

1. 4:00 p.m.

1. City Council Work Session

1. 4:00 – 4:20 p.m. Report on Heritage High School Conditions
2. 4:20 – 4:40 p.m. iPads Presentation
3. 4:40 – 5:35 p.m. Briefing on Decennial Redistricting
4. 5:35 – 5:55 p.m. CDBG/HOME Public Participation Plan
5. 5:55 – 6:50 p.m. Proposed Stormwater Utility Ordinance Review
6. 6:50 – 7:00 p.m. Roll Call

1. 7:30 p.m.

1. City Council Agenda Items

1. C O N S E N T A G E N D A

#7. Consideration of approving the minutes of the January 18, 2011 meeting.

#8. Consideration of approving the minutes of the January 25, 2011 meeting.

#9. Consideration of introducing a Resolution amending the FY 2011 City/Federal/State Aid Fund and appropriating \$14,117 with resources of \$12,706 from the federal government's Juvenile Accountability Block Grant program, and \$200 from Campbell County to purchase GPS systems and provide additional mentoring and/or family counseling services.

#10. Consideration of introducing a Resolution amending the FY 2011 City Capital Projects Fund budget and appropriating \$17,261, with resources from a donation from the Friends of Lynchburg Stream Valleys to support the rehabilitation and extension of the Creekside Trail, in accordance with the Creekside Trail Extension Plan.

#11. Consideration of introducing a Resolution amending the FY 2011 City/Federal/State Aid Fund budget and appropriating \$40,000, fully reimbursable, to support a Family Violence Legal Assistant position and activities related to the Domestic Violence and Intimate Partner Prosecution Unit.

1. P U B L I C H E A R I N G

#12. Public hearing regarding a request from the Lynchburg Redevelopment and Housing Authority for authorization to pursue acquisition of blighted property at 913 Second Street under Section 36-19.5 of the Code of Virginia.

#13. Public hearing regarding the petition of Robert Crocker to amend the Future Land Use Map from Low Density and Medium Density Residential to Regional Commercial and to rezone 3.21 acres from B-1C, Limited Business District (Conditional) to B-3C, Community Business District (Conditional) to allow the construction of a building addition and to allow the use of the property as a hotel/motel and restaurant/banquet facility at 2134 Old Forest Road.

1. GENERAL BUSINESS

#14. Discussion regarding Council's work session schedule and starting times.

#15. Consideration of a closed meeting to consider appointments to Council-appointed Boards and Commissions, i.e. Community Development Advisory Committee, Transit Company Board and Lynchburg Parking Authority pursuant to Section 2.2-3711(A)(1), Code of Virginia (1950), as amended.

LYNCHBURG CITY COUNCIL

Agenda Item Summary

MEETING DATE: **February 8, 2011**

AGENDA ITEM NO.: 1

CONSENT:

REGULAR:

WORK SESSION: **X**

CLOSED SESSION:

(Confidential)

ACTION:

INFORMATION: **X**

ITEM TITLE: **Report on Immediate Steps to Address Conditions at Heritage High School**

RECOMMENDATION: No action required.

SUMMARY: As requested by Council member Helgeson, Schools representatives have been invited to attend the work session to report on recommendations made to the School Board with respect to immediate actions to address conditions at Heritage High School. Steve Gatzke, Director of Facilities and Assistant Superintendent Sonny Witt are scheduled first on the work session agenda, at 4:00 p.m.

PRIOR ACTION(S): N/A

FISCAL IMPACT: Undetermined.

CONTACT(S): Kimball Payne, 455-3990

ATTACHMENT(S): None

REVIEWED BY: lkp

028L

LYNCHBURG CITY COUNCIL

Agenda Item Summary

MEETING DATE: **February 8, 2011**

AGENDA ITEM NO.: 2

CONSENT:

REGULAR:

WORK SESSION: **X**

CLOSED SESSION:

(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: **Cost Reduction for City Council through the Adoption of iPads**

RECOMMENDATION: Replace City Council laptops with lower cost iPads.

SUMMARY: With the development of lighter, less expensive, easier to use tablet computers, the past practice of providing a laptop computer for each City Council member for City business can now provide an opportunity to:

- 1) Reduce the cost of the computers
- 2) Reduce the cost of preparing the Council agenda packets for each Council meeting
- 3) Improve the mobility of Council resources.

Localities in Virginia, as well as across the country, have implemented similar programs and are enjoying savings anywhere from \$2,000 to \$140,000/year. The warranties for the existing Council laptop computers expired on November 17, 2010, so the computers are now due to be replaced. iPads range from \$499 to \$829 and provide a number of benefits over traditional laptop computers. Over 14.7 million iPads were sold by Apple during its first three quarters and demand continues to rise.

Information Technology would provide the units with training to each Council member and designated support staff. The current practice of printing hardcopies of agendas and informational packets, manually delivering them to Council before each meeting, would change. Packets would be delivered in a pdf format and the iPads would be supplied with applications that allow for markup, notes, Internet access, security and email.

PRIOR ACTION(S): None.

FISCAL IMPACT:

One time savings
Hardware purchases, \$2,597

Recurring (annual):
Paper costs \$1,188
Labor costs 6,352
Annual \$7,540

CONTACT(S): Terry Hutchens 455-6028
Mike Goetz 455-6002

ATTACHMENT(S): None.

REVIEWED BY: lkp

LYNCHBURG CITY COUNCIL

Agenda Item Summary

MEETING DATE: **February 8, 2011**

AGENDA ITEM NO.: 3

CONSENT:

REGULAR:

WORK SESSION: **X**

CLOSED SESSION:

(Confidential)

ACTION:

INFORMATION: **X**

ITEM TITLE: **Briefing on Decennial Redistricting**

RECOMMENDATION: No immediate action required.

SUMMARY: The news media has had numerous reports about the impending redistricting of federal and state election districts. What has been less reported is that localities where governing bodies are elected by wards or districts also have to review and, if necessary, redraw those local election districts.

The release of U.S. Census data at the state and local level, which may occur as early as the first week of February, will trigger the redistricting process.

The purpose of the attached document, prepared by the City Attorney, and the discussion planned for Council's work session is to brief Council on the redistricting requirements and its options. As with past redistricting processes staff support will come from the offices of the City Attorney, the City Manager and Community Development.

PRIOR ACTION(S): N/A

FISCAL IMPACT: N/A

CONTACT(S): Kimball Payne, 455-3990; Walter Erwin, 455-3973; Tom Martin, 455-3909

ATTACHMENT(S): Redistricting 2011 Memorandum

REVIEWED BY: lkp

026L

REDISTRICTING 2011

GENERAL GUIDELINES

As a result of the 2010 U.S. Census, the General Assembly and Virginia's localities are faced with redistricting. Article VII, Section 6 of the Virginia Constitution deals with state legislative redistricting and Section 5 deals with local districts. Section 5 provides that local elections may be at large or by districts. If elections are by districts (or in the City's case, wards), the locality must redistrict each 10 years. (Article VII, Section 5 and §24.2- 304.1, Code of Virginia)

In addition to the Virginia Constitution, localities also face the competing requirements of the federal Voting Rights Act, which demands that race be taken into account to avoid "retrogression" and "vote dilution," and the Equal Protection Clause, which prohibits using race as the predominant factor in drawing election districts. Under the Voting Rights Act localities also have an obligation to adopt voting changes that will improve the voting strength of minority voters. In addition, localities are not allowed to rely on election districts that permit minority voters to "influence" the election of candidates preferred by other groups but do not permit minority voters to "elect" their preferred candidates.

REDISTRICTING PROCESS & VIRGINIA REQUIREMENTS

Census Data

- The Census Bureau prepares two sets of census data, the "actual count numbers" and "statistically adjusted census numbers." It is recognized that the actual census count is not 100% accurate, it undercounts some segments of the population—i.e. certain racial and ethnic minorities, the homeless, etc. In 1997 the Census Bureau developed procedures to statistically adjust the 2000 actual count as a way to deal with the undercount. Section 24.2-304.1(C.) of the Code of Virginia prohibits localities from using the statistically adjusted census numbers and requires localities to use the actual count numbers in redistricting.
- The Census Bureau provides census block maps for each county and city to use in redistricting. The Bureau has a digital database it calls TIGER, which supports the mapping functions needed for redistricting. The census maps show the following geographic units:
 - ▶ census blocks, which are the smallest census geographic areas used in redistricting. A block may be as small as one city block defined by four streets or as large as several square miles in rural areas. The average census block nationwide is 100 people. Census blocks are geographic areas which are "bounded on all sides by visible and/or nonvisible features." Census data is associated to geographic areas through census blocks. Census blocks may not be subdivided when redistricting. Groups of census blocks form precincts.
 - ▶ census block groups, which are sets of census blocks within a tract.
 - ▶ census tracts, which are census statistical areas averaging about 4,000 people.

- ▶ the voting districts in the locality—these are the precincts.
- ▶ state legislative and congressional districts

Population statistics are given for each geographic unit shown on the census maps.

Ward Requirements

- Population Equality—One Person, One Vote—The one person, one vote requirement is applicable to localities through the Equal Protection Clause of the Fourteenth Amendment and the Constitution of Virginia. Districts must be so constituted “as to give, as nearly as is practicable, representation in proportion to the population of the district.” The one person, one vote requirement means that districts should contain roughly, if not exactly, the same number of persons. Districts must try to achieve “population equality as nearly as is practicable.” While “precise mathematical equality” may not be possible and is not constitutionally required, significant deviations in the number of persons comprising districts are closely scrutinized.

The United States Supreme Court has held that the one person, one vote requirement is usually satisfied if the variation in population between the most populous district and the least populous is less than 10 percent. If the maximum deviation is less than ten percent, the population disparity is considered to be de minimis. If the deviation is more than 10 percent is considered to be evidence of vote dilution, and the locality must justify the deviation by showing rational and legitimate factors for the deviation (i.e. is necessary to avoid splitting precincts or to preserve existing election districts, etc.). *However, the “Guide to Local Redistricting and the Guidelines published by the State Board of Elections advises that local governments use a 5% deviation range when redistricting.*

Population deviations are measured in terms of the “ideal population” per ward. The ideal population for a ward is determined by dividing the total population by the number of wards. For example, in the 2000 census Lynchburg had a population of 65,269 and four wards so the City’s “ideal population” per ward was 16, 317. Using the 5% deviation range each of the City’s wards could have a minimum population of 15,501 and a maximum population of 17,133.

Note: In the 1980, 1990 and the 2000 censuses Lynchburg’s population was relatively stable, approximately 66,000 residents. Since the City’s population did not have significant increases or decreases only minor changes were needed in the boundaries of the City’s four wards. However, the Weldon Cooper Center estimates the City’s population has grown to approximately 72,000. If the official census figures confirm this growth the City will in all likelihood have to make more significant adjustments to the ward boundaries in order to meet the 5% deviation range.

- Compact and Contiguous--Localities must draw districts that are compact and contiguous (§24.2-305(A), Code of Virginia and Va. Const. Article II, § 6 and Article VII, § 5). Compactness refers only to territorial compactness. The notion of compactness refers to territorial compactness—the form or shape of the district—it does not include non-geographical considerations such as “communities of interest.”

- Boundaries—Districts must have clearly defined and clearly observable boundaries –i.e. boundaries should be based on roads and streets, rivers and other natural or constructed permanent physical features recognized on official maps (Code of Virginia, §24.2-305(A)).
- Non Legal Mandates (Policy Considerations)—In addition to the statutory and judicially-created criteria for districting, there are “policy considerations” that are not legal mandates but which may be taken into account when drawing district lines. For example, the courts have recognized that in drawing district boundaries localities may:
 - ▶ join together geographic areas having “communities of interest”—i.e. areas that share social, cultural, racial, ethnic, economic or similar interests
 - ▶ draw district lines to avoid splitting precincts
 - ▶ protect incumbent legislators

Precinct Requirements

Precinct boundaries have been frozen since February 1, 2009. This “freeze” prohibited changes to precinct boundaries in order to provide state and local officials with fixed precinct boundaries into which they can load the population data that was collected during the 2010 census. The freeze on precinct boundaries ends May 15, 2011. (§24.2-309.1, Code of Virginia).

A “precinct” is the territory designated by the locality to be served by one polling place (Code of Virginia, §24.2-101). A local governing body may establish as many precincts as it deems necessary.

- Compact and Contiguous—Like wards, localities must draw precincts that are compact and contiguous (§24.2-305(A), Code of Virginia and Va. Const. Article II, § 6 and Article VII, § 5).
- Precinct Boundaries—Precincts must have clearly defined and clearly observable boundaries – i.e. boundaries should be based on roads and streets, rivers and other natural or constructed permanent physical features recognized on official maps (§24.2-305(A)). A property line or subdivision line may not be used as a precinct boundary unless it appears as a block boundary on a Census Bureau map.
- Too Large or Small—County precincts can be established with no more than 5,000 registered voters and no fewer than 100 registered voters. City precincts can be established with no more than 5,000 registered voters and no fewer than 500 registered voters. Whenever more than 4,000 persons vote in a precinct in a presidential election the registrar must notify the governing body and within six months the locality must make appropriate revisions to the precinct boundaries. (§24.2-307, Code of Virginia)
- Cannot be Split—Precincts must be wholly contained in one election district and cannot be split. (§24.2-307, Code of Virginia). A locality may create precincts smaller than the required size to avoid split precincts. (§24.2-309, Code of Virginia). A split precinct occurs when an election district line runs through an existing precinct.

Polling Place Requirements

A “polling place” is the one place provided in each precinct at which the qualified voters who are residents of the precinct may vote. (Code of Virginia, §24.2-101).

- Only One—There can only be one polling place per precinct (§24.2-307, Code of Virginia)
- Location—A polling place must be located in the precinct or within one mile of the precinct boundary (§24.2-310, Code of Virginia).
- In a Public Building if Practical—A polling place must be located in a public building whenever practical (§24.2-310.1, Code of Virginia).
- Certain Locations Prohibited—A polling place cannot be located in a building which serves primarily as the headquarters, office, or assembly building for any private organization, other than an organization of a civic, educational, religious, charitable, historical, patriotic, cultural, or similar nature, unless the State Board has approved the use of the building because no other building meeting the accessibility requirements is available (§24.2-310.1, Code of Virginia).

REGISTRAR’S & ELECTORAL BOARD’S ROLE

- Re-Mapping of Ward Lines—There is no legal responsibility for the registrar or local electoral board to be involved in the re-mapping of ward lines (GREBOOK, published by the State Board of Elections, Chapter 25 Redistricting). However, the registrar and the local electoral board should be involved in redrawing of ward lines because:
 - ▶ they deal with precinct and election ward lines on a day-to-day basis and have first hand knowledge of what needs to be changed
 - ▶ they are the ones that must implement any changes—i.e. identify new polling places and inform the voters of any changes in their representation or voting locations
- Precincts and Polling Places—Sometimes as part of the redistricting process it may be necessary to adjust precinct boundaries or establish new precincts and to establish or relocate polling places. The State Board of Elections has developed guidelines to assist localities establish precincts and to establish or relocate polling places. The guidelines provide that the local electoral board should assist the local governing body identify the boundaries of a precinct and establish or relocate a polling place by making sure the requirements of the Virginia Code are met. For example, in establishing or relocating a polling place the electoral board should look for a possible site. Once a potential site has been identified local election officials should visit the potential site and conduct an accessibility study to make sure it is accessible to all voters. Once the accessibility study has been completed, the electoral board should make a recommendation to the governing body on the suitability of the proposed site.

PRECLEARANCE

General Standards

Section 5 of the Voting Rights Act requires that certain states which have a history of past discriminatory voting practices must obtain “preclearance” from either the United States District Court for the District of Columbia or the United States Attorney General for every redistricting ordinance, precinct ordinance, change in polling places, etc. before such changes can be implemented. The preclearance requirements apply to every locality in Virginia except those localities that “bailed out” from Section 5 coverage. At last count 18 localities (4 cities and 14 counties) have “bailed out” of preclearance requirements.

- Under Virginia law changes to districts become effective on the date they are adopted by ordinance (§24.2-311, Code of Virginia). However, the Voting Rights Act prohibits a locality from implementing any change in a “standard, practice, or procedure with respect to voting” until it has obtained “preclearance” from either the United States District Court for the District of Columbia or the United States Attorney General. In practice, political jurisdictions almost always seek preclearance by the Justice Department because the court route is much slower and more expensive.

- When requesting preclearance the locality has the burden of proving that a proposed election change or redistricting does not have a discriminatory purpose and will not cause “retrogression” (i.e. put minorities in a worse position than they had been before the change). In reviewing a preclearance the District Court or Attorney General consider the following factors:

- ▶ Purpose—is there a reasonable and legitimate justification for the proposed change?
- ▶ Objective guidelines—did the locality follow objective guidelines and fair procedures in adopting the change?
- ▶ Minority participation—did minority group members participate in the decision – making process?
- ▶ Minority concerns—were minority concerns considered in making the changes?
- ▶ Background and historical factors—have minorities been able to meaningfully participate in the political process in the locality, have they had influence in local elections, does the locality have a history of racially polarized voting or segregated political activities, have minority members been elected to office, etc.?

Procedures for Submission

The Attorney General has adopted detailed regulations regarding the mechanics of submitting a request for preclearance.

- Who files—the “chief legal officer or other appropriate official” of the locality.

- When to file—as soon as possible after the ordinance has been adopted and before it is implemented. A redistricting plan or other election changes cannot be submitted prior to final enactment by a locality. If a submission is filed prematurely, the Attorney General will not consider it.
- Where to file—by mail to the Chief of the Voting Section, Civil rights Division, of the Justice department in Washington, DC or by personal delivery.
- How long does it take—the Justice Department has 60 days to act on a preclearance request. A locality may request “expedited consideration” of a preclearance request, but it is difficult to obtain an expedited decision from the Justice Department. A preclearance request that is submitted to the Justice Department is deemed approved if the Justice Department makes no objection within 60 days after the filing is complete.
- Preclearance must be received at least 30 days before a general election for local offices or the election must be delayed (§24.2-313, Code of Virginia)

Note: It normally takes the full two months for Justice Department to approve the City’s preclearance requests. The City’s 2000 redistricting plan was submitted to the Justice Department on April 15, 2002 and approved on June 19, 2002.

Filing with State

In addition to the Justice Department, copies of the ordinance and maps for changes in local election districts and precincts must also be sent to the Secretary of the Commonwealth, the State Board of Elections and the Division of Legislative Services.

TIME REQUIREMENTS

- Notice must be published in a local newspaper of general circulation for two successive weeks prior to enactment of the changes. While Section 24.2-306(A.) of the Code of Virginia requires two weeks notice of a proposed change it does not require a locality to hold a public hearing on the proposed change. However, it may be difficult to convince the Justice Department there was adequate public participation if the locality does not hold a public hearing.
- Changes in local election districts and precincts must be enacted 60 or more days before a general election (§24.2-306, Code of Virginia).
- Preclearance must be received at least 30 days before a general election for local offices or election must be delayed (§24.2-313, Code of Virginia).
- The registrar must mail notice of any election district, precinct or polling place change to any voters impacted by the change at least 15 days before the next general election. (§ 24.2-306, Code of Virginia).

