealth of Virginia now or hereafter holds any property interest, which, consistent with the purposes for which it was dedicated, may be used for the purpose of installing and maintaining a cable system. No reference herein, or in any franchise, to a "public rights-of-way" shall be deemed to be a representation or guarantee by the City that its interest or other right to control the use of such property is sufficient to permit its use for such purposes, and Franchisee shall be deemed to gain only those rights to use as are properly in the city and as the City may have the undisputed right and power to give. For purposes of this Franchise, the term "public right-of-way" shall also include any other parcels of property that are owned by the City.

1.20 “Interactive on-demand services” means a service providing video programming to Subscribers over switched networks on an on-demand, point-to-point basis, but does not include services providing video programming prescheduled by the programming provider.

1.21 “Service Interruption” means a service outage affecting less than five subscribers, or a loss or degradation of either video or audio for one or more channels for one or more subscribers.

1.22 “Service Outage” means the complete loss of cable service to five or more subscribers served by the same trunk, node, or feeder line for a period of 15 minutes or more.

1.23 “Transfer” means any transaction in which (i) an ownership or other interest in the Franchisee is transferred, directly or indirectly, from one Person or group of Persons to another Person or group of Persons, so that majority control of the Franchisee is transferred; or (ii) the rights and obligations held by the Franchisee under the Franchise granted under this Franchise Agreement are transferred or assigned to another Person or group of Persons. However, notwithstanding clauses (i) and (ii) of the preceding sentence, a transfer of the Franchise shall not include (a) transfer of an ownership or other interest in the Franchisee to the parent of the Franchisee or to another Affiliate of the Franchisee; (b) transfer of an interest in the Franchise granted under this Franchise Agreement or the rights held by the Franchisee under the Franchise granted under this Franchise Agreement to the parent of the Franchisee or to another Affiliate of the Franchisee; (c) any action that is the result of a merger of the parent of the Franchisee; (d) any action that is the result of a merger of another Affiliate of the Franchisee; or (e) a transfer in trust, by mortgage, or by assignment of any rights, title, or interest of the Franchisee in the Franchise or the System used to provide Cable Service in order to secure indebtedness.

1.24 “Video programming” means programming provided by, or generally considered comparable to, programming provided by a television broadcast station.

All terms used herein, unless otherwise defined, shall have the same meaning as set forth in Sections 15.2-2108.19 *et seq.* of the Code of Virginia, and if not defined therein, then as set forth in Title VI of the Communications Act of 1934, 47 U.S.C. § 521 *et seq.*, and if not defined therein, their common and ordinary meaning. In addition, references in this Ordinance to any federal or state law shall include amendments thereto as are enacted from time-to-time.

SECTION 2 - Grant of Authority

2.1 The Franchising Authority hereby grants to the Franchisee under the Code of Virginia and the Cable Act a nonexclusive Franchise authorizing the Franchisee to construct and operate a Cable System in the Public Ways within the Franchise Area, and

for that purpose to erect, install, construct, repair, replace, reconstruct, maintain, or retain in any Public Way such poles, wires, cables, conductors, ducts, conduits, vaults, manholes, pedestals, amplifiers, appliances, attachments, and other related property or equipment as may be necessary or appurtenant to the Cable System and to provide such Cable Services over the Cable System as may be lawfully allowed. This agreement neither authorizes the Franchisee to use the PROW for purposes of providing any service other than Cable Service, nor prohibits the Franchisee from doing so. The Franchisee's authority to provide non-Cable Services shall be subject to applicable law.

2.2 Term of Franchise. The term of the Franchise granted hereunder shall be Fifteen (15) years, beginning on February 13, 2008, unless the Franchise is renewed or is lawfully terminated in accordance with the terms of this Franchise Agreement and the Code of Virginia and the Cable Act.

2.3 Renewal. Any renewal of this Franchise shall be governed by and comply with the provisions of Article 1.2 of the Code of Virginia and Section 626 of the Cable Act, as amended.

2.4 Reservation of Authority. Nothing in this Franchise Agreement shall be construed as a waiver of any codes or ordinances of general applicability promulgated by the Franchising Authority.

2.5 Competitive Equity.

2.5.1 If the City grants a competitive franchise which, in the reasonable opinion of the Franchisee, contains more favorable or less burdensome terms or conditions than this Franchise Agreement, the Franchisee may notify the City that it wishes to renegotiate certain specified provisions of the Franchise Agreement. Within 30 days after the Franchisee provides such notice, both parties must begin to negotiate in good faith, and either party to this Franchise Agreement may request changes to amend this Agreement so that neither the Franchisee's Franchise Agreement nor that of the competitor contains terms that are more favorable or less burdensome than the other. For purposes of this section, the franchises must be viewed as a whole, not on a provision-by-provision basis, and the franchises must be compared with due regard for the circumstances existing at the time each franchise was granted.

2.5.2 In the event an application for a new cable television franchise is filed with the Franchising Authority proposing to serve the Franchising Area, in whole or in part, the Franchising Authority shall serve or require to be served a copy of such application upon the Franchisee by registered or certified mail or via nationally recognized overnight courier service.

2.5.3 In the event that a cable provider provides Cable Service to the residents of the city under a federal franchise that is unavailable to the Franchisee, the Franchisee shall have a right to request amendments to this Franchise Agreement that relieve the Franchisee of regulatory burdens that create a competitive disadvantage to the

Franchisee. In requesting amendments, the Franchisee shall file a petition seeking to amend the Franchise Agreement. Such petition shall: (1) indicate the presence of a competitor that has a federal franchise; (2) identify the basis for Franchisee's belief that certain provisions of the Franchise Agreement place Franchisee at a competitive disadvantage; and (3) identify the regulatory burdens to be amended or repealed in order to eliminate the competitive disadvantage. City Council shall hold a public hearing to evaluate the petition and hear views of interested parties. The Franchising Authority shall not unreasonably withhold consent to the Franchisee's petition.

SECTION 3 – Construction and Maintenance of the Cable System

3.1 Permits and General Obligations. The Franchisee shall be responsible for obtaining, at its own cost and expense, all generally applicable permits, licenses, or other forms of approval or authorization necessary to construct, operate, maintain or repair the Cable System, or any part thereof, prior to the commencement of any such activity. Construction, installation, and maintenance of the Cable System shall be performed in a safe, thorough and reliable manner using materials of good and durable quality. All transmission and distribution structures, poles, other lines, and equipment installed by the Franchisee for use in the Cable System in accordance with the terms and conditions of this Franchise Agreement shall be located so as to minimize the interference with the proper use of the Public Ways and the rights and reasonable convenience of property owners who own property that adjoins any such Public Way.

3.2 Conditions of Street Occupancy.

3.2.1 New Grades or Lines. If the grades or lines of any Public Way within the Franchise Area are lawfully changed at any time during the term of this Franchise Agreement, then the Franchisee shall, upon reasonable advance written notice from the Franchising Authority (which shall not be less than ten (10) business days) and at its own cost and expense, protect or promptly alter or relocate the Cable System, or any part thereof, so as to conform with any such new grades or lines. If public funds are available to any other user of the Public Way for the purpose of defraying the cost of any of the foregoing, the Franchising Authority shall notify the Franchisee of the availability of such funding and make such funds available to the Franchisee. It is understood that there is no guarantee by the Franchising Authority that any public funds will be available to help defray the cost of altering or relocating the Cable System to conform to new grades or lines.

3.2.2 Relocation at request of Third Party. The Franchisee shall, upon reasonable prior written request of any Person holding a permit issued by the Franchising Authority to move any structure, temporarily move its wires to permit the moving of such structure; provided (i) the Franchisee may impose a reasonable charge on any Person for the movement of its wires, and such charge may be required to be paid in advance of the

movement of its wires; and (ii) the Franchisee is given not less than ten (10) business days advance written notice to arrange for such temporary relocation.

3.2.3 Restoration of Public Ways. If in connection with the construction, operation, maintenance, or repair of the Cable System, the Franchisee disturbs, alters, or damages any Public Way, the Franchisee agrees that it shall at its own cost and expense replace and restore any such Public Way to a condition reasonably comparable to the condition of the Public Way existing immediately prior to the disturbance. The City Engineer shall make the final determination as to acceptability of repair and/or replacement of damaged facilities. In performing any excavation work in the public rights-of-way, the Franchisee will comply with all of the requirements of Chapter 35, or any subsequently adopted Chapter, of the City Code.

3.2.4 Safety Requirements. The Franchisee shall, at its own cost and expense, undertake all necessary and appropriate efforts to maintain its work sites in a safe manner in order to prevent failures and accidents that may cause damage, injuries or nuisances. All work undertaken on the Cable System shall be performed in substantial accordance with applicable FCC or other federal and state regulations and with the National Electrical Safety Code (National Bureau of Standards)” and “National Electrical Code (National Bureau of Fire Underwriters). The Cable System shall not unreasonably endanger or interfere with the safety of Persons or property in the Franchise Area.

3.2.5 Trimming of Trees and Shrubbery. The Franchisee shall have the responsibility and authority to trim trees or other natural growth overhanging any of its Cable System in the Franchise Area so as to prevent contact with the Franchisee’s wires, cables, or other equipment. All such trimming shall be done at the Franchisee’s sole cost and expense and in accordance with ANSI A300 pruning standards. For all planned trimming, the Franchisee shall provide the City at least two business days notice of the work to be performed and a description of such work. For trimming of an emergency nature, including responding to storm damage, advance notice is not required. The Franchisee shall be responsible for any damage and all clean up of debris caused by such trimming.

3.2.6 Aerial and Underground Construction. At the time of Cable System construction, if all of the transmission and distribution facilities of all of the respective public or municipal utilities in any area of the Franchise Area are underground, the Franchisee shall place its Cable System’s transmission and distribution facilities underground; provided that such underground locations are actually capable of accommodating the Franchisee’s cable and other equipment without technical degradation of the Cable System’s signal quality. In any region(s) of the Franchise Area where the transmission or distribution facilities of the respective public or municipal utilities are both aerial and underground, the Franchisee shall have the discretion to construct, operate, and maintain all of its transmission and distribution facilities, or any part thereof, aerially or underground. Nothing in this Section shall be construed to require the Franchisee to construct, operate, or maintain underground any ground-

mounted appurtenances such as customer taps, line extenders, system passive devices, amplifiers, power supplies, pedestals, or other related equipment.

3.2.7 All excavation and reconstruction work by Franchisee in the public rights-of-way must be in compliance with the requirements of chapter 35, article III excavations, of the City Code, including all of the standards referenced therein, and all applicable VDOT standards. It shall be the responsibility of Franchisee to obtain any required permits, to review all applicable excavation, reconstruction, restoration, repair and permitting requirements, and to become familiar with such requirements before beginning any excavation, reconstruction, restoration or repair work in the public rights-of-way or private property.

3.2.8 Any equipment or facilities installed by Franchisee in the public rights-of-way shall be installed, located, erected, constructed, reconstructed, replaced, restored, removed, repaired, maintained and operated in accordance with good engineering practices, performed by experienced maintenance and construction personnel so as not (1) to endanger or interfere in any manner with improvements the City or VDOT may deem appropriate to make; or (2) to interfere with the rights of any private property owner; or (3) to hinder or obstruct pedestrian or vehicular traffic.