NOVEMBER ELECTIONS

- November 2011 Elections— The November 2011 elections will include the Virginia Senate and House of Delegates, Soil & Water Directors, some Constitutional Officers (in Lynchburg the Clerk of the Circuit Court), and some local elections.
- If There Are No Local Elections a Locality Can Wait on the General Assembly—localities that do not face local elections in November 2011 do not have to complete local redistricting until the General Assembly redraws its district lines. The Guidelines published by the State Board of Elections recommend that those localities that do not have local elections in November 2011 wait until the General Assembly completes its redistricting before completing their local redistricting. When redistricting the General Assembly sometimes adopts legislative district boundaries that run through localities and follow features that have never been used by the locality as precinct boundary lines. In other situations the General Assembly may adopt a pre-existing precinct boundary line at the same time the locality is abandoning or moving the line. Waiting for the General Assembly to complete its redistricting reduces the risk of creating split precincts.
- If Local Elections are Scheduled a Locality Cannot Wait on the General Assembly—Localities that have local elections in November 2011 cannot wait and will have to conduct their redistricting at the same time as the General Assembly.

Timetable

Since Lynchburg does not have local elections scheduled for November 2011 the City does not have to complete its redistricting until 2012. Therefore, the City has the option of either trying to complete its redistricting in time for the November 2011 elections or waiting until 2012 to complete its redistricting.

- Completing Redistricting in 2011. The Guidelines developed by the State Board of Elections recommend that those localities that must complete their redistricting in time for the November 2011 elections submit their preclearance request to the Justice Department by the end of May 2011 to give the Justice Department adequate time to review the plans and to give the registrar adequate time to identify and notify votes that will be affected by the redistricting changes. However, it would be possible to adopt the redistricting ordinances at one of Council's June meetings. This would allow the City to send its preclearance request to the Justice Department by August 11. If the Justice Department takes a full 60 days to review the City's submission the Justice Department's review should be completed by October 11 which would give the Registrar's office 30 days to send out the required notices.
- Completing Redistricting in 2012. To implement the changes for the May 8, 2012 election City Council would need to adopt the necessary ordinances no later than one of its first meeting in January. This would allow the City to send its preclearance request to the Justice Department by February 8. If the Justice Department takes a full 60 days to review the City's submission the Justice Department's review should be completed by April 8 which would give the Registrar's office 30 days to send out the required notices.

ISSUES FOR COUNCIL TO DECIDE

There are several decisions City Council will need to make as part of the upcoming redistricting.

- Does the City Want to Redistrict in 2011 or 2012? Since Lynchburg does not have local elections scheduled for November 2011 the City does not have to complete its redistricting until 2012. Council will have to decide if the City wants to redistrict in 2011 or 2012. Once Council decides when to complete the redistricting process it will be necessary to determine the role of the Electoral Board and the Registrar in the redistricting process.
- What is the Appropriate Level of Public Participation? The Virginia Code requires that prior to adopting an ordinance changing a ward, precinct or polling place notice of the proposed change must be advertised once a week for two successive weeks in a newspaper of general circulation. The Virginia Code does not require a local governing body to hold a public hearing on the proposed changes or prescribe any particular process a locality must utilize to involve the public in the redistricting process. Also, the federal regulations dealing with submissions to the Justice Department do not require a public hearing as a condition to Justice Department approval. However, preclearance regulations require a locality to demonstrate that the public, especially members of minority groups, was given the opportunity to comment on and participate in the redistricting process. Simply complying with the requisite statutory notice may not be sufficient to comply with the federal regulations that require public participation. Any redistricting that proposes major or controversial changes to election districts must be preceded by a public outreach effort. Council will need to decide how the public will be involved in the redistricting process. The amount of public participation could increase the amount of time needed for the redistricting process.
- Establishing a New Precinct and Polling Place for Liberty University Students. During the past two years representatives of Liberty University suggested the City create a new precinct and polling place for University students. Under Section 24.2-309.1 of the Virginia Code precinct boundaries have been frozen since February 1, 2008. The freeze ends May 15, 2011 and it would make sense to consider creating a new precinct and polling place for Liberty University students during the redistricting process. However, creating a new precinct and polling place for Liberty University students could increase the amount of time needed for the redistricting process.
- Moving Council Elections from May to November. Some interest has been expressed in changing City Council's election dates from May to November. Changing the election dates could be done during the redistricting process. The Virginia Code allows City Council to adopt an ordinance changing the May election dates to November. Before adopting such an ordinance Council must hold a public hearing and submit the proposed change to the Justice Department for approval. If Council changes the election dates from May to November the Council members whose terms would have ended on June 30 of an election year would continue to hold office until December 31 of the year. However, the Virginia Code does not allow a locality to switch to a November election during an election year. If Council wishes to change the election date for the upcoming 2012 elections the change will have to be completed prior to the end of 2011.

LYNCHBURG CITY COUNCIL

Agenda Item Summary

MEETING DATE: **February 8, 2011**

AGENDA ITEM NO.: 4

CONSENT:

REGULAR:

WORK SESSION: **X**

CLOSED SESSION:

(Confidential)

ACTION:

INFORMATION: **X**

ITEM TITLE: **Overview of Proposed CDBG/HOME Program Citizen Participation Plan**

RECOMMENDATION: No action required. City staff will provide an overview of the Proposed Citizen Participation Plan for the Community Development Block Grant (CDBG) and HOME Investment Partnerships Act (HOME Program).

SUMMARY: The U. S. Department of Housing and Urban Development (HUD) requires each entitlement city that receives CDBG and HOME Program funds to have a Citizen Participation Plan. The purpose of the Citizen Participation Plan is to provide policies and procedures for citizen participation with respect to activities funded under the CDBG and HOME Program from HUD.

The current Citizen Participation Plan was updated by City Council on November 11, 2008. City staff is proposing revisions to the Plan that will better align the contents of the Plan with HUD requirements for citizen participation; eliminate public hearing redundancy and reduce advertising costs; and focus the work of the Community Development Advisory Committee (CDAC) on reviewing CDBG and HOME Program applications and making recommendations for funding to City Council. The Proposed Citizen Participation Plan also incorporates City Council's recent restructuring of programs and activities that can be funded with CDBG funds (10% allocation to public service programs and activities in FY 2012 with remaining funds allocated to the Lynchburg Redevelopment and Housing Authority, City capital projects in eligible areas, targeted neighborhoods, and Bluffwalk (if necessary)).

HUD requires a thirty-day public hearing notice for substantial changes to the Citizen Participation Plan. A public hearing on the Proposed Citizen Participation Plan is scheduled for March 8, 2011. The advertisement announcing the 30-day public comment period was published in the *News and Advance* and posted on the City's website on February 4, 2011.

PRIOR ACTION(S): September 28, 2010: City Council Work Session – Consideration of Restructuring the Community Development Block Grant Program

FISCAL IMPACT: The HUD regulations require a minimum of two annual public hearings. There will be a reduction in the cost of advertising as the number of public advertisements will be reduced.

CONTACT(S): Bonnie Svrcek, Deputy City Manager, 455-3990
Melva Walker, Grants Manager, 455-3916

ATTACHMENT(S): Proposed Citizen Participation Plan

REVIEWED BY: lkp

City of Lynchburg, Virginia

DRAFT ***Citizen Participation Plan*** ***for the*** ***Community Development Block Grant*** ***and HOME Program***

Prepared by the
Grants Administration Office
900 Church Street
Lynchburg, Virginia 24504
(434) 455-3900

Approved by City Council on November 11, 2008

Revised: _____

Draft Revision: February 4, 2011

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CITIZEN PARTICIPATION PLAN

City of Lynchburg, Virginia

INTRODUCTION

This Citizen Participation Plan was prepared in accordance with Section 104(a) of the Housing and Community Development Act of 1974, as amended. The 24 CFR 91.105 federal regulations outline the “citizen participation” requirements. This document has been developed in order for the City of Lynchburg, Virginia to be in compliance with the requirements of the regulations.

The Plan sets forth the City’s policies and procedures by which it encourages local citizens to participate and comment on the federally funded Community Development Block Grant (CDBG) and HOME ~~p~~Programs. The provisions concerning citizen involvement in implementing and assessing the CDBG and HOME ~~p~~Programs apply to all activities that are ongoing, as well as to all future activities. This ~~p~~Plan shall remain in effect until all activities are completed, or until this Plan is superseded by a new Plan.

In accordance with the City of Lynchburg’s mission of responsive, effective local government and vision principles that include engaging the community, the City will follow the Citizen Participation Plan detailed in this document. This Plan will help the City to determine and prioritize the needs of neighborhoods and communities, administer programs intended to address those needs, and involve the public in the Consolidated Plan, Annual Action Plan and Consolidated Annual Performance and Evaluation Report (CAPER) process.

CERTIFICATION OF COMPLIANCE

As a part of the City’s submission of its Five-Year Consolidated Plan, and any amendments thereto, the City will submit certification to the U.S. Department of Housing and Urban Development (HUD) that the City is following an approved Citizen Participation Plan, which:

1. Provides for and encourages citizen participation with particular emphasis on participation by persons of low and moderate income who are residents of slum and blighted areas and of areas in which funds are proposed to be used;
2. Provides for participation by residents in low and moderate income neighborhoods or targeted revitalization areas as defined by the City;
3. Provides for and encourages citizen participation of residents of public and assisted housing developments, as well as providing information to the housing agency about Consolidated Plan activities related to its development;
4. Provides for and encourages citizen participation of persons with disabilities as well as provides a copy of the Citizen Participation Plan in a format accessible to persons with disabilities, upon request;
5. Provides for and encourages citizen participation of all of the City of Lynchburg citizens, including minorities and non-English speaking persons, and identifies how the needs of non-English speaking residents will be met in the case of public hearings where a

significant number of non-English speaking residents can be reasonably expected to participate;

6. Provides citizens with reasonable and timely notification and access to local meetings, information, and records relating to the City's proposed and actual use of federal CDBG and HOME funds;
7. Provides for technical assistance to groups/organizations representative of persons of low and moderate income that request such assistance in developing proposals, with the level and type of assistance to be determined by the City;
8. Provides for public hearings to obtain citizen views, and to respond to proposals and questions at all stages of the community development program process, including at least the development of needs, the review of proposed activities, and the review of the programs annual performance. The hearings shall be held after adequate notice, at times and locations convenient to potential or actual beneficiaries, and with accommodations for the disabled; and
9. Provides for timely written response to written complaints and grievances where applicable.

CITIZEN PARTICIPATION PLAN

The U.S. Department of Housing and Urban Development requires the City of Lynchburg to have and follow a Citizen Participation Plan as a condition of receiving federal funds. This Plan contains the City's policies and procedures for involving the community in:

- the development of the Annual Action Plan and the Five-Year Consolidated Plan;
- the review of the Consolidated Annual Performance and Evaluation Report; and
- the use of Community Development Block Grant (CDBG) and HOME program funds.

Included in this Citizen Participation Plan are policies and procedures for amending these documents and local programs. The Citizen Participation Plan will apply to the Section 108 loan program and other HUD programs that would require citizen participation. (See Appendix A for a definition of the Annual Action Plan, Consolidated Plan and CAPER and Appendix B for a description of the CDBG and HOME ~~p~~Programs).

This Plan was prepared by the ~~Community Development Department~~, Grants Administration ~~Division~~ Office, which is the lead entity for the administration of the CDBG and HOME ~~p~~Programs for the City of Lynchburg.

Encouragement and Methods of Citizen Participation

Participation by residents in low and moderate income neighborhoods, as well as minorities, non-English speaking persons, and persons with mobile, visual and hearing disabilities is encouraged throughout the development of the Consolidated Plan, Annual Action Plan, the CAPER, and any amendments to these ~~p~~Plans. Residents of public and housing developments are also encouraged to participate.

Methods of Citizen Involvement

~~The City provides three methods of citizen involvement in the development of the Five Year Consolidated Plan and the Annual Action Plan:~~

- ~~1. Local community involvement;~~
- ~~2. Community Development Advisory Committee (CDAC) review and hearings; and~~
- ~~3. City Council public hearings.~~

Citizens are encouraged to participate in the process via public input through the Community Development Advisory Committee (CDAC), and City Council. The City and HUD recognize community input as an important component in identifying high priority needs in the community and ensuring that CDBG and HOME funds are used for activities that address those issues and concerns. These groups include public and private entities, both non-profit and for-profit, particularly those whose purpose relates to housing, homelessness, neighborhoods, community development and economic development;

Prior to the annual review of the Five Year Consolidated Plan Goals, City staff will conduct an informal conversation with citizens to hear comments and determine if the Goals continue to be meaningful and effective.

In addition, to expand and broaden citizen participation, the City will also post public notices on the City's web site (www.lynchburgva.gov/grants), at community centers and other neighborhood anchors (i.e. schools, neighborhood health centers, and public housing agencies/complexes).

City staff will coordinate these efforts through the City's Communications and Marketing Department.

RESPONSIBILITIES AND OBLIGATIONS

This section of the Citizen Participation Plan provides guidance to the various stakeholders in the activities required to develop and implement the Consolidated Plan, Annual Action Plan and the CAPER. These guidelines are provided to be inclusive and protect the fairness and integrity of the Community Development Block Grant and HOME programs. They are not intended, in any way, to exclude or limit access to the process.

Assignments

The City of Lynchburg Citizen Participation Plan describes the roles of the City Council, Community Development Advisory Committee, City staff and others involved in developing and evaluating progress toward implementation of the Consolidated Plan and Annual Action Plan.

The *Lynchburg City Council* serves as the body of elected community-wide representatives responsible for addressing policy issues related to the Consolidated Plan and Annual Action Plan. The City Council gives direction to City staff as to how to proceed in assessing Lynchburg's housing and community development needs and a strategy to address the needs identified. It must approve the Consolidated Plan and the Annual Action Plan prior to submission to HUD.

The City Council must also comment and approve revisions to the Citizen Participation Plan and amendments to the Consolidated Plan.

~~The City Council will appoint and oversee the a **Community Development Advisory Committee (CDAC)**. The CDAC will review the development of the Consolidated Plan and the Annual Action Plan, apply strategies developed in the Consolidated Plan and make recommendations to the City Council for funding activities and programs in the Annual Action Plan for under the CDBG and HOME pPrograms and generally to act in an advisory capacity to City Council with reference to the programs and related project activities. The committee will also annually review the Consolidated Annual Performance and Evaluation Report (CAPER) and review and comment on the development of the Citizen Participation Plan. (A detailed description of the CDAC is provided on page 75 of this document).~~

City staff will facilitate the process by assisting the City Council and the CDAC in meeting the City's obligations and responsibilities as an entitlement City for the CDBG and HOME pPrograms. This will include preparing and submitting the required reports and documents to HUD and providing other support as required.

~~Other interested **citizens and groups** are encouraged to participate in the process via public input. The City and HUD recognize community input as an important component in identifying high priority needs in the community and ensuring that CDBG and HOME funds are used for activities that address those issues and concerns. These groups include the following:~~

- ~~▪ public and private entities, both nonprofit and for profit, particularly those whose purpose relates to housing, homelessness, neighborhoods, community development and economic development;~~
- ~~▪ The community at large, civic organizations, particularly those from low and moderate income neighborhoods, civic associations and tenant associations;~~
- ~~▪ The business community;~~
- ~~▪ Public Housing residents and agency staff;~~
- ~~▪ Lynchburg City schools;~~
- ~~▪ Clients, program users, program operators; and~~
- ~~▪ Residents and organizations in the CDBG target area.~~

Public Meetings Notification Process

It is the policy of the City of Lynchburg to give citizens timely notice of local meetings and reasonable and timely access to local meetings, information, performance reports, and records relating to the City's proposed and actual use of CDBG and HOME pProgram funds.

All meetings will be published ~~at least once as a legal advertisement~~ in the local paper at least 15 days in advance of the ~~meeting public hearing~~ date. Those meetings requiring more than 15 days notice in advance, will meet the required advance notice timeline. The published information will include:

- Description of the activity;
- What entity is conducting the meeting;
- Amount of source of funds;
- Where and how information may be obtained;
- The date, time and location of the public meetings(s);
- Timeframe for the public to submit public comments;

- How and in what format comments will be accepted; and
- Contact person for additional information.

Public notices related to proposed funding allocations for the Annual Action Plan will include: a statement of program objectives; amount of grant funds and program income anticipated; range of activities that may be undertaken; estimated amount of grant funds and program income proposed to be used for activities that will benefit low and moderate income persons; any proposed activities likely to result in displacement; and the City's plan for minimizing displacement.

Documents that require a Public Comment period will be available for review at the following locations:

- Grants Administration Division, Second Floor, City Hall, 900 Church Street, Lynchburg, Virginia 24504
- Lynchburg Public Library, 2311 Memorial Avenue, Lynchburg, Virginia
- Downtown Branch Library, City Hall, Basement Floor, 900 Church Street, Lynchburg, Virginia 24504
- Grants Administration website at www.lynchburgva.gov/grants

The City wants to ensure that all people are able to participate in public meetings. Therefore, the City will make reasonable efforts to provide translators, upon request, to help non-English speaking persons at public hearings, working sessions and public meetings. Likewise, the City will make reasonable efforts to provide special accommodations for persons with disabilities so they can participate. The City will schedule meetings in locations that are accessible and at times that are convenient for the community. Persons needing special accommodations or translators should make their requests **one week** before the meeting so that the City can assure that the special needs are met. These requests should be made to the ~~Community Development Department~~, Grants Administration Division Office at (434) 455-390016.

Public Notices

~~Public Notices will be published at least once as a legal ad in the local newspaper. These notices will include: a statement of program objectives; amount of grant funds and program income anticipated; range of activities that may be undertaken; estimated amount of grant funds and program income proposed to be used for activities that will benefit low and moderate income persons; any proposed activities likely to result in displacement; and the City's plan for minimizing displacement.~~

~~Documents that require a Public Comment period will be available for review at the following locations:~~

- ~~Community Development Department, Grants Administration Division, Second Floor, City Hall, 900 Church Street, Lynchburg, Virginia 24504~~
- ~~Lynchburg Public Library, 2311 Memorial Avenue, Lynchburg, Virginia~~
- ~~Downtown Branch Library, City Hall, Basement Floor, 900 Church Street, Lynchburg, Virginia 24504~~
- ~~Community Development Department, Grants Administration Division website~~

Access to Records

~~The City will provide access to public records related to the Consolidated Plan, Annual Action Plan and the CAPER and the use of assistance under the programs covered by the Plans during the proceeding five years. The City may charge a fee for copies to recover cost of materials. The~~

City may require an appointment to view records and may require City staff to be present during the inspection of records.