3.2.9 Whenever the City or VDOT shall determine that it is necessary in connection with the repair, relocation, or improvement of the public rights-of-way, the City or VDOT may require by written notification that any properties or facilities of the Franchisee be removed or relocated. Within sixty (60) days after receipt of notification, unless the City or VDOT extends such period for good cause shown, the Franchisee shall remove or relocate its facilities to such place and under such terms and conditions as specified by the City or VDOT. The Franchisee shall bear all expenses associated with the removal and relocation except that the City or VDOT will issue, without charge to the Franchisee, whatever local permits are required for the relocation of Franchisee's facilities. If the Franchisee does not complete its removal or relocation within sixty (60) days or such other period as authorized by the City or VDOT, the City or VDOT may take such actions as necessary to effect such removal or relocation at the Franchisee's expense. Franchisee shall be entitled to reimbursement of its relocation costs from public or private funds raised for the project and made available to other users of the Public Way. It is understood that there is no guarantee by the Franchising Authority that any public or private funds will be available to help defray the cost of such undergrounding or beautification projects.

3.2.10. Undergrounding and Beautification Projects. In the event all users of the Public Way relocate aerial facilities underground as part of an undergrounding or neighborhood beautification project, Franchisee shall participate in the planning for relocation of its aerial facilities contemporaneously with other utilities. Franchisee's relocation costs shall be included in any computation of necessary project funding by the municipality or private parties. Franchisee shall be entitled to reimbursement of its relocation costs from public or private funds raised for the project and made available to other users of the Public Way. It is understood that there is no guarantee by the

Franchising Authority that any public or private funds will be available to help defray the cost of such undergrounding or beautification projects.

SECTION 4 - Service Obligations

4.1 General Service Obligations.

4.1.1 The Franchisee shall make Cable Service available to every residential dwelling unit within the Franchise Area where the minimum density is at least thirty (30) dwelling units per mile when measured from the existing Cable System. Subject to the density requirement, Franchisee shall offer Cable Service to all new homes or previously unserved homes located within 150 feet of the Franchisee's distribution cable.

4.1.2 The Franchisee may elect to provide Cable Service to areas not meeting the above density and distance standards. The Franchisee may impose an additional charge in excess of its regular installation charge for any service installation requiring a drop in or line extension in excess of the above standards. Any such additional charge shall be computed on a time plus materials basis to be calculated on that portion of the installation that exceeds the standards set forth above. Such additional charge shall be paid by the developer or landowner or customer requesting Cable Service in an area that does not meet the density and distance standards.

4.2 New Developments. Franchisee agrees to use commercially reasonable efforts to inform itself of all newly planned developments with the City and to work with developers to cooperate in pre-installation of facilities to support Cable Service. Should, through new construction, an area within the franchise area meet the density requirement, the Franchisee shall provide Cable Service to such area within six months of receiving notice from the City that the density requirement has been met.

4.3 Programming. The Franchisee shall offer to all Customers a diversity of video programming services.

4.4 No Discrimination. The Franchisee shall not discriminate or permit discrimination between or among any Persons in the availability of Cable Services or other services provided in connection with the Cable System in the Franchise Area. It shall be the right of all Persons to receive all available services provided on the Cable System so long as such Person's financial or other obligations to the Franchisee are satisfied, unless such Person has engaged in theft of Franchisee's cable services, vandalism of its property or harassment of its representatives. Nothing contained herein shall prohibit the Franchisee from offering bulk discounts, promotional discounts, package discounts, or other such pricing strategies as part of its business practice. Franchisee shall assure that access to cable services is not denied to any group of potential residential cable subscribers because of the income of the residents of the local area in which such group resides.

4.5 Subscriber Surveys: Upon the request of the City, but not more than once every three years, the Franchisee shall conduct a Subscriber satisfaction survey pertaining to quality of service, which may be transmitted to Subscribers in the Franchisee's invoice for Cable Services. The results of such survey shall be provided to the City on a timely basis and in any case not less than three months after the survey has been distributed to the Subscribers.

4.6 Performance Evaluation Sessions: The City and the Franchisee shall hold scheduled performance evaluation sessions.

4.6.1. Performance Evaluation sessions shall be held no more than once every three years during the Term of the Franchise. All such evaluation sessions shall be publicized in advance and be open to the public.

4.6.2. The Franchisee shall reasonably cooperate with the evaluation and shall, subject to the proprietary information provision of Section 8.7 of this Agreement, supply the City with all relevant information requested.

4.6.3. If the evaluation indicates a need for modification of the Agreement, the City shall attempt to negotiate the identified changes with the Franchisee. Any changes agreed to by the City and the Franchisee shall be approved by the City Council before they become effective.

4.7 Availability of Maps to the City: The Franchisee shall make available to the City at its Lynchburg area office annually updated maps of the Franchise Area which shall clearly delineate the following:

4.7.1. Areas within the Franchise Area where Cable Service will be available to Subscribers.

4.7.2 Areas covered by the Franchise where the Cable System cannot be extended due to lack of present or planned development, with such areas clearly marked, and, at such time as conditions in any of those areas have changed so that the minimum density level set forth in Section 4.1.1 has been attained, an estimated timetable to commence providing Cable Service in areas not currently served.

4.8 Changes in Service: Franchisee agrees to give the City Manager thirty (30) days prior written notice of changes in the mix, or quality of the Cable Services.

SECTION 5 - Public, Educational and Governmental Access Channels

5.1 Franchisee shall designate capacity on up to three (3) channels for public, educational and/or governmental access video programming provided by the Franchising Authority or its designee, such as a public access organization or educational institution.

On the Effective Date, Franchisee shall provide two (2) PEG access channels for the purposes of providing governmental and educational channels. On the Effective Date, a public access channel will be required only if a public access organization is operational, producing programming content for cablecast, and is providing all communications facilities needed for delivering a public access signal to Franchisee's headend. If such a public access organization is not meeting such requirements as of the Effective Date, within ninety (90) days after a public access organization meets such requirements and requests use of the third PEG access channel, Franchisee shall make available one (1) additional channel for PEG access programming. Use of a channel position for public, educational or governmental ("PEG") access shall be provided on the most basic tier of service offered by Franchisee in accordance with the Cable Act, Section 611, and Article 1.2 of the Code of Virginia, and as further set forth below. "Channel position" means a number designation on the Franchisee's channel lineup regardless of the transmission format (analog or digital). Franchisee does not relinquish its ownership of or ultimate right of control over a channel by designating it for PEG use. In the event any Access channel is reassigned, the Franchisee shall provide the City with at least thirty (30) days notice before reassigning the channel, and shall pay the reasonable costs of any advertising and promotional materials required due to the reassignment. A PEG access user – whether an individual, educational or governmental user – acquires no property or other interest by virtue of the use of a channel so designated, and may not rely on the continued use of a particular channel number, no matter how long the same channel may have been designated for such use. Franchisee shall not exercise editorial control over any public, educational, or governmental use of a channel position, except Franchisee may refuse to transmit any public access program or portion of a public access program that contains obscenity, indecency, or nudity. The Franchising Authority shall be responsible for developing, implementing, interpreting and enforcing rules for Educational and Governmental Access Channel use.

5.2 Public Access. A "Public Access Channel" is a channel position designated for noncommercial use by the public on a first-come, first-served, nondiscriminatory basis. A Public Access Channel may not be used to cablecast programs for profit, or for political or commercial fundraising in any fashion.

5.3 Educational Access. An "Educational Access Channel" is a channel position designated for noncommercial use by educational institutions such as public or private schools (but not "home schools"), community colleges, and universities.

5.4 Government Access. A "Governmental Access Channel" is a channel position designated for noncommercial use by the Franchising Authority for the purpose of showing the public local government at work.

5.5 The City may, after a public hearing and upon a finding that the existing PEG channels are substantially utilized within the meaning of Section 15.2-2108.22(1) of the Code of Virginia, require by ordinance that the Franchisee provide an additional PEG channel or channels, up to a maximum of three (3) additional PEG channels, provided

that the total number of PEG channels, including the additional PEG channels, shall not exceed six (6).

5.6 Franchisee shall ensure that all PEG access channel signals carried on its system, regardless of the method used to acquire the PEG channels, comply with all applicable FCC signal quality and technical standards for all classes of signals. The technical and signal quality of all PEG access channel signals shall be preserved and shall be of comparable quality as other channels.

5.7 Franchisee shall continue to provide and maintain all existing communications facilities between its headend and the following PEG origination locations:

1. City Hall, 900 Church Street, for the Government channel.
2. Lynchburg City Schools Administration, 915 Court Street, for the Education channel.

SECTION 6 - Communications Tax and Franchise Fees

6.1. Communications Tax: Franchisee shall comply with the provisions of Section 58.1-645 et seq. of the Code of Virginia, pertaining to the Virginia Communications Sales and Use Tax, as amended (the "Communications Tax"), and Sections 6.2 through 6.6 of the Agreement shall not have any effect, for so long as the Communications Tax or a successor state or local tax that would constitute a franchise fee for purposes of 47 U.S.C. § 641, as amended, is imposed on the sale of cable services by the Franchisee to subscribers in the city.

6.2. Payment of Franchise Fee to City: In the event that the Communications Tax is repealed and no successor state or local tax is enacted that would constitute a franchise fee for purposes of 47 U.S.C. § 641, as amended, Franchisee shall pay to the City a Franchise fee of five percent (5%) of annual Gross Revenue, beginning on the effective date of the repeal of such tax (the "Repeal Date"). Beginning on the Repeal Date, the terms of Section 6.2 through 6.6 of this Agreement shall take effect. In accordance with Title VI of the Communications Act, the twelve (12) month period applicable under the Franchise for the computation of the Franchise fee shall be a calendar year. Such payments shall be made no later than thirty (30) days following the end of each calendar quarter. Should Franchisee submit an incorrect amount, Franchisee shall be allowed to add or subtract that amount in a subsequent quarter, but no later than ninety (90) days following the close of the calendar year for which such amounts were applicable; such correction shall be documented in the supporting information required under Section 6.3 below.

6.3. Supporting Information: Each Franchise fee payment shall be accompanied by a brief report prepared by a representative of Franchisee showing the basis for the computation, and a breakdown by major revenue categories (such as Basic

Service, premium service, etc.). The City shall have the right to reasonably request further supporting information for each Franchise fee payment, subject to the proprietary information provision of Section 8.7.

6.4. **Limitation on Franchise Fee Actions:** The period of limitation for recovery of any Franchise fee payable hereunder shall be five (5) years from the date on which payment by Franchisee is due.

6.5. **Bundled Services:** If cable services subject to a franchise fee, or any other fee determined by a percentage of the cable operator's gross revenues in a locality, are provided to subscribers in conjunction with other services: the fee shall be applied only to the value of these cable services, as reflected on the books and records of the cable operator in accordance with rules, regulations, standards, or orders of the Federal Communications Commission or the State Corporation Commission, or generally accepted accounting principles. Any discounts resulting from purchasing the services as a bundle shall be reasonably allocated between the respective services that constitute the bundled transaction.

6.6 **Books and Records Regarding Franchise Fees.** Subject to the confidentiality requirements of Section 8.7 of this Agreement, the City, or such Person or Persons designated by the City, shall have the right to inspect and copy records and the right to audit and to recompute any amounts determined to be payable under this Franchise, without regard to by whom they are held. If an audit discloses an overpayment or underpayment of franchise fees, the City shall notify the Franchisee of such overpayment or underpayment within ninety (90) days of the date the audit was completed. The City, in its sole discretion, shall determine the completion date for any audit conducted hereunder. Audit completion is not to be unreasonably delayed by either party. Subject to the confidentiality requirements of Section 8.7 of this Franchise, the Franchisee shall be responsible for providing to the City all records necessary to confirm the accurate payment of franchise fees. The Franchisee shall maintain such records for the current year plus three (3) years. The City's audit expenses shall be borne by the City unless the audit determines the payment to the City should be increased by more than five percent (5%) in the audited period, in which case the costs of the audit shall be paid by the Franchisee to the City within thirty (30) days following written notice to the Franchisee by the City of the underpayment, which notice shall include a copy of the audit report. If recomputation results in additional revenue to be paid by Franchisee to the City, such amount shall be subject to an interest charge in accordance with the City's standard rate for computing interest charges on late payments.