COMMUNITY DEVELOPMENT ADVISORY COMMITTEE (CDAC)

~~The Community Development Advisory Committee (CDAC) will serve as a primary mechanism for facilitating citizen participation throughout all stages of the federal government consolidated planning, implementation and evaluation process. The committee shall make recommendations to the City Council regarding plans and projects for the CDBG and HOME programs. The CDAC will act in an advisory capacity to the City Council in reference to the CDBG and HOME programs and related project activities.~~

~~The CDAC will meet at least four times during the program year and will offer advice and recommendations on development of the Annual Action Plan, implementation and evaluation of the CDBG and HOME programs, proposed amendments to the Consolidated Plan and/or Annual Action Plan, and allocations of unprogrammed CDBG and HOME funds. No member of the advisory committee may vote on a proposal initiated by a neighborhood organization of which he or she is a member.~~

~~At each meeting of the CDAC, City staff will report on the progress of current projects and programs. These meetings shall be open to the public. The agenda for any regular or other public CDAC meeting will be provided to all Committee members in writing five (5) days prior to the meeting. Meeting dates and times shall be determined by consent of the Committee members. The time and place of the CDAC meetings can be obtained by calling the Community Development Department, Grants Administration Division, at (434) 455-3900.~~

~~The Chair may, when it is deemed necessary and expedient, call a special meeting of the CDAC for the purpose of transacting business. No business shall be considered other than as designated in the call. The special meeting shall be called by written notice to the members of the Committee.~~

Membership and Composition: The CDAC shall consist of ~~nine~~ (9) members. The composition of the ~~e~~Committee shall be as follows:

1. a. **Members:** Five (5) members shall be ~~citizens~~ residents of predominately low and moderate income neighborhoods, and/or other slum and blighted areas of the City. No more than one representative from a single neighborhood shall be allowed to serve at a time. These persons may or may not be current members of neighborhood organizations.

a. ~~Two (2) members shall be representatives from the community at large and represent the business community, health care industry or other special interest groups such as the disabled, homeless, elderly, residents of public or subsidized housing, etc.~~

b. Two (2) members shall be current members of the Lynchburg City Council.

b. **Terms:** All members ~~of the CDAC~~ will be appointed annually by the City Council to ~~serve four year terms, not to exceed two consecutive terms for a period of one year. No person may serve for more than four consecutive years. Annually, the CDAC members will participate in a training workshop on the CDBG and HOME programs. The training workshop will include information on the current status of programs and agencies receiving federal funds.~~

2. Objectives. CDAC will review CDBG and HOME Program applications and will make recommendations to City Council regarding proposed Annual Action Plan projects.

3. Officers: The officers of the CDAC shall consist of a Chair and Vice-Chair. The Chair and Vice-Chair shall be members of City Council and selected annually by City Council.

Chair: The Chair shall preside at all meetings of the Committee. Except as otherwise authorized by resolution of the ~~CDAC~~ Committee, the Chair shall sign all official documents and other instruments to be executed by the Committee.

Vice-Chair: In the absence or incapacity of the Chair, the Vice-Chair shall preside at all meetings of the Committee, and may perform such other duties as may be required by the Chair.

Recording Secretary: The Recording Secretary shall keep the records of the Committee, act as Secretary to all meetings of the Committee, record all votes and shall keep a record of the proceedings of the Committee. The Grants ~~Administrator~~ Manager, or his/her designee, shall act as Recording Secretary. The Recording Secretary shall not be a member, and will have no voting power; however, he or she may participate in discussions, and provide such information as requested by the Committee.

4. Meetings:

a. Regular Meetings. The regular meetings of the Committee will be to review the CDBG and HOME Program applications and to make funding recommendations to City Council. These meetings will be open to the public. The agenda for any regular or other public Advisory Committee meeting will be provided to all Committee members in writing five (5) days before the meeting. Meeting dates and times shall be determined by consent of Committee members.

(b) Special Meetings. The Chairman may, when it is deemed necessary and expedient, and shall, by written request to the members of the Committee, call a special meeting of the Committee for the purpose of transacting any business designated in the call. No business shall be considered other than as designated in the call.

5. Quorum: At all meetings of the Committee, a majority of the total membership shall constitute a quorum for the purpose of transacting business.

6. Rules of Procedure: The Committee will operate under "Roberts Rules of Order", as revised. The Community Development Director and Grants Administration staff will provide technical assistance and support to the CDAC. This support includes notice of meetings, provision of meeting space, minutes, interpretation of HUD policies and requirements, and program status reports. Community Development staff may also prepare letters, reports, responses and other documents for the Committee, as requested, and shall attend all CDAC meetings and hearings.

7. Citywide Citizen Participation Program: A Citywide Citizen Participation Program, designed to encourage a broader range of membership on the City's boards and commissions, was initially approved by City Council in July, 1978. Persons' names received through the Citywide Citizen Participation Program who are interested in serving on the Community Development Advisory Committee will be submitted to City Council for consideration for annual appointments and as vacancies occur.

REQUIRED SUBMISSIONS

Although both the Five-Year Consolidated Plan and the Annual Action Plan seek community involvement on many levels, the involvement levels differ for the two plans. Efforts to involve local citizens, non-profit entities and other interested stakeholders, is more intensive during the Five-Year Consolidated Plan preparation process, than in the Annual Action Plan process. The purpose of the Five-Year Plan is to identify needs and develop a multi-year strategy to address those needs. The primary purpose of the Annual Action Plan is to identify specific activities to be funded or actions to be taken during a particular fiscal year to address needs that were identified in the Five-Year Consolidated Plan. Therefore, the citizen involvement process for each plan is described separately below.

Annual Action Plan

At the beginning of the Annual Action Plan process City Council will conduct a public hearing to receive citizen input regarding the Citywide community development and housing needs and the review of the approved Consolidated Plan goals. A notice of this meeting will be published in the local newspaper at least 15 days prior to the meeting.

In addition, At the beginning of the Annual Action Plan process, ~~the~~ City staff will prepare an Application for Funding ~~and Information Guide~~ that describes the City's funding application processes. The Application for Funding ~~and Information Guide~~ will include the objectives and eligible uses of the CDBG and HOME ~~p~~Programs funds and the amount of funds expected to be received by the City, including program income. This document will also provide a tentative time schedule that the City is expected to follow in the preparation of the Plan.

Local Community Involvement: The City will make every effort to involve the community, especially low and moderate income persons and those who live in areas eligible for CDBG and/or HOME Program funds, in the annual planning and funding process ~~within reasonable limits of staffing and budgetary constraints.~~ (See Appendix C for a map of eligible areas).

~~The City wants to ensure that all people are able to participate in all public meetings. Therefore, the City will make reasonable efforts to provide translators, upon request, to assist non-English speaking persons at public hearings, workshops and public meetings. Likewise, the City will make special accommodations for persons with disabilities so they can participate. The City will schedule meetings in locations that are free from accessibility problems and at times that are convenient for the community. Persons needing special accommodations or translators should make their requests one week before the meeting so the City can assure that the special needs are met. These requests should be made to the Grants Administration Division, of the Department of Community Department at (434) 455-3900 or by writing to: City of Lynchburg, Grants Administration Division, 900 Church Street, Lynchburg, Virginia 24504.~~

For the community as a whole, the City will publish a public notice in the ~~News and Advance~~ local newspaper that the City is starting the Annual Action Plan process and the acceptance of funding application requests. This notice will include information regarding the application process ~~and technical assistance workshop.~~ The City's ~~Community Development Department Grants Administration Office~~ website (www.lyncburgva.gov/grants) will also contain information about the City's application process, application, and the time schedule.

Community Development Advisory Committee (CDAC) meeting: The CDAC, ~~a citizen advisory group appointed by the City Council, is~~ will be responsible for reviewing and making recommendations on the funding applications described in the Annual Action Plan. The CDAC will conduct at least one meeting at the onset of the planning process for the Annual Action Plan. ~~At this meeting, {The CDAC will review program accomplishments as described in the Consolidated Annual Performance and Evaluation Report (CAPER) and obtain citizen input on housing and community development needs~~ will conduct a meeting to review Annual Action Plan funding requests for the CDBG and HOME Program. A notice of this meeting will be published in the local newspaper, ~~the News and Advance,~~ at least 15 days prior to the meeting. If needed, the CDAC will conduct a second meeting to review applications, prior to making recommendations to the City Council. At the discretion of the CDAC, entities with eligible applications, including the City, may be invited to present their projects at the CDAC meeting and to answer questions. The CDAC may also at its discretion, seek information and clarity from City staff. At the conclusion of the CDAC process, City staff ~~the committee chair~~ will prepare a Council report with CDAC's funding recommendations ~~which will be submitted to the~~ for City Council consideration and adoption. The CDAC recommendations will be included in the final adopted Annual Action Plan for information.

City Council Public Hearings: The CDAC funding recommendations for the CDBG and HOME Program activities for the Annual Action Plan will be submitted to City Council. City Council will hold at least one public hearing on the Annual Action Plan to obtain citizen input on housing and community development needs and proposed Annual Action Plan activities; and allow CDBG and HOME Program applicants to present their funding requests. This public hearing will be advertised in the local newspaper at least 15 days prior to the hearing.

Thirty-Day (30-day) Public Review Period: ~~After the CDAC recommendations, the~~ City staff will prepare a draft Annual Action Plan which will include the projects and programs recommended for funding with CDBG and HOME funds. The City staff will then publish a 30-day legal notice in the ~~News and Advance~~ local newspaper that the draft Annual Action Plan is available for public review and written comment. Any written comments must be submitted to the ~~Department of Community Development, Grants Administration Division Office,~~ prior to the end of the ~~thirty~~ 30-day review period. During the review period, the draft Annual Action Plan will be available for review at the ~~Department of Community Development Grants Administration Office,~~ and the Lynchburg Public Library, and the City of Lynchburg website (www.lyncburgva.gov/grants).

City Council Public Hearings: ~~The City Council will hold at least one public hearing on the Annual Action Plan. This public hearing must be advertised in the local newspaper, the News and Advance, at least 15 days prior to the hearing. After the City Council adoption, staff will submit the Annual Action Plan to HUD for the required 45-day review period.~~

City Council Adoption: At the conclusion of the 30-day public review period, City Council will conduct a public hearing for the adoption of the Annual Action Plan. This public hearing will be advertised in the local newspaper at least 15 days prior to the hearing.

HUD Review Period: ~~After adoption, the City will attach to of the Annual Action Plan, the City will attach a summary of any written or oral comments received during the public review period and the public hearings. If the City does not incorporate a recommendation received from the public, the City will attach the reasons why that recommendation was not included when the Annual Action Plan is sent to HUD. The City staff will then send the Annual Action Plan to the U.S. Department of Housing and Urban Development HUD for review and approval.~~

HUD Review Period: The HUD approval process takes 45 calendar days. If the Plan has included all of the required sections and has gone through the required public comment and review, HUD approval is considered routine. The City may incur costs at the beginning of the program year which starts on July 1st, but may not draw down any funds until HUD has completed its 45 day review period and a grant agreement has been fully executed with HUD.

Consolidated Plan

As stated earlier, the City is required to prepare a multi-year Consolidated Plan. Consolidated Plans are usually prepared for a three to five year period. The City of Lynchburg has traditionally prepared a Five-Year Consolidated Plan. The purpose of the Consolidated Plan is to identify the needs of lower income persons, establish funding priorities and develop a multi-year strategy to address those needs. The Annual Action Plan must be consistent with the Consolidated Plan.

Local Community Involvement: The City will make every effort to involve the community, particularly low to moderate income persons and those living in areas eligible for CDBG funds, during the preparation of the Consolidated Plan. Community involvement will be at the planning and the funding processes and will be within the reasonable limits of staff time and cost considerations. This involvement will include people and groups that participate in the preparation of the Annual Action Plan. In addition to those traditionally included in the preparation of the Annual Action Plan, the City will seek input from other groups that might not be eligible for funding, particularly housing industry representatives, such as lenders and real estate professionals. In that the Consolidated Plan is concerned with identifying Citywide needs and trends, the City will seek information, data and input from these groups to assist the City decision makers in identifying and prioritizing needs and developing strategies in addressing those needs.

The City will use the following procedure in developing the list of agencies and individuals that the City will consult with during the Consolidated Plan preparation process:

- The City will identify all agencies and individuals that have applied for HUD funds from the City since the previous Consolidated Plan was prepared.
- The City will identify and involve nonprofit and governmental agencies that might have useful information about the City's overall housing, community development, health services and economic development needs. This will include agencies that represent persons with special needs.
- The City will request housing industry associations to appoint a person to represent that group in working with the City.
- The City will involve the CDAC and other committees and groups that may be affected by the CDBG and HOME programs.
- The City will retain, on an annual basis, a list of agencies, groups and individuals who have requested information about the programs and have requested to be put on the City's mailing list for input into the Consolidated Plan. ~~The City will periodically verify that the agencies and persons are still interested in the program and that addresses and telephone numbers are current.~~
- The City will encourage the Lynchburg Redevelopment and Housing Authority residents and staff to participate in the planning process.
- The City will notify appropriate City of Lynchburg departments that the Grants Administration Division is preparing a description of non-housing community needs. In addition, the City will consult with the Health Department and other relative agencies regarding data on lead based paint hazards and poisonings.

- The City will send a ~~press releases and~~ notices to the local newspapers and other media. This will include publishing a notice in the *News and Advance* advising the public that the planning process has begun and encouraging participation.

~~At the beginning of the planning process and Aafter compiling a list of interested participants, the City will invite these agencies and individuals to attend one of several working sessions. Each working session will involve a certain topic or funding category, so that persons with similar interests, but not necessarily similar perspectives, can fully diseuss a City Council public hearing to provide input regarding the Ceitywide community development and housing needs for that particular topic area or funding souree and the proposed Consolidated Plan goals.~~

Thirty-Day Review Period: Upon completion, the City will notify the working session participants that the proposed Consolidated Plan is available for public review for a thirty-day period. A public notice in the *News and Advance* will also notify the public of the thirty-day public review period by publishing a short summary of the Consolidated Plan. This summary will briefly describe the contents and purposes of the Plan. The notice will include the locations where copies of the Plan can be reviewed. Copies of the Plan will also be available to the public, upon request, in the Community Development Department.

Community Development Advisory Committee (CDAC) meetings: ~~At the beginning of the planning process for the Citizen Participation Plan, t~~The citizen involvement process will include outreach to stakeholders to attend a public meeting by the CDAC on the overall needs, and priorities, and/or revisions and development of Consolidated Plan goals ~~to be recommended as a part of the Consolidated Plan at the beginning of the planning process. The CDAC will review the Plan at various stages of development. At a public hearing, Tthe CDAC will review and make recommendations on the final draft of the Consolidated Plan prior to the Plan being presented to the City Council for adoption. The CDAC will consider public comments on the Plan at that meeting. The public meeting hearing may be held toward the end of the required thirty30-day review period. A notice of the CDAC public meeting will be published in the local newspaper at least 15 days prior to the meeting.~~

City Council Hearing: ~~At the conclusion of the 30-day public review period, t~~The City Council will conduct at least one public hearing on the Consolidated Plan prior to adoption. This hearing may or may not be in conjunction with the hearing on the Annual Action Plan. ~~CDAC members and working session Interested participants will be notified of the public hearing. This hearing will also be noticed in the News and Advance and listed in the City Council's Agenda. The notice may be included be advertised in the thirty day notice and the CDAC public hearing notice local newspaper at least 15 days prior to the public hearing.~~ The ultimate responsibility for the Consolidated Plan adoption is with the City Council.

After adoption, the City will attach to the Consolidated Plan a summary of any written or oral comments received during the public review period, including the public hearings. If the City does not incorporate a recommendation from the public, the City will attach reasons why that recommendation was not included when the Consolidated Plan is sent to HUD. ~~The City will send the Consolidated Plan to the U.S. Department of Housing and Urban Development for review and approval.~~

HUD Review Period: The City will then send the Consolidated Plan to the U.S. Department of Housing and Urban Development for review and approval. The HUD approval process takes 45 calendar days. If the Plan has included all of the required sections and has gone through the required public comment and review, HUD approval is considered routine. The City may incur

costs at the beginning of the first year of the Consolidated Plan which starts on July 1st, but may not draw down any funds until HUD has completed its 45 day review period and a grant agreement has been fully executed with HUD.

Anti-Displacement/Relocation Policy

In developing and implementing the Consolidated Plan, the City of Lynchburg intends to cause no displacement to persons receiving assistance from the CDBG or HOME Program. The City recognizes that while it intends no displacement, situations may arise wherein displacement and/or relocation or temporary relocation is the only viable method for providing assistance. The City will then provide for reasonable benefits to any person involuntarily and permanently displaced as a result of the use of CDBG or HOME funds to acquire or substantially rehabilitate residential and nonresidential property in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA).

CONSOLIDATED ANNUAL EVALUATION AND PERFORMANCE REPORT (CAPER)

On or about September 28th of each year, the City is required to submit a performance report to HUD for the previous program year. This report is called the Consolidated Annual Performance and Evaluation Report (CAPER). The CAPER provides a description of the following:

- Resources available to the City;
- Investment of those resources, the geographic distribution and location of investments;
- Number of families and persons assisted (including the racial and ethnic status of persons assisted);
- Actions taken to affirmatively further fair housing;
- Evaluation of other actions and activities, such as infrastructure projects, indicated in the strategic plan of the Consolidated Plan and the Annual Action Plan;
- Evaluation of the jurisdiction's progress in meeting its specific objectives of providing affordable housing, including the number and types of families served; and
- A summary of any written comments or views received from citizens regarding the City-funded programs and performance as well as any oral testimony at public hearings for City-funded programs and performance.

~~The City will publish a legal notice in the *News and Advance* at least 15 days before submittal of the CAPER to HUD so that citizens may comment on the report. Additionally, a public hearing is conducted by the City on performance and needs at the onset of the program planning process. At this hearing, the City will consider public comments on the CAPER.~~

A public notice in the local newspaper will notify the public of the 15-day public review period and City Council public hearing date by publishing a short summary of the CAPER. This summary will briefly describe the contents and purposes of the CAPER. The notice will include the locations where copies of the CAPER can be reviewed. Copies of the CAPER will also be available to the public, upon request, in the Grants Administration Office as well as at the City's web site: www.lynchburgva.gov/grants.

After adoption, the City will attach to the CAPER a summary of any written or oral comments received during the public review period, including the public hearings. If the City does not

incorporate a recommendation from the public, the City will attach reasons why that recommendation was not included when the CAPER is sent to HUD. The City will send the CAPER to the U.S. Department of Housing and Urban Development for review and approval.

AMENDMENT PROCESS

During the program year, the City may amend the Consolidated Plan and/or the Annual Action Plan. These amendments may be minor or substantial. HUD requires minor or substantial amendments to the Plan, whenever the City makes one of the following decisions:

1. Changes its CDBG or HOME funding allocation priorities;
2. Changes the City's program and activity funding selection process;
3. Carries out an activity, using funds from any program covered by the Consolidated Plan (including program income), not previously described in the Action Plan; or
4. Changes the purpose, scope, location or beneficiaries of an activity.

Minor amendments for any of these programs do not require public review or any additional action by the City.

Federal regulations require that the Citizen Participation Plan define when an amendment is considered substantial and what the citizen process will be when there is a substantial amendment. The process for amending either the Consolidated Plan or the Annual Action Plan will differ from program to program based on the definition of substantial change for that particular program, whether it be the CDBG or HOME program.