SECTION 7 - Customer Service Standards; Customer Bills; and Privacy Protection

7.1 **Customer Service Standards.** The Franchisee shall comply in all respects with the customer service requirements established by the FCC. Franchisee shall be subject to the following customer service standards consistent with 47 U.S.C. §§ 76.309, 1602, 1603, 1618 and 1619:

7.1.1 Franchisee will maintain a local or toll-free telephone access line which will be available to its subscribers 24 hours a day, seven days a week.

7.1.1.1 Trained representatives will be available to respond to customer telephone inquiries during normal business hours.

7.1.1.2 After normal business hours, the access line may be answered by a service or automated response system, including an answering machine. Inquiries received after normal business hours must be responded to by a trained representative on the next business day.

7.1.2 Under normal operating conditions, telephone answer time by a customer representative, including wait time, shall not exceed thirty (30) seconds when the connection is made. If the call needs to be transferred, transfer time shall not exceed thirty (30) seconds. These standards shall be met no less than ninety (90) percent of the time under normal operating conditions as measured on a quarterly basis.

7.1.3 Under normal operating conditions, the customer will receive a busy signal less than three percent (3%) of the time.

7.1.4 Franchisee shall accurately collect and maintain data to measure its compliance with the telephone answering standards in Sections 7.1.2 and 7.1.3.

7.1.5 Customer service centers and bill payment locations will be open at least during normal business hours and one or more bill payment centers will be conveniently located in the Lynchburg area.

7.1.6 Installations, Outages, and Service Calls. Under normal operating conditions, each of the following standards will be met no less than ninety five percent (95%) of the time as measured on a quarterly basis.

7.1.6.1 Standard installations will be performed within seven business days after an order has been placed. "Standard" installations are those that are within 150 feet of the existing distribution system.

7.1.6.2 Excluding conditions beyond the control of the Franchisee, the Franchisee will begin repairs on Service Outages promptly and in no event later than twenty-four (24) hours after the outage becomes known.

7.1.6.3 The Franchisee must begin working to correct Service Interruptions within 24 hours, including weekends, of receiving a subscriber call for a Service Interruption.

7.1.7 Franchisee shall accurately collect and maintain data to measure its compliance with subparagraph 7.1.6.

7.1.8 The "appointment window" alternatives for installations, service calls and other installation activities will either be at a specific time or, at maximum, a four-hour time block during normal business hours. Franchisee may schedule service calls and other installation activities outside of normal business hours for the express convenience of the customer.

7.1.9 Franchisee may not cancel an appointment with a customer after the close of business on the business day prior to the scheduled appointment. If Franchisee representative is running late for an appointment with a customer and will not be able to keep the appointment as scheduled, the customer will be contacted. The appointment will be rescheduled as necessary, at a time which is convenient for the customer.

7.1.10 Franchisee shall provide written information on each of the following areas at the time of installation of service, at least annually to all subscribers, and at any time upon request:

- (i) Products and services offered;
- (ii) Prices and options for programming services and conditions of subscription to programming and other services;
- (iii) Installation and service maintenance policies;
- (iv) Instructions on how to use the cable service;
- (v) Channel positions of programming carried on the system;
- (v) Refund policy; and
- (vii) Billing and complaint procedures, including the Franchisee's office hours, telephone number, and address of the local cable office.

7.1.11 Upon request by the City, Franchisee shall be required to submit quarterly reports to the Franchising Authority, in accordance with Section 8.8 – Reporting, to allow it to monitor Franchisee's compliance with quarterly customer service standards.

7.2 Customer Bills. Customer bills shall be designed in such a way as to present the information contained therein clearly and comprehensibly to Customers, and in a way that (i) is not misleading and (ii) does not omit material information. Notwithstanding anything to the contrary in Section 7.1, above, the Franchisee may, in its sole discretion, consolidate costs on Customer bills as may otherwise be permitted by Section 622(c) of the Cable Act (47 U.S.C. §542(c)).

7.3 Franchisee shall notify subscribers of any changes in rates, programming services or channel positions as soon as possible in writing. Notice must be given to subscribers a minimum of thirty (30) days in advance of such changes if the change is within the control of the Franchisee. In addition, Franchisee shall notify subscribers thirty (30) days in advance of any significant changes in the other information required by Section 7.1.10.

7.4 In case of a billing dispute, Franchisee must respond to a written complaint from a subscriber within thirty (30) days.

7.5 Refund checks will be issued promptly, but not later than either:

7.5.1 The customer's next billing cycle following resolution of the request, or thirty (30) days, whichever is earlier, or

7.5.2 The return of the equipment supplied by Franchisee if service is terminated.

7.6 Credits for service will be issued no later than the customer's next billing cycle following the determination that a credit is warranted.

7.7 Franchisee shall maintain an office in the Lynchburg area for, at minimum, the payment of bills, delivery and return of subscriber equipment, requests for installation, disconnection, and reinstatement of cable service, addressing of subscriber inquiries, and receipt of subscriber complaints.

7.8 Franchisee shall provide parental control devices to all subscribers who wish to be able to block out any objectionable channel(s) of programming from the cable service entering the subscriber's home.

7.9 Privacy Protection. The Franchisee shall comply with all applicable federal and state privacy laws, including Section 631 of the Cable Act and regulations adopted pursuant thereto.

SECTION 8 - Oversight and Regulation by Franchising Authority

8.1 Oversight of Franchise. In accordance with applicable law, the Franchising Authority shall have the right to oversee, regulate and, on reasonable prior written notice and in the presence of Franchisee's employee, periodically inspect the construction, operation and maintenance of the Cable System in the Franchise Area, and all parts thereof, as necessary to monitor Franchisee's compliance with the provisions of this Franchise Agreement.

8.2 Technical Standards. The Franchisee shall comply with all applicable technical standards of the FCC as published in subpart K of 47 C.F.R. § 76. To the extent those standards are altered, modified, or amended during the term of this Franchise, the Franchisee shall comply with such altered, modified or amended standards within a reasonable period after such standards become effective. The Franchising Authority shall have, upon written request, the right to obtain a copy of tests and records required to be performed pursuant to the FCC's rules.

8.3 Operational Records. The Franchisee shall maintain the records required to compute all operational and customer service compliance measures outlined in this Franchise to demonstrate that the measures are being met for at least four consecutive quarters. Failure to maintain the records as required herein shall subject the Franchisee to the liquidated damages established in this Franchise Agreement.

8.4 Records Required: Franchisee shall at all times maintain:

8.4.1. Records of all written complaints for a period of one year after receipt by Franchisee or until the applicable compliance measures described in this Franchise are met for four consecutive quarters. The term “complaint” as used herein refers to complaints about any aspect of the Cable System or Franchisee’s cable operations, including, without limitation, complaints about employee courtesy. Complaints recorded will not be limited to complaints requiring an employee service call;

8.4.2. Records of Outages and Service Interruptions for a period of one year after occurrence, or until the applicable compliance measures described in this Franchise are met for four consecutive quarters, indicating date, duration, area, and the number of Subscribers affected, type of outage, and cause;

8.4.3. Records of service calls for repair and maintenance for a period of one year after resolution by Franchisee, or until the applicable compliance measures described in this Franchise are met for four consecutive quarters, indicating the date and time service was required, the date of acknowledgment and date and time service was scheduled (if it was scheduled), and the date and time service was provided, and (if different) the date and time the problem was resolved;

8.4.4. Records of installation/reconnection and requests for service extension for a period of one year after the request was fulfilled by Franchisee, or until the applicable compliance measures described in this Franchise are met for four consecutive quarters, indicating the date of request, date of acknowledgment, and the date and time service was extended; and

8.5 Federal Communications (FCC) Testing: Within fourteen (14) days of a written request by the City, a written report of test results of FCC performance testing will be provided to the City Manager / Designee.

8.6 File for Public Inspection. Throughout the term of this Franchise Agreement, the Franchisee shall maintain at its business office, in a file available for public inspection during normal business hours, those documents required pursuant to the FCC’s rules and regulations. Upon reasonable written notice to the Franchisee and with no less than thirty (30) business days’ written notice to the Franchisee, the City shall have the right to inspect Franchisee’s books and records pertaining to Franchisee’s provision of Cable Service in the franchise area at any time during normal business hours and on a nondisruptive basis, as are reasonably necessary to ensure compliance with the terms of this franchise. Such notice shall specifically reference the section or subsection of the franchise which is under review, so that Franchisee may organize the necessary books and records for appropriate access by the City. Franchisee shall not be required to maintain any books and records for franchise compliance purposes longer than the current year plus three (3) years.

8.7 Proprietary Information:

8.7.1 Notwithstanding anything to the contrary set forth herein, Franchisee shall not be required to submit information to the City that it reasonably deems to be proprietary or confidential in nature, nor submit to the City any of its or an affiliate's books and records not relating to the provision of Cable Service in the franchise area, except as provided herein. Such confidential information shall be subject to the following, to be applied as is most practicable for the purposes of this Agreement:

8.7.1.1 To the extent an exemption under the Virginia Freedom of Information Act permits the City to maintain the confidentiality of submitted information and the Franchisee submits such information to the City, the City shall maintain the confidentiality of such information and not disclose it to any public request;

8.7.1.1 To the extent the information provided to an accountant, attorney, consultant, or any other agent of the City ("City Consultant") would not be subject to public disclosure under the Virginia Freedom of Information Act and the City instructs the Franchisee to provide such information to the City Consultant as may be required by this Agreement, the Franchisee shall provide such information to the City Consultant and the City shall not take possession of the information nor engage in any act that would jeopardize the confidentiality of such information; or,

8.7.1.3 Franchisee must provide the following documentation to the City:

- (i) specific identification of the information;
- (ii) statement attesting to the reason(s) the Franchisee believes the information is confidential; and
- (iii) statement that the documents are available at the Franchisee's designated offices for inspection by the City.

8.7.2 At all times, the City shall take reasonable steps to protect the proprietary and confidential nature of any books, records, maps, plans, or other City-requested documents that are provided pursuant to the Agreement to the extent they are designated as such by the Franchisee. Nothing in this Section shall be read to require the Franchisee to violate federal or state law protecting Subscriber privacy.

8.8 Reporting. The Franchisee shall submit the following reports regarding annual financial information and quarterly customer service information:

8.8.1 Annual Reports. No later than ninety (90) days after the end of its fiscal year, Franchisee shall submit a written report to the City, which shall include a list of major cable-related projects undertaken in the past year and planned for the current year, including construction and upgrade schedules for any new, relocated, or upgraded aerial or underground facilities;

8.8.2 Quarterly Reports. Upon request by the City, no later than thirty (30) days after the end of each calendar quarter, the Franchisee shall submit a written report to the City regarding complaints and service requests received by each call center

serving the City, containing such categories of information as the Franchisee records in the normal course of business, which shall include:

8.8.2.1 A report showing the number of service calls received by type during that quarter, including any property damage to the extent such information is available to the Franchisee, and any line extension requests received during that quarter;

8.8.2.2 A report showing the number of outages for that quarter, identifying separately each outage of one or more nodes for more than one hour at a time, the date and time it occurred, the date and time when repairs began, its duration, the map area, and, when available to the Franchisee, number of homes affected.

8.8.2.3 A report showing the Franchisee's performance with respect to Section 7.1 of this Agreement and all applicable customer service standards established in 47 C.F.R. §76.309(c), signed by an officer or employee certifying its performance with these customer service standards. Included in this report will be the following information:

- i) Percentage of telephone calls that were answered within 30 seconds
- ii) Percentage of telephone calls received that were abandoned before being answered by a live operator
- iii) Average hold time for telephone calls received
- iv) Percentage of time when all incoming trunk lines were in a busy condition
- v) Percentage of standard installations performed within seven business days
- vi) Percentage of repair calls for Service Interruptions responded to within 24 hours.

8.8.3 The Franchisee shall submit to the City copies of each petition, application, report, and communication that directly and materially affects the provision of Cable Service within the Franchise Area that are transmitted by the Franchisee to any federal, state, or other regulatory commissions, agencies or courts.

SECTION 9 – Transfer or Change of Control of Cable System or Franchise

9.1 No transfer of this Franchise shall occur without the prior written consent of the Franchising Authority, which consent shall not be unreasonably withheld, delayed or conditioned. No transfer shall be made to a Person, group of Persons or Affiliate that

is not legally, technically and financially qualified to operate the Cable System and satisfy the obligations hereunder.

SECTION 10 - Insurance and Indemnity

10.1 The Franchisee shall indemnify, hold harmless and defend the City, its officers, employees, and agents (hereinafter referred to as "indemnities"), from and against:

10.1.1 Any and all third-party claims for liabilities, obligations, damages, penalties, liens, costs, charges, losses and expenses (including, without limitation, fees and expenses of attorneys, expert witnesses and consultants), which may be imposed upon, incurred by or asserted against the indemnitees by reason of any act or omission of the Franchisee, its personnel, employees, agents, contractors or subcontractors, resulting in personal injury, bodily injury, sickness, disease or death to any person or damage to, loss of or destruction of tangible or intangible property, libel, slander, invasion of privacy and unauthorized use of any trademark, trade name, copyright, patent, service mark or any other right of any person, firm or corporation, which may arise out of or be in any way connected with the construction, installation, operation, maintenance, use or condition of the Franchisee's cable system caused by Franchisee, its contractors, subcontractors or agents or the Franchisee's failure to comply with any federal, state or local statute, ordinance or regulation.

10.1.2 Any and all third-party claims for liabilities, obligations, damages, penalties, liens, costs, charges, losses and expenses (including, without limitation, fees and expenses of attorneys, expert witnesses and consultants), which are imposed upon, incurred by or asserted against the indemnitees by reason of any claim or, lien arising out of work, labor, materials or supplies provided or supplied to the Franchisee, its contractors or subcontractors, for the installation, construction, operation or maintenance of the Franchisee's cable system in the city.

10.1.3 Any and all third-party claims for liabilities, obligations, damages, penalties, liens, costs, charges, losses and expenses (including, without limitation, fees and expenses of attorneys, expert witnesses and consultants), which may be imposed upon, incurred by or asserted against the indemnitees by reason of any financing or securities offering by Franchisee or its affiliates for violations of the common law or any laws, statutes or regulations of the Commonwealth of Virginia or of the United States, including those of the Federal Securities and Exchange Commission, whether by the Franchisee or otherwise.

10.2 Damages shall include, but not be limited to, penalties arising out of copyright infringements and damages arising out of any failure by the Franchisee to secure consents from the owners, authorized distributors or licensees, or programs to be delivered by the Franchisee's cable system.

10.3 The Franchisee undertakes and assumes for its officers, agents, contractors and subcontractors and employees all risk of dangerous conditions, if any, on or about any City-owned or controlled property, including streets and public rights-of-ways, and the Franchisee hereby agrees to indemnify and hold harmless the indemnitees against and from any claim asserted or liability imposed upon the indemnitees for personal injury or property damage to any person arising out of the installation, operation, maintenance or condition of the Franchisee's cable system or the Franchisee's failure to comply with any federal, state or local statute, ordinance or regulation, except for any claim asserted or liability imposed upon the indemnitees that arises or is related to wanton or willful negligence by the indemnitees.

10.4 In the event any action or proceeding shall be brought against the indemnitees by reason of any matter for which the indemnitees are indemnified hereunder, the Franchisee shall, upon notice from any of the indemnitees, and at the Franchisee's sole cost and expense, resist and defend the same, provided further, however, that the Franchisee shall not admit liability in any such matter on behalf of the indemnitees without the written consent of the City Attorney or his or her designee.

10.5 The City shall give the Franchisee prompt notice of the making of any written claim or the commencement of any action, suit or other proceeding covered by the provisions of this section.

10.6 Nothing in this ordinance or in a franchise is intended to, or shall be construed or applied to, express or imply a waiver by the City of statutory provisions, privileges or immunities of any kind or nature as set forth in the Code of Virginia, including the limits of liability of the City as exists presently or as may be increased from time to time by the legislature. Nothing in a franchise or this ordinance shall constitute a waiver of the City's statutory provisions, privileges or immunities, including the City's sovereign immunity, of any kind or nature.

10.7 The Franchisee shall maintain, and by its acceptance of a franchise hereunder specifically agrees that it will maintain throughout the term of the franchise, general comprehensive liability insurance insuring the Franchisee. All liability insurance shall include an endorsement in a specific form which names as joint and several insured's the City and the City's officials, employees and agents, with respect to all claims arising out of the operation and maintenance of the Franchisee's cable system in the city. Liability insurance mentioned herein below shall be in the minimum amounts of:

10.7.1 \$5,000,000.00 for bodily injury or death to anyone person, within the limit of ten million dollars (\$10,000,000) for bodily injury or death resulting from any one accident;

10.7.2 \$5,000,000.00 for property damage, including damage to the City's property, from any one accident;

10.7.3 \$5,000,000.00 for all other types of liability resulting from any one occurrence;

10.7.4 Workers Compensation Insurance as required by the Commonwealth of Virginia;

10.7.5 Franchisee shall carry and maintain in its own name automobile liability insurance with a limit of \$5,000,000 for each person and \$5,000,000 for each accident for property damage with respect to owned and non-owned automobiles for the operation of which the Franchisee is responsible; and

10.7.6 Coverage for copyright infringement.

10.8 The inclusion of more than one (1) insured shall not operate to increase the limit of the Franchisee's liability, and that insurer waives any right on contribution with insurance which may be available to the City.

10.9 All policies of insurance required by this section shall be placed with companies which are qualified to write insurance in the Commonwealth of Virginia and which maintain throughout the policy term a General Rating of "A-VII" and a Financial Size Category of "A:X" as determined by Best Insurance Rating Services.

10.10 Certificates of insurance obtained by the Franchisee in compliance with this section must be approved by the City Attorney, and such insurance policy certificate of insurance shall be filed and maintained with the City's Risk Manager during the term of the franchise. The Franchisee shall immediately advise the City Attorney of any litigation that may develop that would affect this insurance.

10.11 Should the City find an insurance document to be in non-compliance, then it shall notify the Franchisee, and the Franchisee shall be obligated to cure the defect.

10.12 Neither the provisions of this section, nor any damages recovered by the City thereunder, shall be construed to nor limit the liability of the Franchisee under any franchise issued hereunder or for damages.

10.13 The insurance policies provided for herein shall name the City, its officers, employees and agents as additional insured's, and shall be primary to any insurance or self-insurance carried by the City. The insurance policies required by this section shall be carried and maintained by the Franchisee throughout the term of the franchise and such other period of time during which the Franchisee operates or is engaged in the removal of its cable system. Each policy shall contain a provision providing that the insurance policy may not be canceled by the surety, nor the intention not to renew be stated by the surety, until thirty (30) days after receipt by the City, by registered mail, of written notice of such intention to cancel or not to renew.

10.14 Nothing in this section shall require Franchisee to indemnify, hold harmless or defend the City, its officials, employees or agents, from any claims or lawsuits arising out of the City's award of a franchise to another person.

SECTION 11 - System Description and Service

11.1 System Characteristics: Franchisee's Cable System shall meet or exceed the following requirements:

11.1.1. The System shall provide bandwidth capacity capable of carrying one hundred (100) channels of video programming.

11.1.2. The System shall be designed to be an active two-way plant for subscriber interaction, if any, required for selection or use of Cable Service. The digital offerings shall include some high definition Cable Service.

11.1.3. The Cable Service shall be operated in a manner such that it is in compliance with FCC standards and requirements with respect to interference. The Cable System shall be operated in such a manner as to minimize interference with the reception of off-the-air signals by a Subscriber. The Franchisee shall insure that signals carried by the Cable System, or originating outside the Cable System wires, cable, fibers, electronics and facilities, do not ingress, or egress into or out of the Cable System in excess of FCC standards. In particular, the Franchisee shall not operate the Cable System in such a manner as to pose unwarranted interference with emergency radio services, aeronautical navigational frequencies or an airborne navigational reception in normal flight patterns, or any other type of wireless communications, pursuant to FCC regulations.

11.2. Interconnection: The Franchisee shall design its Cable System so that it may be interconnected with other cable systems and open video systems in the Franchise Area. Interconnection of systems may be made by direct cable connection, microwave link, satellite, or other appropriate methods.

11.3. Standby Power: The Franchisee shall provide standby power generating capacity at the headend and at all hubs. The Franchisee shall maintain standby power capable of at least twenty-four (24) hours duration at the headend and all hubs, with automatic response systems to alert the local management center when commercial power is interrupted. The Franchisee shall have portable generators available to provide power to the Cable System for not less than two (2) hours in the event of an electrical outage.

11.4. Technical Standards: The Cable System shall meet or exceed the applicable technical standards set forth in 47 C.F.R. § 76.601.

11.5. Leased Access Channels: The Franchisee shall provide Leased Access Channels as required by federal law.

11.6 Service to School and Government Buildings. Franchisee shall provide, without charge, one cable service outlet activated for basic cable service to each building used by City government receiving such service as of the Effective Date, as well as other such buildings where service is requested in the future that are located within the

Franchise Area within 200 feet of the Franchisee's distribution cable. The excess cost for extending service to buildings not within 200 feet of the Franchisee's distribution cable shall be paid by the entity requesting service.

11.7 Emergency Powers. In the event of an emergency, or where Franchisee's cable system creates or is contributing to an imminent danger to health, safety, or property, or an unauthorized use of property, the Franchisee shall remove or relocate any or all parts of Franchisee's cable system at the request of the City. If the Franchisee fails to comply with the City's request, the City may remove or relocate any or all parts of the Franchisee's cable system upon reasonable notice to the Franchisee.

11.8 Emergency Alert System.

11.8.1 Franchisee shall install and thereafter maintain for use by the City, an Emergency Alert System (EAS).

11.8.2 The EAS shall at all times be operated in accordance with FCC rules and the Virginia EAS Plan. If the City determines that it is in the public interest to implement franchise emergency override capabilities in addition to those required by federal and state law, and provided that the additional franchise emergency override capabilities are technically feasible and can be deployed at a reasonable cost, Franchisee shall deploy such additional capabilities at its sole cost within twelve (12) months of a request by the City.

11.8.3 The City or other designated body responsible under any approved state or local EAS plan shall provide reasonable notice to the Franchisee prior to any test of the EAS. The Franchisee shall cooperate with the City or other designated body responsible under any approved state or local EAS plan in any such test.

11.8.4 Franchisee shall maintain the EAS and shall periodically upgrade the EAS at the Franchisee's sole expense to ensure that the EAS technology remains consistent and compatible with prevailing technology and applicable law.