In the Consolidated Plan, there are priority goals and each goal has several action items. An amendment will be considered substantial, if the City will add, delete or modify a priority goal category currently in the adopted Plan. The addition, deletion or modification of a specific action item would not be considered a substantial change when the change would not result in an addition or deletion of a priority goal.

In the Consolidated Plan, most activities funded with CDBG and HOME funds have units of measure, such as the number of houses rehabilitated or the linear feet of curb and gutter constructed. These production projections in the Consolidated Plan are considered estimates and changes would not be considered, by themselves, substantial. The addition, deletion or modification of programs described in the Consolidated Plan will not necessarily be considered a substantial change, even if that change were considered substantial for the Annual Action Plan. The reason is that unlike the Annual Action Plan, the Consolidated Plan does not commit to specific programs and funding amounts. Instead the Consolidated Plan focuses on overall City needs and goals.

For the City's CDBG and HOME programs, a change in the Annual Action Plan will be considered substantial whenever costs increase by \$25,000 or 25% of the project's budget, whichever is greater. Costs savings or the deletion of work items to keep a particular project within budget will not constitute a substantial change, if the purpose, scope, location or beneficiaries of the project remain essentially the same. Modifications to program requirements would constitute a substantial amendment if the beneficiaries remain the same. Such modification would be reviewed by the Grants Administration staff prior to being presented to the City Council.

Whenever the City proposes a substantial amendment, the Grants Administration staff will review and make a recommendation regarding the proposal. ~~The City Council will consider the staff recommendation and take final action regarding the proposed amendment.~~

The ~~CDAC and~~ public will also be encouraged to provide input. A legal notice will be placed in the local newspaper advising the public of the proposed amendment ~~30~~^{thirty} days before action by the City Council. The legal notice will include the date the City Council will consider the proposed amendment. City Council approval of the addition, deletion or modification of the project will constitute approval of the substantial amendment.

Amendments to the Citizen Participation Plan will be handled in a similar manner as substantial changes to the Consolidated Plan or Annual Action Plan.

SUBMITTAL TO HUD

~~The Consolidated Plan and the Annual Action Plan will be submitted to the U.S. Department of Housing and Urban Development for a 45-day review period. Since project selection and program priorities are strictly local decision, HUD approval is considered routine, provided that the Plan includes all of the required sections and has gone through the required public review.~~

~~Persons having concerns about the City federal programs should first express those concerns locally, because final programmatic decisions are the responsibility of the City. It should be noted that HUD officials will consider public concerns anytime regarding the City's plans and programs described in this Citizen Participation Plan, preferably during the 45-day HUD review period.~~

ACCESS TO RECORDS

The City will provide reasonable and timely access to public records related to the Consolidated Plan, Annual Action Plan and the CAPER and the use of funds allocated under the programs covered by the Plans during the proceeding five years. The City may charge a fee to recover the costs of accessing, duplicating, supplying, or searching for the requested records. The City may require an appointment to view records and may require City staff to be present during the inspection of records.

TECHNICAL ASSISTANCE

Upon request, the Grants Administration staff will provide technical assistance, as determined appropriate by City staff, to groups representative of persons of low and moderate income that request such assistance in developing proposals for funding assistance under any of the programs covered by the Consolidated Plan. This technical assistance shall consist of the provision of available and relevant information rather than funds.

COMPLAINT PROCESS

~~HUD requires thirty-day public review periods for the Consolidated Plan and the Annual Action Plan. The review period for the CAPER is fifteen days. Questions, concerns, comments and complaints may be directed to the following City department during these review periods, and at any times of the year:~~

The City, through the Deputy City Manager, or his/her designee, will respond to any written complaint it receives in regard to the CDBG and/or HOME Program. Written complaints may be directed to the following City Office:

City of Lynchburg
~~Community Development Department~~
Grants Administration Division Office
900 Church Street
Lynchburg, Virginia 24504
(434) 455-3900 16

The City will respond, in writing, to concerns and complaints within 15 business days ~~in a timely manner.~~

ANTI-DISPLACEMENT/RELOCATION POLICY

~~The City will minimize temporary and permanent displacement of persons as a result of the CDBG and HOME program activities. However, there may be occasions where relocation may be necessary to achieve the City's overall housing and community development goals. In these cases, the City has adopted an Anti-displacement Plan to describe how the City intends to assure that the rights of the affected residents are protected. The City's Anti-Displacement Plan is included in the Consolidated Plan and the CAPER.~~

JURISDICTIONAL RESPONSIBILITY

In accordance with HUD regulations, the requirements for citizen participation do not restrict the responsibility or authority of the City of Lynchburg for the development and execution of its Consolidated Plan.

In accordance with 24 CR 91.105 (k), the undersigned certifies that the City of Lynchburg, Virginia, shall adhere to the policies and procedures set forth in this Citizen Participation Plan with respect to activities funded under the Community Development Block Grant (CDBG), HOME Investment Partnerships (HOME Program), and other federally-funded programs awarded by the U. S. Department of Housing and Urban Development.

L. Kimball Payne, III
City Manager

Date: _____

APPENDIX A

Definitions

Annual Action Plan – The City is required to prepare an Annual Action Plan which describes how it will use CDBG and HOME funds during each new fiscal year to address the needs discussed in the Consolidated Plan. The Annual Action Plan must be consistent with the multi-year Consolidated Plan. The Annual Action Plan must be submitted to HUD 45 days prior to the beginning of the program year. For the City of Lynchburg, this is July 1st.

Community Development Block Grant (CDBG) Program – See Appendix B for a description of the program.

Community Housing Development Organizations (CHDO) – CHDOs are housing nonprofit organizations that meet certain requirements set forth by HUD under the HOME program. The federal government requires the City to set aside 15% of its HOME Program allocation for CHDOs.

Consolidated Annual Performance and Evaluation Report (CAPER) – This report describes the accomplishments of the City's CDBG and HOME programs at the end of each fiscal year. The Plan is an assessment of the City's progress in accomplishing the goals of the Annual Action Plan and the Consolidated Plan. There is also a discussion of some of the additional funds that the City has accessed during the year to leverage the HUD funding.

Consolidated Plan – The City is required to prepare a five year Consolidated Plan to receive Community Development Block Grant (CDBG) and HOME funds. The Plan includes a description of the housing and community development needs of the City, the City's priorities given the limited financial resources available to the City, and a strategy toward addressing those needs.

Home Investment Partnerships (HOME) Program – See Appendix B for a description of the program.

Low and Moderate Income – Low and moderate income means family or household annual income less than the Section 8 Low Income Limit, generally 80 percent of the area median income (established by HUD and adjusted for family size).

Substantial Amendment – An addition, deletion, or modification of a priority goal category in the Consolidated Plan or Annual Action Plan.

U.S. Department of Housing and Urban Development (HUD) – HUD is the federal agency which administers the CDBG and HOME funds. The City must abide by HUD regulations for these programs as a condition for receiving these funds. Some changes in the regulations can be accomplished by HUD, but many of the requirements are part of the legislation passed by Congress and would require action by Congress if the requirements were to be modified or waived.

APPENDIX B

DESCRIPTION OF CDBG AND HOME PROGRAMS

COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG)

The Community Development Block Grant (CDBG) Program is administered by HUD and is authorized under Title 1 of the Housing and Community Development Act of 1974, as amended. The purpose of the CDBG Program is to enhance and maintain viable urban communities through the provision of decent housing, a suitable living environment, and the expansion of economic opportunities, principally for low and moderate income persons.

To be eligible for CDBG funding, a project or activity must qualify by meeting **one** of the following three national objectives.

National Objective No. 1 – Activities Benefiting Lower Income Persons/Households

The definition of a lower income person or household is one having an income equal to or less than 80% of Lynchburg's median income. A minimum of 70% of the City's total allocation must be used to address the needs of lower income persons. Projects must be either a direct benefit activity or an area benefit activity.

Direct Benefit Activities – To qualify as a direct benefit activity, there must be documentation that the public service program is benefiting lower income residents. At least 51% of the recipients of public service programs must have incomes equal to or below 80% of the median income. Certain other activities, such as housing rehabilitation, require all program participants to be lower income households.

HUD presumes certain groups meet the lower income criteria. Therefore, a record of the beneficiaries would not be required. HUD has defined these groups as abused children, battered spouses, elderly persons, adults with severe disabilities, homeless persons, illiterate adults, persons living with AIDS, and migrant workers.

Area Benefit Activities – These are activities that serve geographic areas in which at least 51% of the households are lower income, based on census date. To meet these criteria, 51% of household incomes must be equal to or less than 80% of the median income of the project's service area. See Appendix D for a map of the eligible areas in the City.

Examples of Area Benefit Activities include public improvements, i.e., street, sidewalk, curb, and gutter improvements (including related design and engineering work), park improvements, community centers, and public facilities.

Public Services – A maximum of 15% of the City's total annual CDBG allocation may be used for public service activities.

The Agency must be able to document that at least 51% of a public service activity's clientele are lower income residents. Public service projects must be a new service or an increase in the existing level of service. Examples of public services include crime prevention, child care, and drug-abuse related services.

Housing Activities – Housing activities include acquisition or rehabilitation of properties. CDBG funds may not be used for new housing construction, but may be used for property acquisition and construction of off-site improvements in conjunction with new construction.

The City currently has a housing rehabilitation program for lower income owner- and renter-occupied units.

National Objective No. 2 – Activities That Aid in the Prevention or Elimination of Slum/ Blight

If a project cannot meet the low income objective, a project may qualify if it benefits a slum or blighted area. State or local laws define slum and blighted areas as those that contain a high number of deteriorating or dilapidated buildings or infrastructures within the area. Redevelopment project areas generally qualify under this category. **Note:** Most blighted areas also qualify under national objective No. 1 (Activities Benefiting Lower Income Persons/Households). It is **not** necessary to meet the special requirements for slums and blight if the project already addresses the needs of low income persons.

To meet this Objective, the activity must be located in a City redevelopment area and in an area where there is a substantial number of deteriorated buildings, and designed to address one or more of the conditions that qualified the area as “slum/blighted.”

Projects may qualify outside a slum or blighted area on a spot blight basis. Activities include acquisition, demolition, rehabilitation, relocation, and historic preservation. Under this standard, rehabilitation of a building or a house is limited to the extent necessary to eliminate substandard conditions detrimental to public health and safety.

National Objective No. 3 – Activities Designated to Meet Needs Having a Particular Urgency

Activities must be designed to alleviate existing conditions that pose a serious and immediate threat to the health or welfare of the community that became urgent within the past 18 months. No other funding sources are available to address the problem. Again, projects that meet either National Objective No. 1 or 2 do not need to meet this objective. **Note:** This objective is difficult to achieve because the City must demonstrate that it has used all of its available resources prior to qualifying. This occurs only in a major disaster.

ELIGIBLE CDBG ACTIVITIES

In addition to meeting one of the above national objectives, the activity must also be eligible, according to HUD-approved criteria. Eligible activities include the following:

Acquisition, design, construction, rehabilitation, or installation of certain publicly-owned facilities such as:

- Parks, playgrounds and recreational facilities
- Senior centers, except 24-hour care facilities
- Centers for the handicapped, except 24-hour care facilities
- Neighborhood facilities
- Parking facilities
- Street improvements including curbs, gutters, sidewalks, lights and street pavement
- Water system improvements including fire hydrants
- Flood, drainage, or sewer facilities

Expansion and improvement in the quantity and quality of public services, principally for lower income persons (15% limitation).

Acquisition of property that is of historic value; appropriate for beautification or conservation of open spaces; or appropriate for low- or moderate-income housing.

- Demolition of buildings and clearance of land that may be a health hazard to the community
- Interim assistance or temporary help to alleviate harmful or dangerous conditions
- Removal of architectural barriers that restrict mobility of persons with disabilities
- Code enforcement in designated targeted areas

Historic preservation activities such as restoring and preserving properties formally designated as historic structures.

Conservation and improvement of the housing stock through rehabilitation of homes belonging to lower income persons.

Assistance to lower income first-time home buyers.

Rehabilitation and preservation of buildings and improvements, both publicly and privately owned.

Eligible planning and environmental design cost.

Eligible economic development activities such as creation of jobs for persons of low- and moderate-income through the expansion of business opportunities by providing financial incentives to small businesses. Note: there are additional federal requirements for qualifying projects under this provision. Interested persons should discuss their proposal with City staff prior to submitting an application.

INELIGIBLE CDBG ACTIVITIES

- Buildings for the general conduct of government such as city halls, courthouses, and police stations (Note: Police substations may be built in CDBG-eligible areas);
- Stadiums, sports arenas, auditoriums, museums, and central libraries (Note: Branch libraries and community centers may be built in CDBG-eligible areas);
- Airports, subways, bus or other stations;
- Expenses of general government for operation and maintenance of public facilities;
- Political activities;
- Direct income payments to residents;
- New housing construction (except when done by a community-based development organization recognized by HUD).

HOME PROGRAM

HUD also administers the Home Investment Partnerships (HOME) Program as authorized by the 1990 National Affordable Housing Act, as amended by the Housing and Community Development Act of 1992. The intent of the HOME Program is to expand the supply of decent, safe, sanitary and affordable housing. This is done through the following:

- Community Housing Development Organizations (CHDO). HUD requires that 15% of the City's HOME funds be set aside for CHDO activities. Funds are restricted to qualified nonprofit organizations with 501(c)(3) tax status and other special requirements;
- Home ownership assistance;
- Rehabilitation;
- New Construction of affordable housing;
- Tenant-based rental assistance;
- Acquisition of property for affordable housing.

HOME PROGRAM ELIGIBILITY

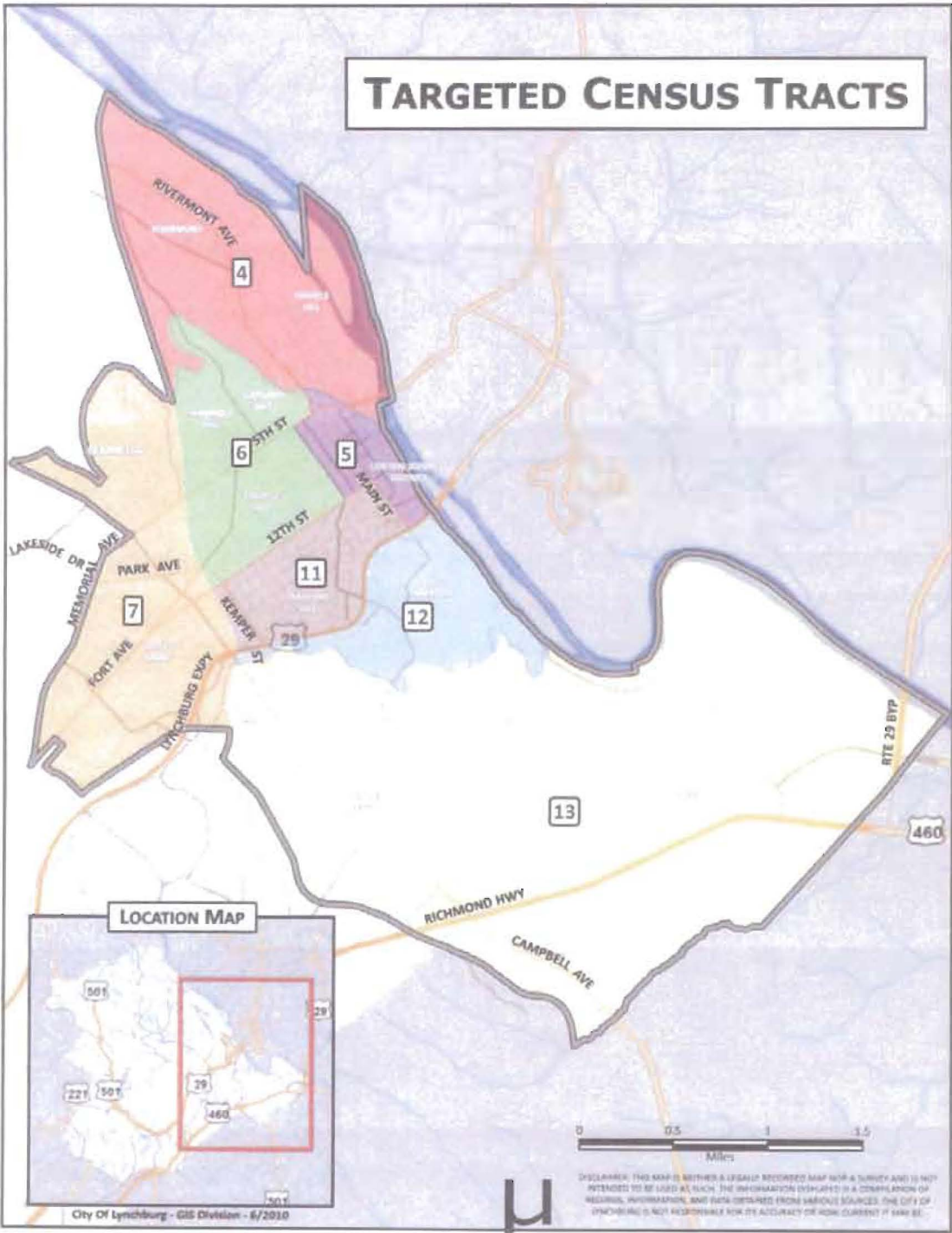
In order for an activity or program to be eligible for HOME funding, it must qualify by meeting the following guidelines:

- 100% of all funding must be used to benefit households or persons with incomes less than 80% of Lynchburg's median income.
- All HOME-funded projects must have 25% non-federal matching funds.
- The HOME program has strict long-term affordability requirements which differ based on the type of project and the amount of funding requested per unit.
- Prevailing wage requirements are different from the CDBG program. Federal prevailing wages (Davis-Bacon) are triggered when there are 8 or more units assisted with CDBG funds. For the HOME program, it is 12 or more units.

INELIGIBLE HOME ACTIVITIES

- Emergency repair programs;
- Project reserve accounts;
- Public housing projects;
- Properties receiving Rental Rehabilitation Program funds;
- Commercial properties;
- Homeless shelters;
- Project-based rental assistance or substitution of Section 8 assistance for troubled HUD-insured projects;
- Preservation of affordable housing projects;
- Matching funds as the non-federal match for other programs except to match McKinney Act funds;
- During the period of affordability, properties previously assisted with HOME funds;
- Temporary shelters;
- Other properties that do not constitute permanent housing such as residential health care facilities and publicly run residential ; or
- Acquisition of City or agency-owned properties.

APPENDIX C
TARGETED CENSUS TRACTS



LYNCHBURG CITY COUNCIL

Agenda Item Summary

MEETING DATE: **February 8, 2011**

AGENDA ITEM NO.: 5

CONSENT:

REGULAR:

WORK SESSION: **X**

CLOSED SESSION:

(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: **Staff Stormwater Recommendations**

RECOMMENDATION: Approve staff recommendations on:

1. Level of service
2. Funding and billing mechanisms
3. Ordinance language
4. Schedule for public hearing on stormwater utility

SUMMARY: Utilities Director Tim Mitchell, CSO Program Manager Jeff Scarano and Finance Director Donna Witt will present staff recommendations on stormwater level of service, funding and billing mechanisms and ordinance language to Council for its consideration and approval.