SECTION 12 - Enforcement of Franchise

12.1 If, pursuant to any required public hearing, the City determines that the Franchisee has failed to materially comply with this franchise, Article 1.2 (§§ 15.2-2108 *et seq.*) of Chapter 121 of Title 15.2 of the Code of Virginia, or the applicable mandatory requirements of 47 U.S.C. §§ 521-573 or any regulation promulgated thereunder, the City may impose any penalty for a violation of the terms of an ordinance franchise that it may impose for a comparable violation under the terms of a negotiated franchise or applicable Virginia or City law, including, without limitation, revocation of the franchise.

12.2 Within thirty (30) days after the award of a franchise, the Franchisee shall deposit with the City a performance bond or an irrevocable letter of credit from a

financial institution running to the City in the amount of fifty thousand dollars (\$50,000.00.). The bond or letter of credit shall be used to insure the faithful performance by the Franchisee of all of the provisions of its franchise and this ordinance, Sections 15.2-2108.19 *et seq.* of the Code of Virginia, and the mandatory requirements of 47 U.S.C. §§ 521-573 and any rules promulgated thereunder, and compliance with all lawful orders, permits, and directions of any agency, commission, board, department, division, or office of the City or VDOT having jurisdiction over the acts of the Franchisee, or defaults under a franchise or the payment by Franchisee of any penalties, liquidated damages, claims, liens, and taxes due the City which arise by reason of the construction, operation, or maintenance of Franchisee's cable system in the city, including , including restoration of the public rights-of-way and the cost of removal or abandonment of any property of a cable operator.

12.3 Any bond obtained by Franchisee must be placed with a company which is qualified to write bonds in the Commonwealth of Virginia, such bond shall be subject to the approval of the City Attorney, which approval shall not be unreasonably withheld or denied, and shall contain the following endorsement (or the substantive equivalent of such language as agreed upon by the City):

“It is hereby understood and agreed that this bond may not be cancelled without the consent of the City until sixty (60) days after receipt by the City by registered mail, return receipt requested, of a written notice of intent to cancel or not renew.”

12.4 Any letter of credit must be issued by a federally insured commercial lending institution and shall be subject to the approval of the City Attorney, which approval shall not be unreasonably withheld or denied.

12.4.1 The letter of credit may be drawn upon by the City by presentation of a draft at sight on the lending institution, accompanied by a written certificate signed by the City Manager or his designee, certifying that the Franchisee has failed to comply with this ordinance after having been given due notice and opportunity to cure the failure to comply. Such certificate shall also state the specific reasons for the failure of compliance, and stating the basis of the amount being drawn.

12.4.1.1 The City may withdraw money from the letter of credit in accordance with the procedures set forth in this section.

12.4.1.2 The City shall provide the Franchisee with written notice informing the Franchisee that such amounts are due to the City. The written notice shall describe, in reasonable detail, the reasons for the assessment. In accordance with Section 12.7, the Franchisee shall cure every failure cited by the City or notify the City that there is a dispute as to whether Franchisee believes such amounts are due the City. Such notice by the Franchisee to the City shall specify with particularity the basis of Franchisee's belief that such monies are not due the City.

12.4.1.3 Upon the delivery of the necessary documents to the lending institution, the City has the right to immediate payment from the issuer bank of the amount from the letter of credit necessary to cure the default.

12.4.1.4 Any letter of credit shall contain the following endorsement: "It is hereby understood and agreed that this letter of credit may not be canceled by the issuer bank nor the intention not to renew be stated by the issuer bank until sixty (60) days after receipt by the City, by registered mail, return receipt requested, of a written notice of such intention to cancel or not to renew."

12.5 Any bond or letter of credit shall be recoverable by the City for all damages and costs, whether direct or indirect, resulting from the failure of Franchisee to well and faithfully observe and perform any provision of this ordinance.

12.6 The bond or letter of credit shall be maintained at the amount established herein for the entire term of the franchise, even if amounts have to be withdrawn pursuant to this ordinance. The Franchisee shall promptly replace any amounts withdrawn from the bond or letter of credit.

12.7 Non-compliance procedures.

12.7.1 Should the Franchising Authority believe that the Franchisee has not complied with any of the provisions of this Franchise Agreement, it shall: (i) informally discuss the matter with the Franchisee and (ii) notify the Franchisee in writing of the exact nature of the alleged noncompliance if the discussions described in the foregoing clause (i) do not lead to resolution of the alleged noncompliance. The Franchisee shall have thirty (30) days from receipt of this written notice to: (a) respond to the Franchising Authority, if the Franchisee contests, in whole or in part, the assertion of noncompliance; (b) cure such default; or (c) in the event that, by the nature of default, such default cannot be cured within the 30-day period, initiate reasonable steps to remedy such default and notify the Franchising Authority of the steps being taken and the projected date that they will be completed. The Franchising Authority shall schedule a public hearing in the event that the Franchisee fails to respond to the written notice pursuant to these procedures or in the event that the alleged default is not remedied within thirty (30) days of the date projected above if the Franchising Authority intends to continue its investigation into the default. The Franchising Authority shall provide the Franchisee at least thirty (30) business days prior written notice of such hearing, which will specify the time, place, and purpose.

12.7.2 In the event the Franchisee fails to cure the default within thirty (30) days, fails to file a timely written response, or fails to timely complete the remediation, the City, if it wishes to continue its investigation into the default, shall schedule a public hearing. The Franchisee shall be notified in writing at least thirty (30) business days prior to the public hearing and shall be provided an opportunity to be heard at the public hearing. The notice shall specify the time, place, and purpose of the public hearing. The City shall: (1) provide public notice of the hearing in compliance with Virginia law; (2) hear any person interested in the violation under review; and (3) provide the Franchisee with an opportunity to be heard.

12.7.3 The City shall, within a reasonable time after the closure of the public hearing, issue findings and conclusions in writing, setting forth the basis for the

findings, the proposed cure plan and time line for curing the violation, if the violation can be cured, and the penalties, damages and applicable interest, if any, owed.

12.7.4 Subject to applicable federal and Virginia law and the provisions of this ordinance, if the City determines pursuant to a public hearing that Franchisee is in violation of any provision of this ordinance, Article 1.2 (§§ 15.2-2108 *et seq.*) of Chapter 121 of Title 15.2 of the Code of Virginia, or the applicable mandatory requirements of 47 U.S.C. §§ 521-573 or any regulation promulgated thereunder, the City may apply one or a combination of the following remedies: (i) seek specific performance or other equitable relief; (ii) commence an action at law; (iii) apply penalties in accordance with Section 12.8, if applicable; or (iv) apply liquidated damages in accordance with Section 12.8, if applicable.

12.7.5 The City may designate the cable administrator or other designee to conduct the hearings and issue findings and conclusions under this subsection. If the City does so, the Franchisee may appeal the determination of the cable administrator or other City designee to the City Council. Such an appeal shall be heard at a lawfully noticed public hearing.

12.7.6 In the event Franchisee submits notification of unwillingness to comply with any additional service availability requirements as contained in Section 12.2-8 of this Ordinance, or fails to comply with these additional service requirements, the Franchisee's franchise may be terminated after written notice and a public hearing.

12.8 Penalties and Liquidated Damages. Because it may be difficult to calculate the harm to the Franchising Authority in the event of a breach of this Franchise Agreement by Franchisee, the parties agree to liquidated damages as a reasonable estimation of the actual damages. To the extent that the Franchising Authority elects to assess liquidated damages as provided in this Agreement and such liquidated damages have been paid, such damages shall be the Franchising Authority's sole and exclusive remedy. Nothing in this Section is intended to preclude the Franchising Authority from exercising any other right or remedy with respect to a breach that continues past the time the Franchising Authority stops assessing liquidated damages for such breach. Liquidated damages shall not be assessed until the Franchising Authority has completed the procedures set forth in Section 12.7 hereof, including holding a public hearing, and has notified the Franchisee, by certified or registered mail, of the proposed liquidated damage, specifying the violation at issue. The Franchisee shall have thirty (30) days from the date of receipt of the written notice to submit payment. If the Franchisee does not make payment within that period, the Franchising Authority may obtain the amount assessed from the Franchisee's performance bond.

12.8.1 The first day for which liquidated damages may be assessed, if there has been no cure after the end of the applicable cure period, shall be the day after the end of the applicable cure period, including any extension of the cure period granted by the Franchising Authority.

12.8.2 Franchisee may appeal (by pursuing judicial relief or other relief afforded by the Franchising Authority) any assessment of liquidated damages within thirty (30) days of receiving written notice of the assessment. Franchisee's obligation to pay the liquidated damages assessed shall be stayed pending resolution of the appeal.

12.8.3 Liquidated damages may be assessed for the following violations of this Franchise Agreement, in the following amounts:

12.8.3.1 Failure to comply with PEG access requirements: \$200, for each violation for each day the violations continues;

12.8.3.2 Failure to render payments due to the Franchising Authority: Three-tenths of one percent (0.3%) of the unpaid amount for each day the violation continues, in addition to any monetary payment due and interest, in accordance with the City's standard rate for computing interest charges on late payments.

12.8.3.3 Failure to supply information, reports, or filings lawfully required: \$200, for each violation for each day the violation continues.

12.8.3.4 Failure to comply with customer service standards: \$200, for each violation for each day the violation continues, except where compliance is measured quarterly, in which case damages shall be as specified in Section 12.8.4.5.

12.8.3.5 Failure to comply with customer service standards with which compliance is measured on a quarterly basis: \$500 for the first violation in which such standards were not met; \$1,000 for any violation within 18 months after the first; and \$2,500 for any violation within 18 months after the second or any subsequent violation.

12.8.4.6 For failure to comply with any other requirement of this ordinance, applicable Virginia law or the Cable Act: \$100 a day for each violation for each day the violation continues.

12.8.3.7 The Franchisee shall not be charged with multiple violations for a single act or event affecting a single subscriber or for a single act or event affecting multiple subscribers on the same day.

12.8.3.8 The City may reduce or waive any of the above liquidated damages if it determines, in its discretion, that such waiver is in the public interest.

12.8.3.9 If a court of competent and binding jurisdiction determines that liquidated damages cannot be imposed by this ordinance rather than by contract, the foregoing liquidated damages shall be construed to be penalties to the full extent allowed and contemplated by Section 15.2-2108.22(6) of the Code of Virginia

12.9 Technical Violation. The Franchising Authority agrees that it is not its intention to subject the Franchisee to penalties, fines, forfeitures or revocation of

the Franchise for so-called “technical” breach(es) or violation(s) of the Franchise, which shall include, but not be limited, to the following:

12.9.1 in instances or for matters where a violation or a breach of the Franchise by the Franchisee was good faith error that resulted in no or minimal negative impact on the Customers within the Franchise Area; or

12.9.2 where there existed circumstances reasonably beyond the control of the Franchisee and which precipitated a violation by the Franchisee of the Franchise, or which were deemed to have prevented the Franchisee from complying with a term or condition of the Franchise.

SECTION 13 - Inspection of facilities

13.1 Franchisee shall comply with all applicable federal, state and local construction and engineering codes and regulations, currently in force or hereafter applicable, to the construction, operation or maintenance of its cable system within the city. The City shall have the right to review Franchisee’s construction plans and specifications to assure compliance with the required standards. After construction has been completed, the City shall have the right to inspect all construction or installation work performed pursuant to the franchise and to conduct any tests it deems necessary to ensure compliance with the terms of this ordinance and all applicable federal, state and local building and engineering codes. However, the City shall not be required to review or approve construction plans and specifications or to make any inspections. The Franchisee shall be solely responsible for taking all steps necessary to assure compliance with applicable standards and to ensure that its cable system is installed in a safe manner and pursuant to the terms of the franchise and applicable law.