PRIOR ACTION(S): July 13, 2010 Council work session presentation.
September 28, 2010 Council work session presentation.
December 14, 2010 Council work session update (document only).
January 25, 2011 Council work session presentation.

FISCAL IMPACT: Depends on the action taken by Council. Potential impacts to the General Fund will be explained during the presentation.

CONTACT(S): Tim Mitchell, 455-4252; Jeff Scarano, 455-4281

ATTACHMENT(S): 1. Stormwater Presentation
2. Cost Savings related to proposed billing mechanism
3. Draft stormwater utility ordinance

REVIEWED BY: lkp

ORDINANCE

AN ORDINANCE TO AMEND AND REENACT THE CODE OF THE CITY OF LYNCHBURG, 1981, BY ADDING THERETO CHAPTER 16.3 CONTAINING SECTIONS NUMBERED 16.3-1 THROUGH 16.3-19, THE NEW CHAPTER AND SECTIONS RELATING TO THE REGULATION OF STORMWATER 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 and reenacted by adding thereto Chapter 16.3, containing sections numbered 16.3-1 through 16.3-19 as follows:

Chapter 16.3 – Stormwater Utility

Sec. 16.3-1. Purpose.

Sec. 16.3-2. Authority.

Sec. 16.3-3. Definitions.

Sec. 16.3-4. Establishment of stormwater utility and enterprise fund.

Sec. 16.3-5. Assessment of utility fee.

Sec. 16.3-6. Billing, payment and penalties.

Sec. 16.3-7. Adjustments of fees and exemptions.

Sec. 16.3-8. Appeal.

Sec. 16.3-9. Limitations of responsibility.

Sec. 16.3-10. Conflict and severability.

Sec. 16.3-11. Right to enter property.

Secs. 16.3-12 through 16.3-19. Reserved.

Sec. 16.2-1. Purpose.

The purpose of this chapter is to create a stormwater utility and enterprise fund to manage and fund the planning, design, monitoring, operation, maintenance and construction of the stormwater system in the City of Lynchburg, both to meet requirements of the city's National Pollution Discharge Elimination System (NPDES) Municipal Separate Storm Sewer System (MS4) permit and new federal and state regulations to address identified water quality and flood event needs. The elements of the city's stormwater infrastructure provide benefit and service to properties within the city through direct protection of property and through control of flooding of critical components of the infrastructure and protection of the city's natural environment. Stormwater runoff is associated with all improved properties in the city, whether residential or nonresidential, and the individual property impacts of runoff are correlated to the amount of impervious surface area on the property and land-disturbing activities on property. This runoff contributes to non-point source pollution to the streams of the city's watersheds and a stormwater utility can help reduce this type of pollution. Therefore, the costs of the stormwater utility shall be

allocated, to the extent practicable, to all property owners based on their impact on the stormwater system.

Sec. 16.3-2. Authority.

The city is authorized by the provisions of Code of Virginia, § 15.2-100 et seq., specifically § 15.2-2114, and the Constitution of the Commonwealth of Virginia to construct, reconstruct, improve and extend the stormwater system; establish and impose stormwater utility charges; and to issue bonds and other debts as needed to finance in whole or in part the costs of the system and to establish rents, fees and charges for the services and facilities provided by the system.

Sec. 16.3-3. Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them:

- (1) “Developed property” means real property that has been altered from its "natural" state by the addition of any improvements such as buildings, structures and other impervious surfaces. For new construction, property shall be considered developed pursuant to this section upon issuance of the certificate of occupancy (CO), temporary CO or equivalent.
- (2) “Developed detached single-family residential property” means a developed lot or parcel containing one (1) residence or dwelling unit, and accessory uses related to but subordinate to the purpose of providing permanent dwelling facilities.
- (3) “Developed multi-family residential property” means developed property containing more than one (1) residence or dwelling unit, and accessory uses related to but subordinate to the purpose of providing permanent dwelling facilities. Such property shall include duplexes, triplexes, quadruplexes, townhomes, apartments, condominiums and mobile homes.
- (4) “Developed nonresidential property” means developed property which does not serve a primary purpose of providing permanent dwelling units. Such property shall include, but not be limited to, commercial properties, industrial properties, parking lots, recreational and cultural facilities, hotels, offices, hospitals, institutions, schools and churches.
- (5) “Impervious surface area” means a man-made surface composed of any material that significantly impedes or prevents natural infiltration of water into soil. Impervious cover includes, but is not limited to, roofs, buildings, concrete, asphalt, gravel surfaces that are or may become compacted, or managed or artificial turf athletic fields that have an underdrain system.

(6) “Revenues” means all rates, fees, assessments, rentals or other charges or other income received by the utility, in connection with the management and operation of the system, including amounts received from the investment or deposit of monies in any fund or account and any amounts contributed by the city, fees-in-lieu-of provided by developers or individual residents and the proceeds from sale of bonds.

(7) “Single-family unit” or “SFU” means the equivalent impervious area of a detached single-family residential developed property per dwelling unit located within the city based on the statistical average horizontal impervious area of this residence in the city. SFU value in square feet of impervious surface area will be established by city council resolution.

(8) “SFU rate” means the utility fee charged on a single-family unit.

(9) “Stormwater system” or “system” means the stormwater infrastructure and equipment of the city and all improvements thereto for stormwater control in the city. Infrastructure and equipment shall include structural and natural stormwater control systems of all types, including, without limitation, retention basins, sewers, conduits, pipelines, pumping and ventilation stations, and other plants, structures and real and personal property used for support of the system. The system does not include privately owned ditches, drainage systems or stormwater systems, unless otherwise explicitly stated by written agreement with the city.

(10) “Stormwater utility” or “utility” means the enterprise fund created by this section to operate, maintain and improve the city's stormwater system.

(11) “Undeveloped property” means any parcel which has not been altered from its natural state to disturb or alter the topography or soils on the property in a manner which substantially reduces the rate of infiltration of stormwater into the earth.

(12) “Utility fees” means any permit or local program fees as allowed by State Code, and the monthly service charges based on the SFU rate applied to property owners, including condominium unit owners, of developed residential property, developed multi-family residential property and developed nonresidential property, all as more fully described in sub-paragraph (4) of this section.

Sec. 16.3-4. Establishment of a stormwater utility and enterprise fund.

(a) There is hereby established a stormwater utility to be known as the City of Lynchburg Stormwater Utility, which shall be under the administration of the director of utilities and responsible for the stormwater services throughout the city, and which shall provide for the management, protection, control, regulation, use and enhancement of the city's stormwater services, systems and facilities.

(b) There is hereby established a stormwater utility enterprise fund in the city budgeting and accounting systems for the purpose of dedicating and protecting all funding

applicable to the purposes and responsibilities of the city stormwater utility. The utility shall deposit in a separate ledger account all revenues collected pursuant to this chapter. The funds deposited shall be used exclusively to provide services and facilities related to the stormwater system pursuant to the provisions of Code of Virginia §15.2-2114. The stormwater utility and enterprise fund will be established effective July 1, 2011. Stormwater utility charges will become effective January 1, 2012 and the first bills shall be due with the first water/sewer billing cycle of 2012.

Sec. 16.3-5. Assessment of stormwater utility charge.

Adequate revenues shall be generated to provide for a balanced operating and capital improvement budget for the stormwater utility by setting sufficient levels of utility fees. Income from utility fees shall not exceed actual costs incurred in providing the services and facilities described in Sec. 16.3-4. Utility fees shall be charged to owners of all developed property in the city.

(a) SFU established. The single-family unit (SFU) area is hereby established to be 2,672 square feet of impervious surface area.

(b) SFU rate established. The single-family unit rate for stormwater service charges applied to other residential and nonresidential development is hereby established to be \$4 per month for each single-family unit (SFU) or portion of a single-family unit on the parcel, and will become effective January 1, 2012.

(c) Residential (SFU) tiers established. The tier structure rate established for residential developed land is as follows:

	Impervious Area On Property (Square Feet)	Percentage of SFUs
<u>Detached Single-Family Residential</u>		
Small Tier	1,336 or less	0.5
Medium Tier	1,337 to 4,275	1.0
Large Tier	4,276 or more	1.6
<u>Other Residential Development (SFUs/Dwelling unit)</u>		
Duplex		0.5
Triplex, Quadplex and Mobile Homes		0.7
Apartments (5+ units), Condominiums and Townhomes		0.33

(d) The monthly utility fee for developed residential and developed multi-family property shall equal the SFU rate times the appropriate SFU factor times the number of dwelling units on the parcel.

(e) The monthly utility fee for developed nonresidential property shall be the SFU rate multiplied by the numerical factor obtained by dividing the total impervious surface area

of a developed nonresidential property by one (1) SFU. The numbered factor will be rounded to the nearest tenth (0.1) of a unit. The minimum utility fee for any developed nonresidential property shall equal the SFU rate.

(f) The utility fee for unoccupied developed property, both residential and nonresidential, shall be the same as that for occupied property of the same class.

(g) Undeveloped property shall be exempt from the utility fee.

Sec. 16.3-6. Billing, payment and penalties.

(a) The utility fee is to be paid by the owner of each lot or parcel subject to the utility fee. All properties, except as stated in Sec. 16.3-5, shall be rendered bills or statements for stormwater services. Such bills or statements shall be combined with sewer and water bills levied pursuant to chapters 34 and 39 of the City of Lynchburg Code.

(b) All payments received shall first be credited to stormwater charges, and then to the sewer charges and finally to the water charges.

(c) If any such stormwater bill is not paid within five (5) days after due date, it shall be declared delinquent and shall be subject to a penalty of five (5) percent of the amount of the bill. The penalty shall be added to the unpaid bill or subsequent bills.

(d) Whenever the city utilizes the services of an attorney or a collection agency to collect any delinquent fees, rents or charges for the use and services of the city's stormwater system, reasonable attorney's fees or collection agency's fees shall be added to the delinquent bill. The attorney's fees or collection agency's fees shall not exceed twenty (20) percent of the delinquent bill and may be recovered by the city by action at law or suit in equity. Attorney's fees shall be added only if such delinquency is collected by action at law or suit in equity.

Sec. 16.3-7. Adjustment of fees and exemptions.

The city may provide a system of credits to reduce stormwater utility fees for properties on which stormwater control measures substantially mitigate the peak discharge or runoff pollution flowing from such properties or substantially decreases the city's cost of maintaining the stormwater system. The utilities department will develop written policies to implement the credit system. No credit will be authorized until the city council approves written policies to implement the system of credits; a copy of the approved policies shall be on file with the utilities department. Nothing shall prevent the city council from modifying the adopted system of credits, and such modifications may apply to holders of existing credits.

Sec. 16.3-8. Appeal.

The city manager shall have the authority to adopt an appeals process for customers who believe the provisions of this chapter have been applied in error. All appeals shall be in accordance with the process adopted by the city manager. A copy of the appeals process shall be kept in the city manager's office and the office of the utilities department and shall be available for review upon request.

Sec. 16.3-9. Limitations of responsibility.

(a) The city shall be responsible only for the portions of the stormwater system that are in city maintained street rights-of-way, permanent stormwater easements conveyed to and accepted by the city, or as otherwise explicitly stated in a written agreement with the city. Repairs and improvements to the drainage system shall be in accordance with established standards, policies and schedules.

(b) The city's acquisition of permanent storm drainage easements and/or the construction or repair by the city of stormwater control measures and drainage facilities does not constitute a warranty against stormwater hazards, including, but not limited to, flooding, erosion or standing water.

Sec. 16.3-10. Severability.

(a) All laws and clauses of laws in conflict herewith are hereby repealed to the extent of said conflict.

(b) If this ordinance or application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given separate effect and to this end the provisions of this ordinance are declared to be severable.

Sec. 16.3-11. Right to enter property.

In order to assure compliance with the provisions of this chapter, and all applicable city ordinances, state and federal laws, orders or regulations, the director of utilities or his agent shall have the right to inspect any property, public or private, within the city at any reasonable time. In the event the director of utilities, or his agent shall be denied access to property, the director of utilities or his agent may present sworn testimony to a magistrate or court of competent jurisdiction and if such sworn testimony establishes probable cause that a violation of this ordinance has occurred, request that the magistrate or court grant the director of utilities or his agent an inspection warrant to enable the director of utilities or his agent to enter the property for the purpose of determining whether a violation of this ordinance exists. The director of utilities or his agent shall make a reasonable effort to obtain consent from the owner or tenant of the subject property prior to seeking the issuance of an inspection warrant under this section. It shall be a violation of this section for any person to deny the director of utilities or his

agent access to any property after the director of utilities or his agent has obtained an inspection warrant from a magistrate or a court of competent jurisdiction for the inspection of such property.

Secs. 16.3-12 through 16.3 – 19. Reserved.

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

Adopted:

Certified:

Clerk of Council

024L



City of Lynchburg

Stormwater Management

City Council Presentation

February 8, 2011

CDM



Guiding Principles



- Provide services that promote the health, safety and prosperity of the city
- Manage the city's stormwater needs and infrastructure effectively and efficiently
- Comply with environmental regulations
- Engage State and Federal regulators to keep the city well-positioned on future issues
- Fairly and equitably charge for services provided
- Educate and engage the public

Benefits of a Stormwater Utility



- This is the most effective way to manage stormwater, regardless of TMDLs
- More accountability (annual rate study and budget)
- Manage stormwater system infrastructure similar to water and sewer systems
- Efficiencies gained through better coordination and management

Council “Roadmap”- SWAC Recommendations



Level of Service	2.5	3	<u>3.5</u>	4	5
	<u>Option A</u>		Option B		
Funding Mechanism	Fee or any combination of <u>Fee/VDOT/General Fund</u>		General Fund-Increase Real Estate Tax or keep equal to current rate		
Basis of Charge	<u>Impervious Area</u>		Property Value		
Tax Exempt Properties Included?	<u>Yes</u>		No		
Enterprise Fund Required?	<u>Yes</u>		No		
Who To Bill?	<u>Property Owner</u> or Tenant		Property Owner		
How To Bill?	Water/Sewer Bill Real Estate Bill Separate Bill		Real Estate Bill		
Financial Policy Required?	<u>Yes</u>		No		
Ordinance Required?	<u>Yes</u>		No		
Credits Allowed?	<u>Yes</u>		No		

Council "Roadmap"- Staff Recommendations



Level of Service	2.5	3	<u>3.5</u>	4	5
	<u>Option A</u>		Option B		
Funding Mechanism	Fee or any combination of <u>Fee/VDOT</u> /General Fund		General Fund-Increase Real Estate Tax or keep equal to current rate		
Basis of Charge	<u>Impervious Area</u>		Property Value		
Tax Exempt Properties Included?	<u>Yes</u>		No		
Enterprise Fund Required?	<u>Yes</u>		No		
Who To Bill?	<u>Property Owner</u> or Tenant		Property Owner		
How To Bill?	<u>Water/Sewer Bill</u> Real Estate Bill Separate Bill		Real Estate Bill		
Financial Policy Required?	<u>Yes</u>		No		
Ordinance Required?	<u>Yes</u>		No		
Credits Allowed?	<u>Yes</u>		No		

Staff Recommendations: Fair and Equitable



- A fee is more equitable than a tax – all properties pay based on impervious area
- Credits incentivize good stormwater practices on private property
- Property owners can modify their impervious area, tenants cannot
- Water/Sewer bill allows 12 equal payments
- Reduces burden on General Fund

Staff Recommendations: Efficiency



- Finance-Billings and Collections-Utility Billing recommends changing from owner, occupant or tenant billing to all sewer/water/storm billing to owners as recorded on the City's Real Estate Records

Advantages:

- Utility Billing maintains and manages all billing records for water, sewer and stormwater utility funds
- Administrative Cost Savings can be realized over two year period (see attached spreadsheet for details)

Justification of a Higher Level of Service



• 3.5 FTEs for PM and O&M	\$200,000
• Current MS4 permit requirements	\$100,000
— Buffer Program	
— GIS Analysis	
— Private BMP Program	
— Restore street sweeping effort	
• Stormwater Utility startup	\$200,000
• Master Plan work	\$150,000
• Infrastructure repair/replace	<u>\$250,000</u>
	\$900,000

Benefits of a Higher Level of Service



- Ensure continued compliance with existing regulations
- Keep City well-positioned on future regulations
- Address existing infrastructure and stormwater needs more efficiently and effectively
- Position City to qualify for grants or loans
- Improved customer service
- Better water quality

Staff Recommendations



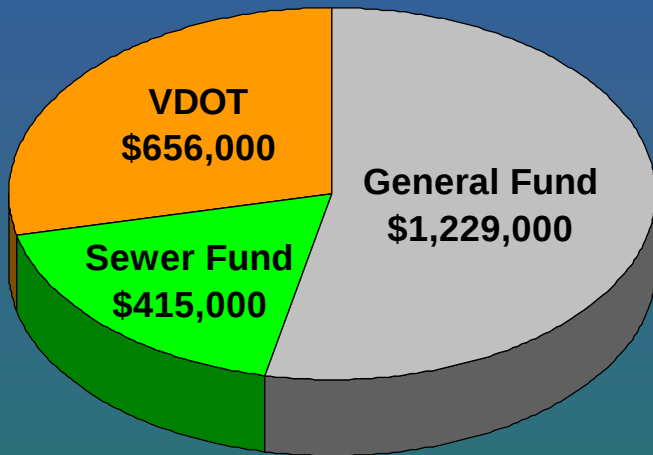
	Actual FY 2011	Projected FY 2012*	Projected FY 2013
Revenues:			
General fund	\$ 1,229,000	\$ 822,000	\$ -
Sewer Fund	\$ 415,000	\$ -	\$ -
Stormwater fees	\$ -	\$ 1,272,000	\$ 2,544,000
VDOT reimbursements	\$ 656,000	\$ 656,000	\$ 656,000
TOTAL:	\$ 2,300,000	\$ 2,750,000	\$ 3,200,000

*Fee effective for 6 months of FY 2012. Assumes a Utility is created. Thus, funding is from General Fund and VDOT only- no sewer fund money.

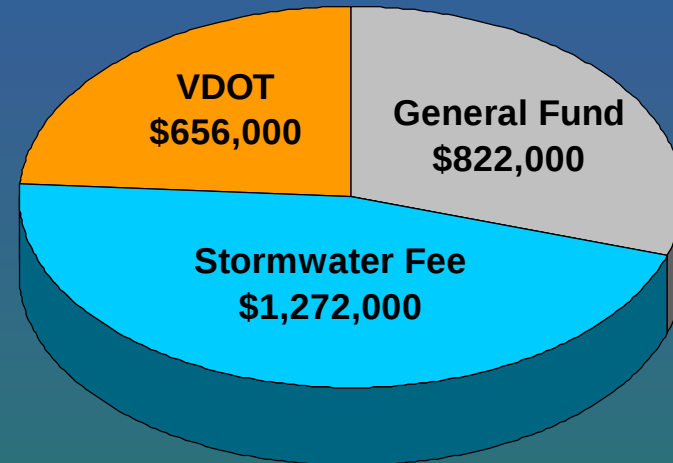
Staff Recommended Funding Mechanisms



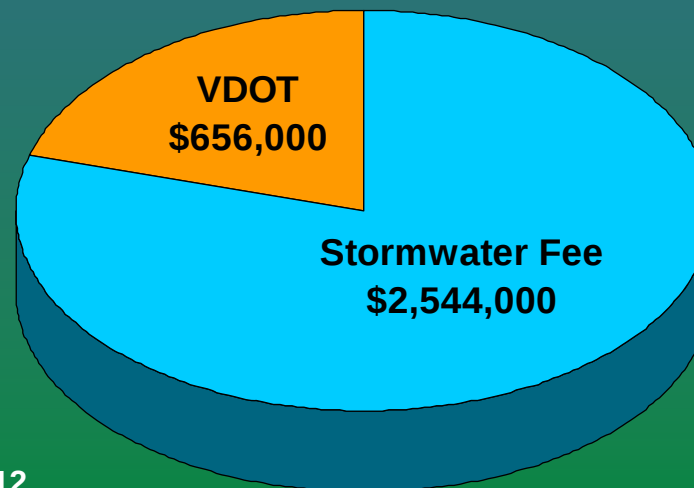
2011 Actual- \$2.3M



Proposed 2012- \$2.75M*



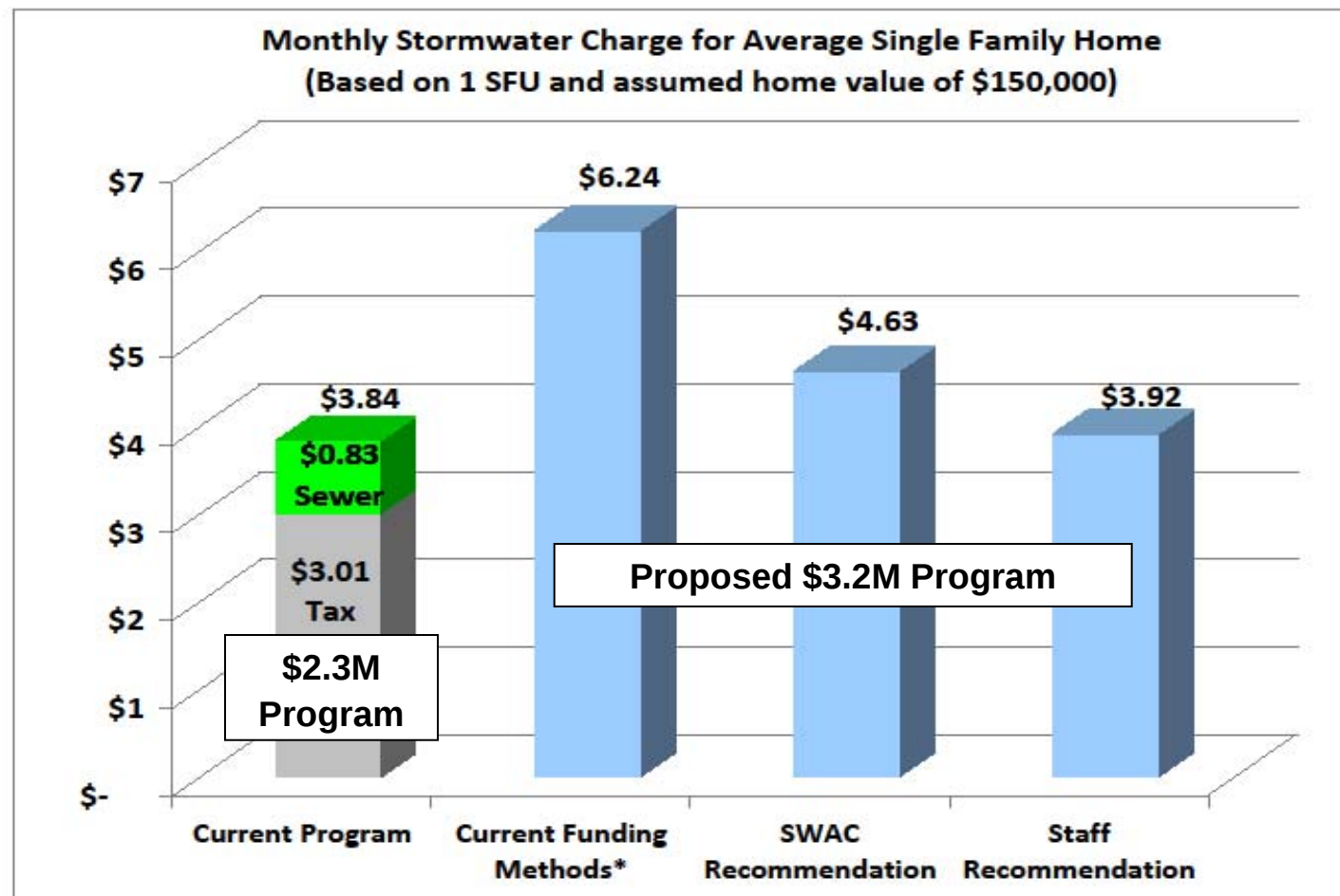
Proposed 2013- \$3.2M



*Fee effective for 6 months of FY 2012

Assumes a Utility is created. Thus, funding is from General Fund and VDOT only- no sewer fund money.

Cost to Average Single Family Home



*Assumes a Utility is created. Thus, funding is from General Fund and VDOT only- no sewer fund money.

A Tiered Rate Structure is Recommended for Single-Family Residential Customers

Tier 1



< 1,293 Sq. Ft. = 0.5 SFU

Tier 2



1,294 to 4,256 Sq. Ft. = 1.0 SFU

Tier 3



> 4,257 Sq. Ft. = 1.6 SFU

The Average Single-Family Residential Unit (SFU) in Lynchburg is 2,672 sq. ft.

Comparison of Funding Mechanisms



	Current Funding Methods*	SWAC Recommendation	Staff Recommendation
Revenues:			
General fund	\$ 2,544,000	\$ 784,000	\$ -
Sewer Fund	\$ -	\$ -	\$ -
Stormwater fees	\$ -	\$ 1,760,000	\$ 2,544,000
VDOT reimbursements	\$ 656,000	\$ 656,000	\$ 656,000
TOTAL:	\$3,200,000		

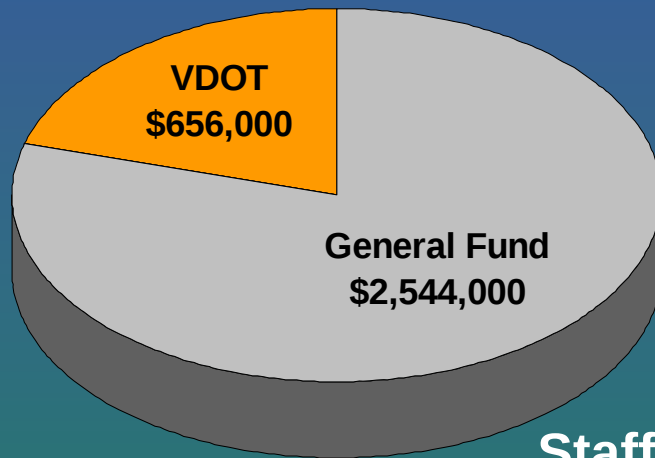
*Assumes a Utility is created. Thus, funding is from General Fund and VDOT only- no sewer fund money.

Comparison of Funding Mechanisms

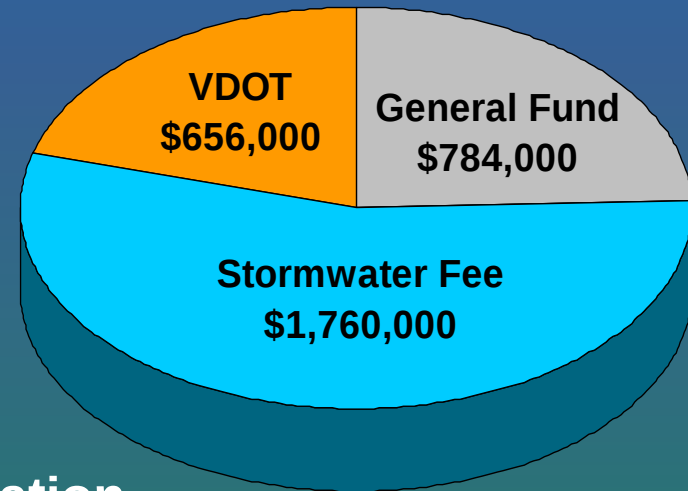
\$3.2M Program



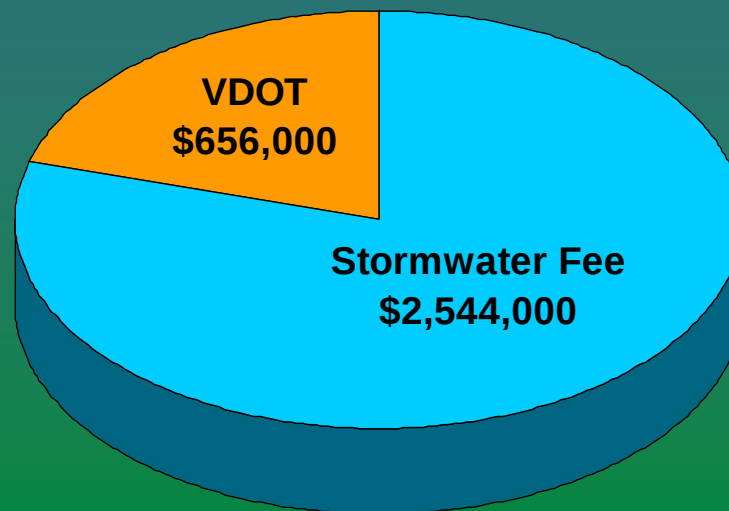
Current Funding Methods*



SWAC Recommendation



Staff Recommendation



*Assumes a Utility is created. Thus, funding is from General Fund and VDOT only- no sewer fund money.

Proposed Schedule



- **February 8 Work Session**
- February 22 Work Session (optional)/Public Hearing
- March 8 Work Session (optional)/Public Hearing (alternate)
- March 22 Work Session and Council Meeting for adoption
- Stormwater Utility (enterprise fund) effective July 1, 2011
- Develop credit policy by January 1, 2012
- First bill January 1, 2012

Finance - Billings & Collections and Utilities - Meter Reading

(Focus is on bill cost and staff cost directly related to Stormwater)

Billing Recommendations:

Plan A: Change Utility Bills to Owners' Name and Add Stormwater Fees to monthly process:

	Current Annual Cost	Proposed Additional Annual Cost
Current Budget Cost for 22,600 Monthly Utility Bills @ \$.52 ea.	\$141,144	
Add estimated 500 Stormwater Only fee accounts		\$3,120
Reduce interest cost on tenant deposits (25%)		(\$1,068)
Reduce Write Off A/R Accounts (25%)		(\$15,000)
Staffing needs will reduce in FY2013:		
One (1) position in Utility Billing		(\$42,450)
One (1) position in Utility-Meter Reading		(\$40,912)
Office Station, Computers, Supplies, & Vehicle		(\$6,000)
Reduce 300-500 monthly Final Bills		
Reduce 330 monthly new customers		
Reduce monthly Cut Off List for non-payment		
Reduce monthly Meter Pulls for violations		
Reduce monthly Disconnect Work Orders		
Reduce monthly Locked Meters		
Reduce monthly Investigations on High Usage		
Reduce monthly Cut On		

PLAN A Cost to bill owners and add stormwater	\$141,144	(\$102,310)
--	------------------	--------------------

Plan B: Continue monthly billing to tenants and Send a separate stormwater fee bill to owners:

Current Budget Cost for 22,600 Monthly Utility Bills @ \$.52 ea.	\$141,144	
Add estimated 500 Stormwater Only fee accounts		\$3,120
Add separate stormwater fee bill to owner as current water and sewer bill is mailed to tenant		\$37,000
Add one (1) additional staff employee in Utility Billing		\$42,500
Additional work station, computer, printer, and supplies		\$2,500

PLAN B Cost to bill tenant and owner and add stormwater	\$141,144	\$85,120
--	------------------	-----------------

Plan C: Continue Water and Sewer Utility Bills at current level of service and send a separate monthly stormwater bill:

Current Budget Cost for 22,600 Monthly Utility Bills @ \$.52	\$141,144	
Proposed Stormwater Only separate monthly bills (23,100 X .52 X 12)		\$144,144
Add one (1) additional staff employee in Billings & Collections		\$42,500
Additional work station, computer, printer, and supplies		\$2,500

PLAN C Cost to Add an additional monthly bill for Stormwater	\$141,144	\$189,144
---	------------------	------------------

**Net
Impact**

\$38,834

\$226,264

\$330,288

// A special meeting of the Council of the City of Lynchburg was held on the 18th day of January, 2011, at 10:00 A.M. at the Lynchburg Public Library Community Meeting Room, 2315 Memorial Avenue, Joan F. Foster, President, presiding. The purpose of the meeting was to conduct City Council's Annual Budget Retreat. The following Members were present:

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

7

Absent:

0

// City Manager Kimball Payne reviewed the agenda and expectations for the retreat. The majority of the morning agenda was focused on providing staff briefing to help Council plan for the FY 2012 Budget. The agenda included Revenue Projections, Major Expenditure Changes, Compensation and Benefits, Major Capital Improvement Projects and Projections and Fund Balance. The afternoon focused on giving Council an opportunity to discuss and provide guidance on the FY 2012 Budget.

// Financial Services Director Donna Witt provided an overview of the FY 2012 budget drivers for the FY 2012 Budget which include:

- FY 2012 Revenue Projections
- FY 2012 State Impacts
- FY 2012 Expenditure Projections
- FY 2012 Major Capital Project Requests
- Projected Fund Balance
- Financial Policies Compliance

// Human Resources Director Margaret Schmitt provided an overview regarding Compensation and Benefits. Ms. Schmitt stated that compensation data is gathered from public and private organizations which reflect market conditions in the current fiscal year and is compared to current range minimum and actual salaries. Ms. Schmitt went on to say there are two primary data points that are compared to the conditions in the City:

- Minimums of Pay Ranges
- Actual Average Pay of employees doing similar work

Ms. Schmitt's presentation continued with the following items of discussion:

- Updated Market Data
- Potential Virginia Retirement System (VRS) Changes
- Line of Duty Act Funding

// City Council took a brief lunch break and reconvened the meeting at 12:50 P.M.

// City Manager Kimball Payne provided a brief overview regarding FY 2012 Budget Development. Mr. Payne stated he was looking for directions and guidance on how to close the projected budget of less than \$2 Million. He stated that, while the gap was less than originally anticipated, additional expenditures such as establishing a debt service reserve for Heritage High School or compensation would increase the gap. During discussion Council directed that such expenditures should remain on the table for consideration and that the City Manager should use his discretion, without restriction, to propose a balanced budget.

// Council discussion included, i.e., Virginia Retirement System (VRS), Compensation, General Assembly Action, Capital Improvement Projects, Revenues, School Funding, Line of Duty Act, Non-Profit Funding and Economic Development. Mr. Payne provided Council with a list of services and programs entitled "Beyond the Basics" that might have to be considered for elimination in order to balance the budget. During Council discussion, several additional services and programs were added to the list. Mr. Payne stated that he would work up the costs for the items added to the list.

// The meeting was adjourned at 2:30 P.M.

Clerk of Council

// A regular meeting of the Council of the City of Lynchburg was held on the 25th day of January, 2011, at 5:00 P.M. in the Council Chamber, City Hall, Joan F. Foster, President, presiding. The following Members were present:

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

Absent: Perrow 1

// Mayor Joan Foster read a resolution recognizing Deputy City Manager Bonnie Svrcek for her role as Acting Director of Community Development and commending her exemplary servant leadership. On motion of Vice Mayor Johnson, seconded by Council Member Cary, Council by the following recorded vote adopted Resolution #R-11-004, as presented, recognizing Deputy City Manager Bonnie Svrcek for her role as Acting Director of Community Development and commending her exemplary servant leadership:

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

Noes: 0

Absent: Perrow 1

// Mr. Steve Smallshaw, Communications and Marketing/Broadcast Services, briefed Council on the changes to the sound system in Council Chamber.

// Vice-Chair of the Heritage High School Task Force Steering Committee Al Billingsly gave a brief report on the progress of the Committee in developing a Task Force. Mr. Billingsly stated that the Task Force has been completed and the Steering Committee will be absorbed into the Task Force. Council Member Gillette will remain the Chair and Mr. Billingsly will remain the Vice-Chair. Council Member Perrow and School Board Member White will become at-large members and will be joined by Ms. Ingrid Hamlette and Mr. Robert Miller also as at-large members. Mr. Billingsly stated that in addition to the members of the Steering Committee, the Task Force will be comprised of five (5) subcommittees that were agreed upon by the Steering Committee which are (1) Educational Plan Subcommittee (Chairperson Dr. Roger Jones), (2) Facilities Subcommittee (Chairperson Dr. Jim Mundy), (3) Extracurricular Activity Subcommittee (Chairperson Ms. Jenny Poore), (4) Finance Subcommittee (Chairperson Mr. Lyle Schweitzer), and (5) Community Impact Subcommittee (Chairperson Dr. Sally Selden).

//Council Member Gillette left the meeting at 5:17 to attend the School Board meeting to brief School Board Members on the progress of the Steering Committee in developing a Task Force.

// Dr. James Mundy and Mr. Neil Bohnert, Chair and Vice Chair respectively, gave a brief update on the activities of the Historic Preservation Commission (HPC) for 2010 stating that their vision of the HPC and what they feel they should be doing is using the Design Review Guidelines. Dr. Mundy further stated that the HPC attempts to make decisions about applications that come before the HPC from homeowners.

// Council Member Perrow arrived at 6:04 p.m.

// Council Member Gillette returned to the meeting at 6:06 p.m.

// Jeff Scarano, CSO Program Manager and Mr. Jeff Creekmore, Committee Member gave a presentation of Stormwater Advisory Committee (SWAC) Recommendations. Mr. Scarano started off the presentation by stating SWAC's guiding principles and that the existing stormwater infrastructure needs have been

essentially ignored and that new regulations will require significant investment on stormwater and come with increased oversight and accountability and that being proactive will allow the City to qualify for future funding. Mr. Scarano also informed that the purpose of the Stormwater Advisory Committee was to represent a wide cross-section of interest groups; to engage public participation; and to make recommendations on stormwater management priorities, appropriate and affordable level of service, level of interest in public participation in stormwater management program activities; and recommendations of various stormwater management needs, assessments, regulations and policies, financial requirements and funding mechanisms. Mr. Scarano also stated that a Stormwater User Fee is recommended to fund a portion of the stormwater program.

// During roll call Council Member Gillette asked about the paving of Rivermont near the post office just being completed and now its being sliced up again. City Manager Payne informed that the traffic controls loops were now being laid under the asphalt which could not have been done under hot asphalt. Council Member Cary asked that two items be placed on the February 22nd agenda which are (1) report on the small business development centre and (2) the City/Schools consolidation work. Vice Mayor Johnson asked that citizens take a moment out of their day to remember the Arizona Congresswoman Giffords who had been shot and also the police in Detroit and Florida for their public service. Mayor Foster asked that this year everyone do something positive for every month of the year, 12 random acts of kindness.