SECTION 14 - Miscellaneous Provisions

14.1 Force Majeure. The Franchisee shall not be held in default under, or in noncompliance with, the provisions of the Franchise, nor suffer any enforcement or penalty relating to noncompliance or default (including termination, cancellation or revocation of the Franchise), where such noncompliance or alleged defaults occurred or were caused by events which constitute a Force Majeure, as defined in the Agreement.

14.2 Notice. All notices shall be in writing and shall be sufficiently given and served upon the other party by hand delivery, first class mail, registered or certified, return receipt requested, postage prepaid, or by reputable overnight courier service and addressed as follows:

To the Franchising Authority:

City Manager
City of Lynchburg
900 Church Street
Lynchburg, Virginia 24504

To the Franchisee:

Comcast of Georgia/Virginia, Inc.
400 Westfield Road
Charlottesville, VA 22901
Attn: General Manager

with a copy to:

Comcast Cable Communications, Inc.
11800 Tech Road
Silver Spring, MD 20904
Attn.: VP, Government Affairs

14.3 Entire Agreement. This Franchise Agreement, including all Exhibits, embodies the entire understanding and agreement of the Franchising Authority and the Franchisee with respect to the subject matter hereof and supersedes all prior understandings, agreements and communications, whether written or oral. All ordinances or parts of ordinances that are in conflict with or otherwise impose obligations different from the provisions of this Franchise Agreement are superseded by this Franchise Agreement.

14.4 Severability. If any section, subsection, sentence, clause, phrase, or other portion of this Franchise Agreement is, for any reason, declared invalid, in whole or in part, by any court, agency, commission, legislative body, or other authority of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent portion. Such declaration shall not affect the validity of the remaining portions hereof, which other portions shall continue in full force and effect.

14.5 Governing Law. This Franchise Agreement shall be deemed to be executed in the Commonwealth of Virginia, and shall be governed in all respects, including validity, interpretation and effect, and construed in accordance with, the laws of the Commonwealth of Virginia, as applicable to contracts entered into and performed entirely within the Commonwealth.

14.6 Modification. No provision of this Franchise Agreement shall be amended or otherwise modified, in whole or in part, except by an instrument, in writing, duly executed by the Franchising Authority and the Franchisee, which amendment shall be authorized on behalf of the Franchising Authority through the adoption of an

appropriate resolution or order by the Franchising Authority, as required by applicable law.

14.7 No Third-Party Beneficiaries. Nothing in this Franchise Agreement is or was intended to confer third-party beneficiary status on any member of the public to enforce the terms of this Franchise Agreement.

14.8 No Waiver of Rights. Nothing in this Franchise Agreement shall be construed as a waiver of any rights, substantive or procedural, Franchisee may have under federal or state law unless such waiver is expressly stated herein.

IN WITNESS WHEREOF, this Franchise Agreement has been executed by the duly authorized representatives of the parties as set forth below, as of the date set forth below:

Attest:

City of Lynchburg, Virginia:

By: _____

Name: L. Kimball Payne, III

Date

Title: City Manager

Attest:

Comcast of Georgia/Virginia, Inc.

By: _____

Name:

Date

Title:

LYNCHBURG CITY COUNCIL

Agenda Item Summary

MEETING DATE: **February 12, 2008**

AGENDA ITEM NO.: 9

CONSENT:

REGULAR: **X**

CLOSED SESSION:
(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: Project Programming Resolution Support for Improving the intersection of Memorial Avenue/Park Avenue/Lakeside Drive as Part of a Highway Safety Improvement Program (HSIP) Project Grant

RECOMMENDATION: After a public hearing to accept comments regarding the project, adopt a resolution supporting its inclusion in the Virginia Department of Transportation's Six Year Improvement Program (UPC: 86544, State Project Number 0163-118-192).

SUMMARY: This intersection was originally planned to be improved under the Crosstown Connector project. As part of this project, it was going to include pedestrian features and protected left-turn phases for the Memorial Avenue to Lakeside Drive and Park Avenue movements. These protected movements have been needed for some time as during certain peak periods it is very difficult to make a left-turn due to inadequate gaps in oncoming traffic. It is especially difficult for large vehicles such as buses going to the transfer station at the Plaza. There have been a total of 13 angle crashes at this signalized intersection within a three year period. Signalization is supposed to minimize crashes, but due to the lack of protected left-turns, angle crashes are fairly high at this location.

Due to the once impending Crosstown Connector project, maintenance and other improvements were put on hold at this intersection. The Crosstown Connector project has changed significantly and the new replacement project, the Midtown Connector, no longer includes this intersection within its project limits. As a consequence, staff completed a safety grant request to complete the much needed improvements at this intersection.

One of the options looked at for this intersection will be a roundabout. Due to additional right-of-way purchased as part of the original Crosstown Connector project, there is more right-of-way available to install a roundabout. It should be noted that the roundabout is just one improvement option and other improvements such as a signal replacement will also be considered. Currently, the cost estimated for a roundabout improvement at the time of the grant was \$479,250. There is a 10% local match, however, VDOT anticipates that it will provide the 10% match leaving no match necessary for the City.

PRIOR ACTION(S): None

FISCAL IMPACT: None, will help minimize maintenance costs. City may have to match 10% of the total costs.

CONTACT(S):
Gerry Harter – 455-3935
Lee Newland – 455-3947

ATTACHMENT(S): Support Resolution

REVIEWED BY: lkp

PROJECT PROGRAMMING RESOLUTION SUPPORT

WHEREAS, in accordance with Virginia Department of Transportation construction allocation procedures, it is necessary that Council adopt a resolution to support a Highway Safety Improvement Program (HSIP) Project in the Six Year Improvement Program (SYIP) located within the City of Lynchburg;

NOW THEREFORE BE IT RESOLVED, that the Council of the City of Lynchburg; Virginia, supports the Virginia Department of Transportation's SYIP establishing an HSIP Project (UPC: 86544, State Project Number 0163-118-192) for the improvement of the intersection of Memorial Avenue/Park Avenue/Lakeside Drive to include a roundabout, signal replacement or other specified improvement to increase safety at this intersection.

BE IT FURTHER RESOLVED, that the Council of the City Lynchburg hereby agrees to pay its share of the total cost for preliminary engineering, right-of-way and construction of this project in accordance with Section 33.1-44 of the Code of Virginia, and that, if the City of Lynchburg subsequently elects to cancel this project, the City of Lynchburg hereby agrees to reimburse the Virginia Department of Transportation for the total amount of the costs expended by the Department through the date the Department is notified of such cancellation.

Adopted:

Certified:

Clerk of Council

016L

**LYNCHBURG CITY COUNCIL
Agenda Item Summary**

MEETING DATE: February 12, 2008		AGENDA ITEM NO.: 10
CONSENT:	REGULAR: X	CLOSED SESSION: (Confidential)
ACTION: X	INFORMATION:	
<u>ITEM TITLE:</u> Public Street Dedication and Naming Requests – “Ridgeline Lane” Private Street Naming Request –“Meridian Street” in the Cornerstone Traditional Neighborhood Development, off Greenview Drive		

RECOMMENDATION: Approval of resolution to approve the public street dedication and naming requests and the private street naming request.

SUMMARY: JBO, LLC, is requesting to dedicate one (1) public street to be named “Ridgeline Lane” and name one (1) private street “Meridian Street.” The new streets will serve the Cornerstone Traditional Neighborhood Development (TND) which was approved by City Council on June 27, 2006.

An amendment to the Cornerstone TND Master Plan is necessary in order for the streets to be named and/or dedicated. A petition to amend the Cornerstone TND Master Plan has been submitted and is proceeding with this report concurrently as opined by the City Attorney.

PRIOR ACTION(S):

January 23, 2008: Planning Division recommended approval
Planning Commission recommended approval (5-0, 1 Absent- Sale, 1
Abstention - Swienton)

FISCAL IMPACT: N/A

CONTACT(S):

Charlene Montford / 455-3902
Tom Martin /455-3909
Annette Chenault /455-3894

ATTACHMENT(S):

- Resolution
- PC Report
- PC Minutes
- Cornerstone TND Exhibit Drawing Showing Proposed Streets, by Perkins & Orrison, dated January 10, 2008
- Cornerstone TND Guidelines for Public and Private Streets

REVIEWED BY: lkp

RESOLUTION:

A RESOLUTION APPROVING THE DEDICATION AND NAMING OF ONE (1) PUBLIC STREET, TO BE KNOWN AS "RIDGELINE LANE" AND THE NAMING OF ONE (1) PRIVATE STREET TO BE KNOWN AS "MERIDIAN STREET" IN THE CORNERSTONE TRADITIONAL NEIGHBORHOOD DEVELOPMENT.

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF LYNCHBURG that the dedication of 0.9 of an acre for right-of-way for the proposed public street, "Ridgeline Lane," located in the Cornerstone Traditional Neighborhood Development off Greenview Drive be, and hereby is, approved and accepted, contingent on JBO, LLC filing a properly executed subdivision plat to be recorded among the land records in the Office of the Clerk of the Circuit Court; the filing of approved street and utility plans and the necessary construction bonds with the City; and the construction of the street in accordance with City standards. The failure to fully comply with these conditions shall render the City's acceptance of "Ridgeline Lane" as a public street null and void.

BE IT FURTHER RESOLVED that the name "Ridgeline Lane" is hereby approved for the new public street and that the name ""Meridian Street" is hereby approved for the new private street in the Cornerstone Traditional Neighborhood Development off Greenview Drive.

Adopted:

Certified: _____
Clerk of Council

015L

The Department of Community Development
City Hall, Lynchburg, VA 24504 **434-455-3900**

To: Planning Commission
From: Planning Division
Date: January 23, 2008
**RE: Public Street Dedication and Naming Requests—"Ridgeline Lane"
Private Street Naming Request—"Meridian Street" in the Cornerstone Traditional
Neighborhood Development off Greenview Drive**

I. PETITIONER

JBO, LLC, 104 Archway Court, Lynchburg, VA 24502-2889

Representative: Jay Craddock, Designer, and Norman B. Walton, Jr., Project Manager, Perkins & Orrison, 20436 Lynchburg Highway, Unit I, Lynchburg, VA 24502

II. LOCATION

The subject property is a tract of land containing approximately one hundred twenty-three (123) acres located on the north side of Greenview Drive near the City/Campbell County limits in the southern part of the City.

III. PURPOSE

The purpose of the requests is to dedicate one public street to be named "Ridgeline Lane" and name one private street "Meridian Street." The new streets will serve the Cornerstone Traditional Neighborhood Development which was approved by City Council on June 27, 2006.

IV. SUMMARY

- An amendment to the Cornerstone Traditional Neighborhood Development (TND) Master Plan is necessary in order for the streets to be named and/or dedicated. A petition to amend the Cornerstone TND Master Plan has been submitted and is proceeding with this report concurrently as opined by the City Attorney.
- Request complies with City Code Section 35.105 requirements that "...all streets dedicated or private...may be assigned a name provided that a name assignment has been requested by the property owner on said street, and provided further that the Planning Commission deems the petitioned street of sufficient significance to warrant naming."
- Request complies with City Code Section 35.111 requirement that states the "proposed street name will be reviewed by the Technical Review Committee, Planning Commission and City Council, with the final decision resting with Council."

The Planning Division recommends approval of the public street dedication and naming and the private street naming requests.