// City Council recessed the meeting at 7:03 p.m.

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

The following Members were present:

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

Absent: 0

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

// Mayor Foster and Vice Mayor Johnson presented a Certificate of Recognition to Lynchburg Garden Club/Gazebo Garden Project.

// Copies of the minutes of the January 11, 2011 meeting, having been previously furnished Council, reading was dispensed with, and on motion of Council Member Gillette, seconded by Council Member Cary, Council by the following recorded vote approved the minutes as presented:

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

Noes: 0

// In the matter of Public Works – Sewer, City Council Report # 7 was considered. On motion of Council Member Gillette, seconded by Council Member Cary, Council by the following recorded vote adopted Resolution #R-11-005, as presented, approving a change order for U0192, Knight Street Small Main Replacement, to increase the total contract amount to \$552,729.51:

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

Noes: 0

// Mayor Foster stated that Item #8 Citizen Participation Plan for the Community Development Block Grant(CDBG) and HOME Program has been pulled from the Agenda and will be brought back at some future date.

// In the matter of Community Development – Community Development Block Grant (CDBG), a public hearing was held regarding City Council Report #9 to receive citizen comments regarding the goals for the development of the 2011-2012 Annual Action Plan and adopt a resolution approving the goals. Deputy City Manager Bonnie Svrcek gave a brief presentation stating that on an annual basis the City needs to hold a public hearing to receive comments from citizens to determine if any changes need to be made to that plan and that is the purpose of this public hearing. One individual spoke representing the Friends of Tinbridge Hill stated that the goals both housing and non-housing, are completely consistent with the goals of the Friends of Tinbridge Hill and endorses the 2011-2012 Housing and Non-housing goals and suggested that a focused effort to dedicate CDBG and HOME funding towards Tinbridge Hill would not only create lasting change but also provide a model by which similar efforts could be conducted in other areas and neighborhoods of the City. There was no one else present who wished to speak to this item, and the public hearing was closed. Council Member Perrow stated that under Housing Goals, item #4, asked that the word “Support” be changed to “Encourage.” After further discussion Council Member Gillette suggested that the word “promote” should be used in the place of “support”. Council Member Perrow moved that the Adopted 2011-2015 Consolidated Plan Goals be approved with the following amendment that item #4 read “Promote programs that assist individuals in retaining their homes in challenging economic times”, seconded by Council Member Cary. After further discussion Council Member Nelson suggested that the word “economic” be taken out of the sentence and it would read “...in challenging times.” City Manager Payne suggested you could put a period after the word “homes” striking out the rest of the sentence and suggested “...assist eligible individuals in retaining their homes”. Council Member Perrow accepted that as a friendly amendment from Council Member Nelson and Council by the following recorded vote adopted Resolution #R-11-006, as amended, approving the Community Development Block Grant (CDBG) 2011-2015 goals for the 2011-2012 Annual Action Plan:

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

7

Noes:

0

// In the matter of Community Development – Community Development Block Grant (CDBG), a public hearing was held regarding City Council Report #10 to receive public input regarding the reallocation of the CDBG Program Year 2007-2008 funds in the amount of \$100,000 for the Spot Blight Program be reallocated to 2010-2011 Spot Blight Low Interest Loan Program; 2006-2007 HOME Program funds in the amount of \$40,273 for The Housing and Development Corporation be reallocated and redirected to the 2006-2007 HOME Program Lynchburg Covenant Fellowship Lynchburg High Apartments Renovation Project; 2008-2009 HOME Program funds in the amount of \$40,000 for The Housing and Development Corporation be reallocated and redirected to the 2008-2009 Lynchburg Covenant Fellowship Shalom Apartments Rehabilitation Project. Grants Manager Melva Walker provided a brief summary of the request, Council Member Nelson stated that he needs to abstain from this item because he has had a long relationship with the Lynchburg Covenant Fellowship through the years which makes him clearly not impartial in dealing with this matter. There was no one else present who wished to speak to this item, and

the public hearing was closed. On motion of Council Member Gillette, seconded by Council Member Perrow, Council by the following recorded vote adopted Resolution #R-11-007, as presented, reallocating CDBG Program Year 2007-2008 funds in the amount of \$100,000 for the Spot Blight Program to 2010-2011 Spot Blight Low Interest Loan Program; 2006-2007 HOME Program funds in the amount of \$40,273 for The Housing and Development Corporation to the 2006-2007 HOME Program Lynchburg Covenant Fellowship Lynchburg High Apartments Renovation Project; 2008-2009 HOME Program funds in the amount of \$40,000 for The Housing and Development Corporation to the 2008-2009 Lynchburg Covenant Fellowship Shalom Apartments Rehabilitation Project:

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

Noes: 0

Abstention: Nelson 1

// In the matter of Public Works – Sewer, City Council Report # 11 was considered. On motion of Council Member Perrow, seconded by Council Member Gillette, Council by the following recorded vote adopted Resolution #R-11-008, as presented, approving the Low Pressure Sewer System Policy:

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

Noes: 0

// In the matter of Airport – General, City Council Report #12 was considered. On motion of Council Member Gillette, seconded by Council Member Perrow, Council by the following recorded vote adopted Ordinance #0-11-009, as presented, amending the City Code regarding membership on the Airport Commission:

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

Noes: 0

// The meeting was adjourned at 8:25 P.M.

Clerk of Council

LYNCHBURG CITY COUNCIL

Agenda Item Summary

MEETING DATE: **February 8, 2011**

AGENDA ITEM NO.: 9

CONSENT: **X**

REGULAR:

WORK SESSION:

CLOSED SESSION:

(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: **Juvenile Accountability Block Grant (JABG)**

RECOMMENDATION:

Adopt a resolution to amend the FY 2011 City/Federal/State Aid Fund budget and appropriate \$14,117 with resources of \$12,706 from the federal government's Juvenile Accountability Block Grant program, \$200 from Campbell County, and \$1,211 from the FY 2011 General Fund Department of Juvenile Services budget to purchase GPS systems and provide additional mentoring and/or family counseling services.

SUMMARY:

The purpose of this grant is to provide support to localities in their efforts to strengthen the local juvenile justice system. The goal is to reduce juvenile offending through accountability-based programs. Funds will be used to purchase additional GPS systems for electronic monitoring and to provide additional services, such as mentoring and/or family counseling. This grant provides a partnership opportunity between Campbell County and the City of Lynchburg. While the City of Lynchburg will serve as the fiscal agent, Campbell County will be responsible for a share of the local match. The City's portion of the local match (\$1,211) will be funded from the Department of Juvenile Services FY 2011 budget.

PRIOR ACTION(S):

January 25, 2011 Finance Committee

FISCAL IMPACT: A 10% local match is required; the City's portion (\$1,211) is available in the Department of Juvenile Services FY 2011 budget.

CONTACT(S):

Tamara Rosser, Director of Juvenile Services, 455-5794

ATTACHMENT(S):

Resolution

REVIEWED BY: lkp

RESOLUTION:

BE IT RESOLVED that the FY 2011 City/Federal/State Aid Fund is amend and \$14,117 is appropriated with resources of \$12,706 from the federal government's Juvenile Accountability Block Grant program, \$200 from Campbell County, and \$1,211 from the FY 2011 General Fund Department of Juvenile Services budget to purchase GPS systems and provide additional mentoring and/or family counseling services.

Introduced:

Adopted:

Certified:

Clerk of Council

021L

LYNCHBURG CITY COUNCIL

Agenda Item Summary

MEETING DATE: **February 8, 2011**

AGENDA ITEM NO.: 10

CONSENT: **X**

REGULAR:

WORK SESSION:

CLOSED SESSION:

(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: **Donation from the Friends of Lynchburg Stream Valleys**

RECOMMENDATION:

Adopt a resolution to amend the FY 2011 City Capital Projects Fund budget and appropriate \$17,261 with resources from a donation from the Friends of Lynchburg Stream Valleys to support the rehabilitation and extension of the Creekside Trail, in accordance with the Creekside Trail Extension Plan.

SUMMARY:

The Creekside Trail Extension Plan was completed and presented to Council in September 2009. The Creekside Trail, an aggregate surface trail, currently extends from Hollins Mill Park to Blackwater Creek Athletic Area (BWCAA). The Creekside Trail Extension Plan updated the Blackwater Creek Natural Area Plan (1977) and extends the trail from BWCAA, through Lynchburg College, and ultimately, to Sandusky Park with a link to Perrymont School and Park.

The Friends of Lynchburg Stream Valleys (FLSV), a 501(c)(3) nonprofit, has long served as an advocacy group for the development of the trails system in Lynchburg. FLSV is making a \$17,261 donation to support the first phase of implementation of the Creekside Trail Extension Plan. This donation will support an application to the Department of Conservation and Recreation for a Recreation Trails Program grant to fund the trails work. If the City does not receive the grant, the \$17,261 donation will be used to begin the work of rehabilitation of the Creekside Trail from Blackwater Creek Athletic Area to Lynchburg College.

PRIOR ACTION(S):

January 25, 2011 Finance Committee

FISCAL IMPACT:

None

CONTACT(S):

Kay Frazier, Director of Parks and Recreation, 455-5868

Andrew Reeder, Parks Service Manager, 455-5876

ATTACHMENT(S):

Resolution

REVIEWED BY: lkp

RESOLUTION:

BE IT RESOLVED that the FY 2011 City Capital Projects Fund budget is amended and \$17,261 is appropriated with resources from a donation from the Friends of Lynchburg Stream Valleys to support the rehabilitation and extension of the Creekside Trail, in accordance with the Creekside Trail Extension Plan.

Introduced:

Adopted:

Certified:

Clerk of Council

023L

LYNCHBURG CITY COUNCIL

Agenda Item Summary

MEETING DATE: **February 8, 2011**

AGENDA ITEM NO.: 11

CONSENT: **X**

REGULAR:

WORK SESSION:

CLOSED SESSION:

(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: **Virginia Sexual and Domestic Violence Victim Fund Award**

RECOMMENDATION:

Adopt a resolution to amend the FY 2011 City/Federal/State Aid Fund budget and appropriate \$40,000 with resources from the Virginia Department of Criminal Justice Services, Virginia Sexual and Domestic Violence Victim Fund to support a Family Violence Legal Assistant position and activities related to the Domestic Violence and Intimate Partner Prosecution Unit.

SUMMARY:

The Office of the Commonwealth's Attorney is requesting approval to accept the award for Virginia Sexual and Domestic Violence Victim Funding (Prosecution Grantees) through the Virginia Department of Criminal Justice Services to support a Family Violence Legal Assistant position and activities related to the Domestic Violence and Intimate Partner Prosecution Unit. The award project period is for 12 months commencing January 1, 2011 and ending December 31, 2011. There is an opportunity to continue this grant beyond the 12 month period.

PRIOR ACTION(S):

February 23, 2010 Finance Committee

January 25, 2011 Finance Committee

FISCAL IMPACT:

None, no local match is required.

CONTACT(S):

Michael Doucette, Commonwealth's Attorney, 455-3762

Donna Nash, Grants Administrator, 455-3770

ATTACHMENT(S):

Resolution

REVIEWED BY: lkp

RESOLUTION:

BE IT RESOLVED That the FY 2011 City/Federal/State Aid Fund budget is amended and \$40,000 is appropriated with resources from the Virginia Department of Criminal Justice Services, Virginia Sexual and Domestic Violence Victim Fund to support a Family Violence Legal Assistant position and activities related to the Domestic Violence and Intimate Partner Prosecution Unit.

Introduced:

Adopted:

Certified:

Clerk of Council

022L

LYNCHBURG CITY COUNCIL

Agenda Item Summary

MEETING DATE: **February 8, 2011**

AGENDA ITEM NO.: 12

CONSENT: REGULAR: **X**

WORK SESSION:

CLOSED SESSION:
(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: **Public Hearing to Authorize the Lynchburg Redevelopment and Housing Authority (LRHA) To Pursue Acquisition of Blighted Property at 913 Second Street**

RECOMMENDATION:

Adopt a resolution authorizing LRHA to pursue acquisition of blighted property at 913 Second Street under Section 36-19.5 of the Code of Virginia.

SUMMARY:

Please see attached information from LRHA including notification to the property owner.

PRIOR ACTION(S):

NA

FISCAL IMPACT:

NA

CONTACT(S):

Edward H. McCann 485.7200

ATTACHMENT(S):

- Resolution
- Letters from LRHA

REVIEWED BY: lkp

RESOLUTION AUTHORIZING THE ACQUISITION OF REAL PROPERTY

WHEREAS, it appearing to City Council from the evidence presented at the public hearing that the structure located at 913 Second Street, parcel 009-14-006 (i) has deteriorated to such an extent as to constitute an immediate, serious and growing menace to the public health, safety and welfare; (ii) that such structure is likely to continue to deteriorate unless corrected; (iii) that the continued deterioration of such structure will contribute to the blighting or deterioration of the area immediately surrounding 913 Second Street; (iv) that such structure is blighted property in accordance with §1-219.1 of the Code of Virginia in that the condition endangers the public health or safety, and the structure is a public nuisance or is beyond repair or unfit for human occupancy or use; (v) that the owner of 913 Second Street was given 60 days notice by certified mail of the condition of the structure and has failed to correct the deterioration; and (vi) that 913 Second Street lies within the Lynchburg Redevelopment and Housing Authority's area of operation; and

WHEREAS, it further appearing to City Council from the evidence presented at the public hearing that the acquisition of 913 Second Street by the Lynchburg Redevelopment and Housing Authority is to serve a public purpose and not for private benefit or gain; and

WHEREAS, it further appearing to City Council from the evidence presented at the public hearing that the primary purpose for acquiring 913 Second Street by the Lynchburg Redevelopment and Housing Authority is not to increase any tax base or taxable revenues, or to increase employment;

NOW, THEREFORE BE IT RESOLVED that as provided by Section 36-19.5 of the Code of Virginia the Lynchburg City Council does hereby designate, authorize, and direct the Lynchburg Redevelopment and Housing Authority to acquire the property located at 913 Second Street by purchase, lease, gift or through the exercise of eminent domain for the purposes set forth in subsection A of Section 36-19.5 of the Code of Virginia, including, but not limited to, the renovation, rehabilitation and disposition of the structure at 913 Second Street;

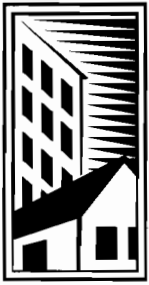
BE IT FURTHER RESOLVED that the Lynchburg Redevelopment and Housing Authority is hereby designated, authorized, and directed to act on the City's behalf in the acquisition of the property at 913 Second Street, and in the event the Lynchburg Redevelopment and Housing Authority files a petition in the Lynchburg Circuit Court to acquire the property located at 913 Second Street through the use of the power of eminent domain, the Lynchburg Redevelopment and Housing Authority shall be deemed to be acting as, and on behalf of, the City of the Lynchburg for the purposes of such petition.

Adopted:

Certified:

Clerk of Council

019L



LYNCHBURG
REDEVELOPMENT AND
HOUSING AUTHORITY

EDWARD H. McCANN
Executive Director

January 11, 2011

Mrs. Valeria P. Chambers
Clerk of City Council
900 Church St.
Lynchburg, VA 24504

Re: Spot Blight Property

Dear Mrs. Chambers,

Section 36-19.5 of the Code provides that an authority may acquire any single-family or multi-family dwelling unit in the city after public hearing by the governing body of the city wherein the property to be acquired is located. This is to request that City Council hold a public hearing to consider the Lynchburg Redevelopment and Housing Authority's request to acquire property at 913 Second Street. This property is located within the City of Lynchburg and is in accordance with the provisions of Section 36-19.5 of the Code of Virginia.

Enclosed is a Report to City Council, copy of the resolution adopted by the Commissioners of the Lynchburg Redevelopment and Housing Authority, copy of notice sent to owner, response from owner and proposed resolution for Council's consideration.

Thank you for your time on this matter and please let me know should you have any questions or need additional information.

Sincerely,

Edward H. McCann

Executive Director

enclosures

RECEIVED
JAN 13 2011
Council/Manager
Offices

Report to City Council

January 11, 2011

As part of the collaborative effort between the City of Lynchburg and The Lynchburg Redevelopment and Housing Authority to address blighted residential properties in our City, the Authority brings to Council the property located at 913 Second Street. This property was first identified as a blighted property by Authority staff in July 2008. On February 10, 2010, the owner was notified that the property had deteriorated to such an extent as to constitute an immediate, serious and growing menace to public health, safety and welfare. In that writing the owner was given a list of the conditions that required repair and it was requested that the owner:

1. Present a written plan within thirty (30) calendar days of receipt of the notice for consideration and approval by the Commissioners which would address the correction of the deficiencies and include a timetable and financing arrangements and identify who would complete the work;

Or

2. Correct the deficiencies and any other non-compliance items in regard to local building codes within sixty (60) days of receipt of the notice.

On April 14, 2010 the owner contacted the Authority and stated that she intended to complete the repairs and use the property as a residence for her son. She was asked by Authority staff to submit her intentions in writing and include cost, timeframes and items to be corrected. This was submitted to the Authority's office on April 21, 2010. The owner was additionally issued a summons from the City Inspections Department to appear in court on May 7, 2010 for failure to correct Code related issues.

The Authority's staff has monitored the property on a regular basis since April 21, 2010 and has determined that the property has continued to deteriorate and constitutes an immediate and serious threat to the public's health, safety and welfare. The Authority has seen no evidence of any work from April 21, 2010 to the date of this report. On January 5, 2011, the Authority Commissioners adopted Resolution No. 1048 requesting that City Council hold a public hearing to consider the request of the Authority to acquire the property. The Authority wishes to acquire this property for renovation, rehabilitation and disposition. Attached is a copy of the Authority's Resolution, copy of the deficiency report accepted by the Commissioners, copy of the notice to the owner, owner's response and a proposed resolution for City Council's consideration.

Members of the Authority's staff will be in attendance at the public hearing.

RESOLUTION NO. 1048

Resolution Authorizing the Executive Director to seek approval of City Council for the acquisition of the property at 913 Second Street, Parcel 009-14-006, Lynchburg, Virginia pursuant to Code section 36-19.5

WHEREAS, the Commissioners of the Lynchburg Redevelopment and Housing Authority (the Authority) have undertaken the exercise of additional powers granted to the Authority pursuant to section 36-19.5 of the Code of Virginia, as amended; and

WHEREAS, one of the major objectives to be achieved in exercising powers granted to the Authority under Code section 36-19.5 is to prevent single-family or multi-family dwelling units within the Authority's area of operation from contributing to the blighting or deterioration of the area immediately surrounding such dwelling unit as a result of the continued deterioration of such dwelling unit and further, to prevent the deterioration of such dwelling unit to such an extent as to constitute an immediate, serious and growing menace to the public health, safety and welfare; and

WHEREAS, the Commissioners of the Authority have made a finding that the dwelling unit located at 913 Second Street, Lynchburg, Virginia (the property), (i) has deteriorated to such extent as to constitute an immediate, serious and growing menace to the public health, safety and welfare; (ii) that the property is likely to continue to deteriorate unless corrected; and (iii) that the continued deterioration of the property may contribute to the blighting or deterioration of the area immediately surrounding the dwelling unit; and

WHEREAS, the Commissioners of the Authority have made a further finding that, unless the property is brought into full compliance with the applicable building codes of the City of Lynchburg, Virginia, the acquisition of the property pursuant to Code section 36-19.5 (B) will further the objectives of, and is necessary for, the purposes of the Authority; and

WHEREAS, as a prerequisite to the acquisition of the property by the City of Lynchburg, on behalf of the Authority, in accordance with Code section 36-19.5 (B), the required notice has been given to the landowner to correct the deterioration of the dwelling unit; and

WHEREAS, the owner has failed to correct the deteriorated condition of the dwelling unit.