V. FINDINGS OF FACT

1. **Background.** Jay Craddock, Designer, and Norman B. Walton, Jr., Project Manager, Perkins & Orrison, are requesting to dedicate a public street to be named "Ridgeline Lane." "Ridgeline Lane," fifty (50) feet in width, would extend approximately eight hundred thirty-five (835) feet in a southerly direction from Cornerstone Street through Hunterdale Drive to connect back into Cornerstone Street.

A private street would be named "Meridian Street." "Meridian Street" shall have a minimum right-of-way of forty (40) feet for a two-way street as stipulated in the conditions of the CUP (see Attachment 2). "Meridian Street" would extend approximately one thousand six

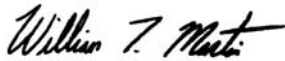
hundred (1,600) feet, snaking in southerly then northerly directions from Capstone Drive, intersecting Rotunda Street and returning to Rotunda Street at the cul-de-sac.

2. **Zoning.** The subject property is zoned R-1, Low Density, Single-Family Residential District, and R-C, Conservation District, with a conditional use permit for a Traditional Neighborhood Development. A request to amend the Cornerstone TND Master Plan is proceeding with the street naming and dedication request concurrently.
3. **Waivers.** No waivers will be needed for the public street dedication and naming and the private street naming requests.
4. **Proposed Use of Property.** The public and private streets will serve the new Cornerstone Traditional Neighborhood Development.
5. **Technical Review Committee.** Technical Review Committee (TRC) Members Gerry Harter and Greg Wormser, the Emergency Communications Administrator and the Lynchburg Post Office Customer Services Manager reviewed the proposed public and private street namings requests on August 20, 2007. Traffic Engineer Gerry Harter asked for a change in the suffix name of the public street. With this change, he, the Fire Marshal, the Emergency Communications Administrator and the Lynchburg Post Office Customer Services Manager found that the proposed street names do not conflict with any existing street names.

VI. PLANNING DIVISION RECOMMENDED MOTION

Based on the proceeding findings of fact, the Planning Commission recommends to City Council approval of the public dedication of the street to be named "Ridgeline Lane" and the name "Meridian Street" for the private street in the Cornerstone Traditional Neighborhood Development off Greenview Drive.

This matter is hereby offered for your consideration.



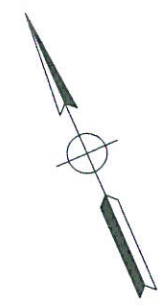
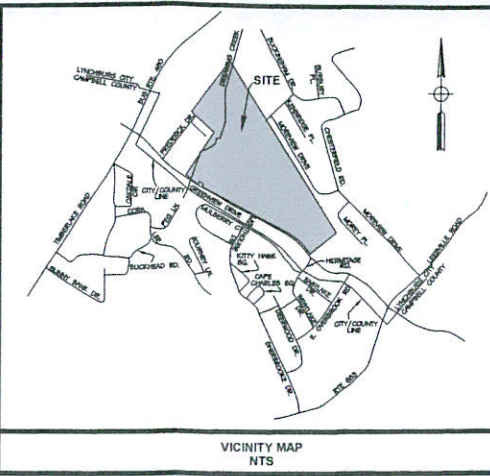
William T. Martin, AICP
City Planner

pc: Mr. L. Kimball Payne, III, City Manager
Mr. Walter C. Erwin, City Attorney
Ms. Charlene B. Montford, Director of Community Development
Ms. Cynthia L. Kozerow, Lynchburg Police Department
Battalion Chief Greg Wormser, Fire Marshal
Mr. J. Lee Newland, Director of Engineering
Mr. Gerry L. Harter, Traffic Engineer
Mr. Robert Drane, Building Commissioner
Mr. Keith Wright, Zoning Official
Mr. Robert S. Fowler, Zoning Official
Ms. Annette M. Chenault, Planner II
Mr. Norman B. Walton, Perkins-Orrison, Representative
Mr. Jay Craddock, Perkins-Orrison, Representative

VII. ATTACHMENTS

- a. Vicinity Zoning Map

- b. Cornerstone TND Exhibit Drawing Showing Proposed Streets, by Perkins & Orrison, dated January 10, 2008
- c. Attachment 2: Cornerstone TND Guidelines for Public and Private Streets



- PROPOSED STREETS
- MERIDIAN STREET (PRIVATE)
 - RIDGELINE LANE (PUBLIC)

RECEIVED
JAN 11 2008
COMMUNITY
DEVELOPMENT

ENGINEERS ▲ PLANNERS ▲ SURVEYORS

20436 LYNCHBURG HIGHWAY, UNIT I, LYNCHBURG, VIRGINIA 24502
PHONE: 434-535-0805 FAX: 434-239-8271
EMAIL: pro@perkins-orrison.com

ENGINEERS & SURVEYORS
21 TIMBER OAK CT - SUITE B
OAKDALE CIRCLE
LYNCHBURG, VA 24502
PHONE: 434-239-6000
FAX: 434-239-6001

Cornerstone

TRADITIONAL NEIGHBORHOOD DEVELOPMENT
LYNCHBURG, VIRGINIA

MARK	DATE	DESCRIPTION
ISSUE:	1/10/08	
CONTOUR INTERVAL:	2'	
DESIGNED BY:	NBW	
DRAWN BY:	JAC	
CHECKED BY:	NBW	

SHEET TITLE

EXHIBIT DRAWING SHOWING
PROPOSED PUBLIC STREETS

SHEET

C-100

JOB NO. 06208 SHEET NO. 1 of 1

is 8 square feet. Messages on banners are limited to display of the neighborhood name or a neighborhood or City event. Banners shall not be used for business advertising.

G. Outdoor Lighting

1. Street lights shall be provided at regular intervals along all streets in the core and along all streets in areas where multi-family residential uses predominate. In single family residential areas, street lights shall be provided at least at all intersections, including alley entrances. Outdoor lighting shall also be provided in squares and in parking areas to permit these areas to be used safely at night.
2. Lighting fixtures located on public land or on private lands open to the public shall be designed to illuminate public areas: streets, sidewalks, squares, parking lots open to the public, and public entrances to buildings. They may also be used to illuminate focal elements, such as gazebos, public art, steeples, towers, or special plantings. Street lights shall minimize illumination of non-commercial private buildings and lots and shall be designed to prevent glare affecting motorists and to minimize overhead sky glow.
3. A consistent style of street lights shall be set for each area of the TND (core, transition, edge, satellite). The style shall generally be compatible with the architectural styles predominating in each of these areas; however, the ability of the fixtures to meet the standards of section G.2 shall not be compromised for style consistency.

H. Public Streets

1. Street cross-sections: Typical street cross-sections for the TND are presented in Appendix B. Parking is shown on both sides of the street in each section, though it may not be provided on both sides in edge areas when not needed to meet parking requirements.
2. Cul-de-sacs: No cul-de-sacs shall be constructed except as shown on the approved TND Plan.

I. Private Streets and Alleys

1. Private streets shall have a minimum right-of-way of forty (40) feet for a two-way street and 25 feet for a one-way street. Travel lanes shall be at least 9.5 feet wide.
2. Alleys shall have a minimum width of twelve (12) feet and may serve directly as travel aisles for off-street parking.
3. Alley and parking lot drive aisle connections to Greenview Drive shall be permitted only by approval of the Cornerstone Design Review Committee or the City Design Review Board.
4. Transit Facilities: Bus stops to facilitate transit use shall be provided at strategic locations throughout the TND as coordinated with the Greater Lynchburg Transit Company. A bus shelter shall be provided in the core area.

**LYNCHBURG CITY COUNCIL
Agenda Item Summary**

MEETING DATE: February 12, 2008		AGENDA ITEM NO.: 11
CONSENT:	REGULAR: X	CLOSED SESSION: (Confidential)
ACTION: X	INFORMATION:	
<u>ITEM TITLE:</u> Public Street Dedication and Naming Requests – “Advantage Court” off Chiles Circle		

RECOMMENDATION: Approval of resolution to approve the public street dedication and naming requests.

SUMMARY: CEP Enterprises, Inc., is requesting to dedicate one and ninety-two hundredths (1.92) acres for right-of-way for the proposed new public street to be named “Advantage Court,” off Chiles Circle.

The existing Chiles Circle would be improved and widened. A forty (40) foot wide section of Carroll Avenue, currently a prescriptive easement, would be dedicated to the City of Lynchburg.

PRIOR ACTION(S):

January 23, 2008: Planning Division recommended approval
Planning Commission recommended approval (6-0, 1 Absent- Sale)

FISCAL IMPACT: N/A

CONTACT(S):

Charlene Montford / 455-3902
Tom Martin /455-3909
Annette Chenault /455-3894

ATTACHMENT(S):

- Resolution
- PC Report
- PC Minutes
- “Plat Showing Division of Property of CEP Enterprises, Inc.,” received 12/19/07

THIS PLAT IS TOO LARGE TO TO SCAN. YOU MAY VIEW THIS PLAT IN THE OFFICE OF THE CITY PLANNER, 900 CHURCH STREET, CITY HALL, 2ND FLOOR.

-
- Vicinity Map

REVIEWED BY: lkp

A RESOLUTION APPROVING THE DEDICATION AND NAMING OF A PUBLIC STREET
CONTAINING 1.92 ACRES LOCATED OFF CHILES CIRCLE TO BE KNOWN AS
"ADVANTAGE COURT."

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF LYNCHBURG that the dedication of
1.92 acres for right-of-way for the proposed public street, "Advantage Court," located off Chiles
Circle be, and hereby is, approved.

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF LYNCHBURG that the dedication of
1.92 acres for right-of-way for the proposed public street, "Advantage Court," located off Chiles
Circle be, and hereby is, approved and accepted, contingent on CEP Enterprises, Inc. filing a
properly executed subdivision plat to be recorded among the land records in the Office of the
Clerk of the Circuit Court; the filing of approved street and utility plans and the necessary
construction bonds with the City; and the construction of the street in accordance with City
standards. The failure to fully comply with these conditions shall render the City's acceptance of
"Advantage Court" as a public street null and void.

BE IT FURTHER RESOLVED THAT the name "Advantage Court" is hereby approved for the
new public street.

Adopted:

Certified: _____
Clerk of Council

014L

The Department of Community Development

City Hall, Lynchburg, VA 24504

434-455-3900

To: Planning Commission

From: Planning Division

Date: January 23, 2008

**RE: PUBLIC RIGHT-OF-WAY DEDICATION AND NAMING REQUESTS-
“ADVANTAGE COURT” OFF CHILES CIRCLE**

I. APPLICANT

CEP Enterprises, Inc., 1896 Tabernacle Lane, Forest, VA 24551-3610

Representative: Michael W. Cassidy, Project Manager, Hurt & Proffit, 2524 Langhorne Road, Lynchburg, VA 24501

II. LOCATION

The subject property is three tracts of land containing twenty-seven and forty-six hundredths (27.46) acres located off Chiles Circle and Carroll Avenue. It is currently part of the CEP Enterprises property (also known as Valuation Map #051-05-005 and #051-04-004/005).

III. PURPOSE

The purpose of the request is to dedicate and name one and ninety two hundredths (1.92) acres for the proposed public right-of-way of “Advantage Court.” The new right-of-way dedication would provide frontage to New Lots 1, 2, and 3.

The existing Chiles Circle would be improved and widened. A forty (40) foot wide section of Carroll Avenue, currently a prescriptive easement, would be dedicated to the City of Lynchburg.

IV. SUMMARY

- Request agrees with the Subdivision Ordinance requirements for dedicating public rights-of-way (Section 24.1-30(b)).
- Request agrees with the Zoning Ordinance requirements for right-of-way dedications in the existing I-2, Light Industrial District, and I-3, Heavy Industrial District (Section 35.1-22 (b)).
- Request complies with City Code Section 35.105 requirements that “...all streets dedicated or private...may be assigned a name provided that a name assignment has been requested by the property owner on said street, and provided further that the Planning Commission deems the petitioned street of sufficient significance to warrant naming.”
- Request complies with City Code Section 35.111 requirement that states the “proposed street name will be reviewed by the Technical Review Committee, Planning Commission and City Council, with the final decision resting with Council.”

The Planning Division recommends approval of the public right-of-way dedication and naming requests.

V. FINDINGS OF FACT

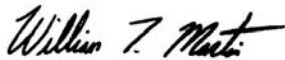
1. **Background.** CEP Enterprises, Inc. is requesting to dedicate and name one and ninety two hundredths (1.92) acres for the proposed public right-of-way of “Advantage Court.” “Advantage Court,” fifty (50) feet in width, would extend from Chiles Circle in a southwesterly direction for approximately six hundred and fifty (650) feet to terminate in a cul-de-sac at New Lot 2 (Valuation Map #051-04-004).

2. **Zoning.** The subject property is zoned I-2, Light Industrial District, and I-3, Heavy Industrial District.
3. **Waivers.** No waivers will be needed for the right-of-way dedication and naming requests.
4. **Proposed Use of Property.** The new right-of-way would serve New Lots 1, 2, and 3.
5. **Technical Review Committee.** Technical Review Committee (TRC) Members Gerry Harter and Michael Thomas, the Emergency Communications Administrator, and the Lynchburg Post Office Customer Services Manager reviewed the proposed street naming request on November 5, 2007. Traffic Engineer Gerry Harter asked for a change in the suffix name. With this change, he, the Fire Marshal, the Emergency Communications Administrator and the Lynchburg Post Office Customer Services Manager found that the proposed street name does not conflict with any existing street names.

VI. PLANNING DIVISION RECOMMENDED MOTION

Based on the proceeding findings of fact, the Planning Commission recommends to City Council approval of the public right-of-way dedication and naming requests for "Advantage Court."

This matter is hereby offered for your consideration.



William T. Martin, AICP
City Planner

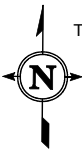
pc: Mr. L. Kimball Payne, III, City Manager
Mr. Walter C. Erwin, City Attorney
Ms. Charlene B. Montford, Director of Community Development
Batallion Chief Greg Wormser, Fire Marshal
Ms. Cynthia L. Kozerow, Lynchburg Police Department
Mr. J. Lee Newland, City Engineer
Mr. Gerry L. Harter, Traffic Engineer
Mr. Robert Drane, Building Commissioner
Mr. Keith Wright, Zoning Official
Ms. Annette M. Chenault, Planner II
Ms. Rebecca McCharen, Planner II
Mr. Michael W. Cassidy, Representative

VII. ATTACHMENTS

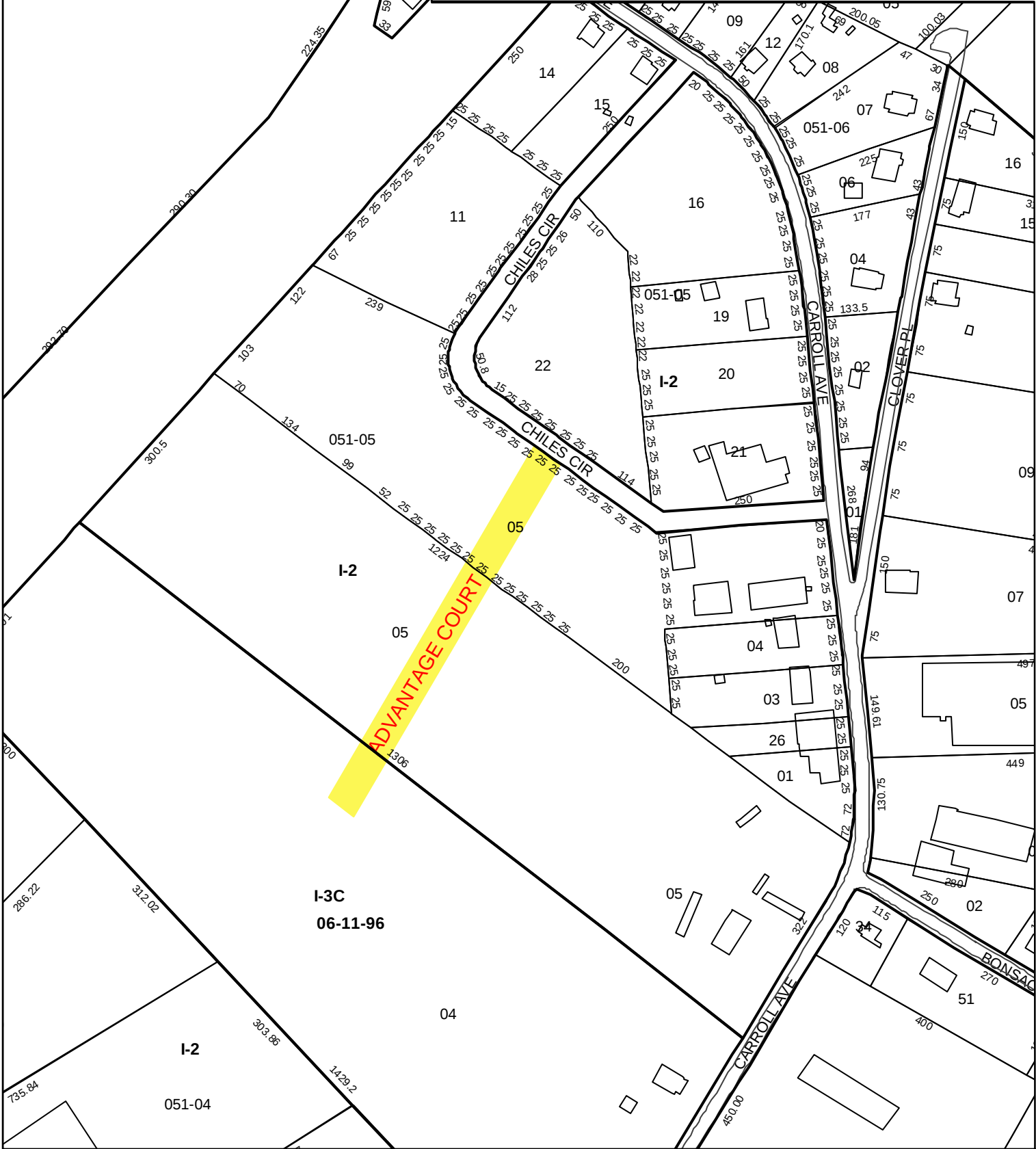
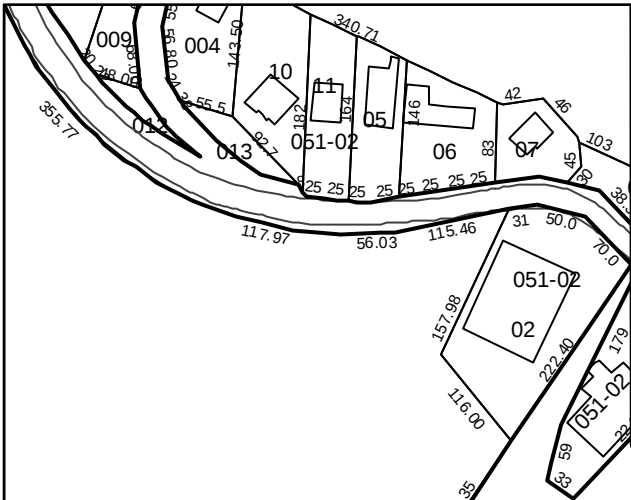
1. **Plat Showing Division of Property of CEP Enterprises, Inc., received 12/19/07**
2. **Vicinity Zoning Map**

ADVANTAGE COURT
STREET NAMING REQUEST

MAP PREPARED BY
THE DEPARTMENT OF COMMUNITY DEVELOPMENT



Proposed Street



LYNCHBURG CITY COUNCIL

Agenda Item Summary

MEETING DATE: **February 12, 2008**

AGENDA ITEM NO.: 12

CONSENT:

REGULAR:

CLOSED SESSION:
(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: **Changes to *City Code* relating to the Museum Advisory Board**

RECOMMENDATION: To approve an ordinance to amend the *City Code* relating to the Museum Advisory Board.

SUMMARY: The proposed code changes would make the *City Code* coincide with the updated contract between Wachovia Bank and the City. The amended *Code* sections address the goal of having one advisory board and one foundation for the Museum System.

PRIOR ACTION(S): Approval of the updated contract: January 22, 2008

BUDGET IMPACT: None

CONTACT(S): Douglas Harvey, Museum Director 455-6226

ATTACHMENT(S): Amended Ordinance

REVIEWED BY: lkp

ORDINANCE

AN ORDINANCE TO AMEND AND REENACT SECTIONS 24-24.2, 24-24.4, 24-24.5 AND 24-24.8 OF THE CODE OF THE CITY OF LYNCHBURG, 1981, THE AMENDED SECTIONS RELATING TO THE CITY'S MUSEUM ADVISORY BOARD.

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

1. That Sections 24-24.2, 24-24.4, 24-24.5 and 24-24.8 of the Code of the City of Lynchburg, 1981, be and the same is hereby amended and reenacted as follows:

Sec. 24-24.2. Same—Composition.

The museum board shall be composed of ~~fifteen members~~ ~~twelve (12) members, who~~ Twelve (12) of the members shall be residents of the city and three (3) of the members may be appointed at large. Wachovia Bank, National Association, shall have the right to submit a list of names to the city for consideration for appointment to the museum board and the city shall appoint three (3) persons from the list as members of the board for an initial three (3) year term. The city shall maintain the same numbers of members on the museum advisory board as there are members on the Lynchburg Museum Foundation, a 501(c) (3) organization, which was created to conduct activities to support and assist the growth and development of the Lynchburg Museum System. The same persons shall be appointed to serve on both the museum advisory board and the board of the Lynchburg Museum Foundation.

Sec. 24-24.4. Same—Terms.

Initially, five (5) board members shall serve for a one (1) year term, five (5) board members shall serve for a two (2) year term and five (5) board members shall serve for a three (3) year term. The three (3) board members who are appointed from the list of persons submitted by Wachovia Bank, National Association, shall serve three (3) year terms. Upon expiration of the terms of each of the original board members, all appointments to the board shall be for terms of three (3) years. No member shall serve more than three (3) consecutive full terms

The members of the museum advisory board serve at the pleasure of city council and may be removed by council for poor attendance or for any other reason council deems appropriate.

Sec. 24-24.5. Filling vacancies of board.

Vacancies occurring in the membership of the museum board shall be filled for the remainder of the unexpired terms in the same manner as appointments are made. If any of the members of the museum board that were appointed from the list submitted by Wachovia Bank, National Association, are unable to serve their initial three (3) year term, the Bank shall have the right to submit a list of names to the city to fill the vacancy and the city shall appoint someone from the list to fill the remainder of the unexpired term.

Sec. 24-24.8. Function of board.

It shall be the duty of the museum board to act in an advisory capacity to the museum director, the city manager and the city council on matters concerning the museum system and to help plan and execute activities for the Lynchburg Museum System and Point of Honor and other cultural pursuits. The board shall assist and advise on direct the programs of the museum within the funds appropriated by city council and from whatever other sources the board may obtain. The museum advisory board will coordinate all fund-raising

activities via the Lynchburg Museum Foundation on behalf of the Lynchburg Museum System and Point of Honor.

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

Adopted:

Certified:

Clerk of Council

019L