THEREFORE, BE IT RESOLVED, by the Commissioners of the Authority that the Executive Director of the Authority, in consultation with the Authority's legal counsel, is hereby authorized and directed to request that the City Council of the City of Lynchburg hold a public hearing to consider the Authority's request to acquire the property at 913 Second Street, Lynchburg, Virginia, in accordance with the provisions of Code section 36-19.5, for the purpose of development and redevelopment, including, but not limited to, renovation, rehabilitation and disposition of the property.



LYNCHBURG
REDEVELOPMENT AND
HOUSING AUTHORITY

EDWARD H. McCANN
Executive Director

February 10, 2010

Ms. Bernice L. Perkins
390 Buena Vista Street
Lynchburg, Virginia 24504

Re: Parcel Number:009-14-006
913 2nd Street
Lynchburg, Virginia

Dear Ms. Perkins:

In a cooperative effort with the City of Lynchburg, the Board of Commissioners of the Lynchburg Redevelopment and Housing Authority has directed our staff to identify residential properties that are deteriorated to such an extent as to constitute an immediate, serious and growing menace to the public health, safety and welfare, that are likely to deteriorate unless corrected, and that may contribute to the blighting or deterioration of the surrounding area. We have been made aware of the above property which city records show to be owned by you. We observed the dwelling on February 2, 2010, and found the following conditions:

- Roof on structure and front porch deteriorated
- Roof on rear addition caved in
- Soffit and fascia deteriorated and peeling paint
- Peeling paint on entire structure and garage
- Garage door and frame deteriorated
- Gutters deteriorated, sections missing and section hanging from structure
- Downspouts deteriorated
- Window frames deteriorated and panes missing
- Window sashes deteriorated
- Sidewalk deteriorated to left of garage
- Steps deteriorated

Ms. Bernice L. Perkins

Page 2

February 10, 2010

- Front porch deck and ceiling deteriorated
- Foundation deteriorated
- Trash and debris on porch and at rear of property
- Awnings need painting
- Weeds growing on structure

We are requesting that you:

1. Present a written plan within thirty (30) calendar days of receipt of this notice for consideration and approval by the Commissioners which would address the correction of these deficiencies and include a timetable and financing arrangements and identify who would complete the work;

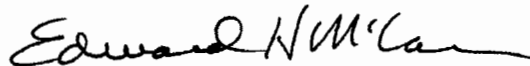
or

2. Correct these deficiencies and any other non-compliance with the local building code within sixty (60) days of receipt of this notice.

Should the above plan not be received within thirty (30) days and subsequently approved by the Commissioners and then implemented by you, or, in the alternative, if no plan is presented and these deficiencies are not corrected within the 60 day time period, the Authority Commissioners, pursuant to 36-19.5 Code of Virginia, may request Lynchburg City Council to conduct a public hearing to determine the appropriateness of authorizing the Authority to acquire the property for the purpose of development or redevelopment, including but not limited to, renovation, rehabilitation, and disposition of the property.

Please contact Connie Snavelly of our staff if you wish to discuss this.

Very truly yours,



Certified Mail - Return Receipt Requested

Written Plans

PROPOSAL SUBMITTED TO <u>Bernie Perkins</u>		PHONE	DATE
STREET <u>390 Buena Vista st</u>		JOB NAME <u>Perkins</u>	
CITY, STATE AND ZIP CODE <u>Lynchburg Va 24504</u>		JOB LOCATION <u>913 2nd st City</u>	
JOB DESCRIPTION <u>General</u>		Parcel # <u>009-14-006</u>	JOB PHONE

We hereby propose to furnish materials and labor necessary for the completion of:

The following situation will be addressed to 913 2nd st.

1. Pressure wash and paint house
2. Repair all rotten wood.
3. Repair damaged Gutters
4. Repair front porch
5. Replace broken windows
6. re Plumb necessary Plumbing
7. Re wire necessary wiring and all Electrical Service needed.

Property acquired 5/09 Paid in full 3/15/10

All work will be done within an 18 month period.

I will be Personal doing the Repairs with the help of Harvey Home Improvement

WE PROPOSE hereby to furnish material and labor - complete in accordance with above specifications, for the sum of:

Three thousand Dollars dollars (\$ 3000).

Payment to be made as follows:

All material is guaranteed to be as specified. All work to be completed in a substantial workmanlike manner according to specifications submitted, per standard practices. Any alteration or deviation from above specifications involving extra costs will be executed only upon written orders, and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents or delays beyond our control.

Authorized Signature

[Signature]

ACCEPTANCE OF PROPOSAL The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outline above.

Signature

Bernie L. Perkins

Date of Acceptance:

4-20-2010

Signature

RESOLUTION AUTHORIZING THE ACQUISITION OF REAL PROPERTY

WHEREAS, it appearing to City Council from the evidence presented at the public hearing that the structure located at 913 Second Street, parcel 009-14-006 (i) has deteriorated to such an extent as to constitute an immediate, serious and growing menace to the public health, safety and welfare; (ii) that such structure is likely to continue to deteriorate unless corrected; (iii) that the continued deterioration of such structure will contribute to the blighting or deterioration of the area immediately surrounding 913 Second Street; (iv) that such structure is blighted property in accordance with §1-219.1 of the Code of Virginia in that the condition endangers the public health or safety, and the structure is a public nuisance or is beyond repair or unfit for human occupancy or use; (v) that the owner of 913 Second Street was given 60 days notice by certified mail of the condition of the structure and has failed to correct the deterioration; and (vi) that 913 Second Street lies within the Lynchburg Redevelopment and Housing Authority's area of operation; and

WHEREAS, it further appearing to City Council from the evidence presented at the public hearing that the acquisition of 913 Second Street by the Lynchburg Redevelopment and Housing Authority is to serve a public purpose and not for private benefit or gain; and

WHEREAS, it further appearing to City Council from the evidence presented at the public hearing that the primary purpose for acquiring 913 Second Street by the Lynchburg Redevelopment and Housing Authority is not to increase any tax base or taxable revenues, or to increase employment;

NOW, THEREFORE BE IT RESOLVED that as provided by Section 36-19.5 of the Code of Virginia the Lynchburg City Council does hereby designate, authorize, and direct the Lynchburg Redevelopment and Housing Authority to acquire the property located at 913 Second Street by purchase, lease, gift or through the exercise of eminent domain for the purposes set forth in subsection A of Section 36-19.5 of the Code of Virginia, including, but not limited to, the renovation, rehabilitation and disposition of the structure at 913 Second Street;

BE IT FURTHER RESOLVED that the Lynchburg Redevelopment and Housing Authority is hereby designated, authorized, and directed to act on the City's behalf in the acquisition of the property at 913 Second Street, and in the event the Lynchburg Redevelopment and Housing Authority files a petition in the Lynchburg Circuit Court to acquire the property located at 913 Second Street through the use of the power of eminent domain, the Lynchburg Redevelopment and Housing Authority shall be deemed to be acting as, and on behalf of, the City of the Lynchburg for the purposes of such petition.

Adopted:

Certified:

Clerk of Council

Property Address: **913 Second Street**

Parcel No: **009-14-006**

Date Entered: **7/31/2009**

Owner's Name: **Bernice L. Perkins**

Owner's Address: **390 Buena Vista Street**

Assessed Value Land: \$2,000 Improvement: \$18,200 TOTAL: **\$20,200**



Date of Pictures: January 4, 2011

DEFICIENCIES:

- **Sections of missing, detached gutters**
- **Front Porch, severe deterioration, missing railing, buckling ceiling, decking collapsing**
- **Broken & missing windows**
- **Chimney structurally unsound**
- **Front retaining wall failing**
- **Foundation deteriorated and failing**
- **Left side wall severely deteriorated, partial roof collapse**
- **Rear, roof system missing and collapsing**
- **Garage roof collapsing**
- **Interior floor system at rear of structure failing**
- **Severe interior water damage throughout**
- **Trash and debris throughout site**
- **Building unsecure, creating severe public safety threat**

913 Second Street / 009-14-006



LYNCHBURG CITY COUNCIL

Agenda Item Summary

MEETING DATE: **February 8, 2011**

AGENDA ITEM NO.: 13

CONSENT:

REGULAR: **X**

WORK SESSION:

CLOSED SESSION:

(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: Future Land Use Map (FLUM) Amendment – Low Density Residential and Medium Density Residential to Regional Commercial at 2134 Old Forest Road

Rezoning: B-1C, Limited Business District (Conditional) to B-3C, Community Business District (Conditional) at 2134 Old Forest Road

RECOMMENDATION: Approval of the *FLUM* amendment and rezoning petitions.

SUMMARY: Robert D. Crocker is petitioning to amend the *FLUM* from Low Density Residential and Medium Density Residential to Regional Commercial and to rezone approximately three and twenty-four hundredths (3.24) acres from B-1C, Limited Business District (Conditional) to B-3C, Community Business District (Conditional) at 2134 Old Forest Road. The purpose of the petitions is to allow the construction of a two (2)-story building addition with a footprint of three thousand, seven hundred twenty-one (3,721) square feet and to allow the use of the property as a hotel/motel, banquet hall and restaurant while continuing the existing Spa & salon use.

City Council conducted a public hearing on the rezoning petition January 11, 2011 and expressed concerns regarding the size of new signs, size of the building addition, noise, lighting, sight distance on Old Forest Road and future expansions or use of the property. The petition was tabled to allow Mr. Crocker to consider submitting additional proffers to address the concerns.

Due to an error in advertising the required legal notice, the *FLUM* amendment was not considered by City Council on January 11, 2011 and should not have been acted upon by the Planning Commission on December 8, 2010. The Planning Commission conducted a new public hearing and recommended approval of the *FLUM* amendment on January 26, 2011.

The *FLUM* amendment and rezoning petitions have been re-advertised for a public hearing by City Council.

PRIOR ACTION(S):

December 8, 2010: Planning Division recommended approval of the proposed *FLUM* amendment and the rezoning petition.

Planning Commission waived the twenty-one (21) day submittal requirement for proffers.

Planning Commission recommended approval of the proposed *FLUM* amendment and the rezoning petition (5-0 with 2 members absent - Barnes and Hannon).

January 11, 2011: City Council conducted a public hearing and tabled the rezoning petition.

January 26, 2011: Planning Commission recommended approval of the *FLUM* amendment (6-0 with one member absent - Swienton).

FISCAL IMPACT: None

CONTACT(S):

Tom Martin, City Planner - 455-3900

Kent White, Director of Community Development – 455-3900

ATTACHMENT(S):

- Ordinance – *Future Land Use Map* Amendment
- Ordinance – Rezoning
- Memorandum to Planning Commission – January 26, 2011
- Planning Commission Minutes – January 26, 2011
- Speaker Sign Up Sheet – January 26, 2010
- Proffers – Amended January 18, 2011
- Sign Rendering – January 18, 2011
- City Council Report – January 11, 2011
- Planning Commission Report – December 8, 2010
- Planning Commission Minutes – December 8, 2010
- Speaker Sign Up Sheet – December 8, 2010
- Proffer – November 30, 2010
- Project Description – November 16, 2010
- Rezoning Plan for Acorn Hill Lodge – November 15, 2010
- Vicinity Map
- Future Land Use Map
- Watershed Location Map
- Property Photographs

REVIEWED BY: lkp

ORDINANCE:

AN ORDINANCE AMENDING THE FUTURE LAND USE MAP FOR THE PROPERTY LOCATED AT 2134 OLD FOREST ROAD FROM LOW DENSITY RESIDENTIAL AND MEDIUM DENSITY RESIDENTIAL TO REGIONAL COMMERCIAL.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LYNCHBURG, that in order to promote the public necessity, convenience, general welfare and good zoning practice that Chapter 35.1 of the Code of the City of Lynchburg, 1981, as amended, be and the same is hereby further amended by adding thereto Section 35.1-76.____, which section shall read as follows:

Section 35.1-76.____. Amend the Future Land Use Map for the subject property at 2134 Old Forest Road from Low Density Residential and Medium Density Residential to Regional Commercial.

The area embraced within the following boundaries . . .

Beginning at a point on the Northeasterly right of way line of Old Forest Road at its intersection with Range Street. Thence with Range Street along its southerly line the following calls, a curve with a central angle of 99 degrees 21 minutes 49 seconds, a radius of 15.00 feet, a length of 26.01 feet with a chord bearing of North 18 degrees 48 minutes 03 seconds East and a chord distance of 22.87 feet, thence along a curve with a central angle of 4 degrees 03 minutes 35 seconds, a radius of 542.36 feet, a length of 38.43 feet with a chord bearing of North 70 degrees 30 minutes 46 seconds East and a chord distance of 38.42 feet, thence South 17 degrees 27 minutes 27 seconds East and a distance of 15.00 feet, thence North 73 degrees 20 minutes 21 seconds East and a distance of 14.66 feet, thence North 15 degrees 51 minutes 51 seconds West and a distance of 15.00 feet, thence a curve with a central angle of 20 degrees 37 minutes 03 seconds, a radius of 542.36 feet, a length of 195.17 feet with a chord bearing of North 84 degrees 26 minutes 41 seconds East and a chord distance of 194.11 feet, thence North 31 degrees 34 minutes 14 seconds East and a distance of 41.80 feet, thence leaving the right of way of Range Street South 72 degrees 06 minutes 46 seconds East and a distance of 236.84 feet to a point on the right of way of Maher Street, thence with the right of way of Maher Street along a curve with a central angle of 14 degrees 39 minutes 33 seconds, a radius of 600.55 feet, a length of 153.65 feet with a chord bearing of South 50 degrees 08 minutes 32 seconds East and a chord distance of 153.23 feet, Thence leaving said right of way South 41 degrees 23 minutes 59 seconds West and a distance of 266.15 feet, thence North 51 degrees 27 minutes 01 seconds West and a distance of 232.21 feet, thence South 31 degrees 35 minutes 59 seconds West and a distance of 237.88 feet to a point on the right of way of Old Forest Road, thence with Old Forest Road the following calls along the easterly right of way line North 17 degrees 44 minutes 32 seconds West and a distance of 92.42 feet, thence North 20 degrees 14 minutes 22 seconds West and a distance of 121.96 feet, thence along a curve with a central angle of 10 degrees 38 minutes 29 seconds, a radius of 793.94 feet, a length of 147.46 feet with a chord bearing of North 25 degrees 33 minutes 37 seconds West and a chord distance of 147.25 feet back to the point of beginning, containing approximately 3.243 Acres.

. . . is hereby amended on the Future Land Use Map from Low Density Residential and Medium Density Residential to Regional Commercial and the Director of Community Development shall forthwith cause the Future Land Use Map referred to in Section 35.1-4 of this chapter to be amended in accordance therewith.

Adopted:

Certified:

Clerk of Council

020L1

AN ORDINANCE CHANGING A CERTAIN AREA LOCATED AT 2134 OLD FOREST ROAD FROM B-1C, LIMITED BUISESS DISTRICT (CONDITIONAL) TO B-3C, COMMUNITY BUSINESS DISTRICT (CONDITIONAL).

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LYNCHBURG that in order to promote the public necessity, convenience, welfare and good zoning practice that Chapter 35.1 of the Code of the City of Lynchburg, 1981, as amended, be and the same is hereby further amended by adding thereto Section 35.1-76.____, which section shall read as follows:

Section 35.1-76.____. Change of a certain area located at 2134 Old Forest Road from B-1C, Limited Business District (Conditional) to B-3C, Community Business District (Conditional).

The area embraced within the following boundaries . . .

Beginning at a point on the Northeasterly right of way line of Old Forest Road at its intersection with Range Street. Thence with Range Street along its southerly line the following calls, a curve with a central angle of 99 degrees 21 minutes 49 seconds, a radius of 15.00 feet, a length of 26.01 feet with a chord bearing of North 18 degrees 48 minutes 03 seconds East and a chord distance of 22.87 feet, thence along a curve with a central angle of 4 degrees 03 minutes 35 seconds, a radius of 542.36 feet, a length of 38.43 feet with a chord bearing of North 70 degrees 30 minutes 46 seconds East and a chord distance of 38.42 feet, thence South 17 degrees 27 minutes 27 seconds East and a distance of 15.00 feet, thence North 73 degrees 20 minutes 21 seconds East and a distance of 14.66 feet, thence North 15 degrees 51 minutes 51 seconds West and a distance of 15.00 feet, thence a curve with a central angle of 20 degrees 37 minutes 03 seconds, a radius of 542.36 feet, a length of 195.17 feet with a chord bearing of North 84 degrees 26 minutes 41 seconds East and a chord distance of 194.11 feet, thence North 31 degrees 34 minutes 14 seconds East and a distance of 41.80 feet, thence leaving the right of way of Range Street South 72 degrees 06 minutes 46 seconds East and a distance of 236.84 feet to a point on the right of way of Maher Street, thence with the right of way of Maher Street along a curve with a central angle of 14 degrees 39 minutes 33 seconds, a radius of 600.55 feet, a length of 153.65 feet with a chord bearing of South 50 degrees 08 minutes 32 seconds East and a chord distance of 153.23 feet, Thence leaving said right of way South 41 degrees 23 minutes 59 seconds West and a distance of 266.15 feet, thence North 51 degrees 27 minutes 01 seconds West and a distance of 232.21 feet, thence South 31 degrees 35 minutes 59 seconds West and a distance of 237.88 feet to a point on the right of way of Old Forest Road, thence with Old Forest Road the following calls along the easterly right of way line North 17 degrees 44 minutes 32 seconds West and a distance of 92.42 feet, thence North 20 degrees 14 minutes 22 seconds West and a distance of 121.96 feet, thence along a curve with a central angle of 10 degrees 38 minutes 29 seconds, a radius of 793.94 feet, a length of 147.46 feet with a chord bearing of North 25 degrees 33 minutes 37 seconds West and a chord distance of 147.25 feet back to the point of beginning, containing approximately 3.243 Acres.

... is hereby changed from B-1C, Limited Business District (Conditional) to B-3C, Community Business District (Conditional) subject to the condition set out herein below which was voluntarily proffered in writing by the owner, namely Robert D. Crocker, to wit:

1. The property will be developed in substantial compliance with the "Rezoning Plan for an Addition to Acorn Hill" dated November 15, 2010.
2. The proposed sign shall not exceed forty (40) square feet and shall be constructed as shown in the rendering by Manley Signs dated January 18, 2011.
3. All lighting, including lighting for the proposed sign shall be glare shielded an non directional as to prevent illumination beyond the property line.
4. The total number of guest rooms including the owner's residence shall not exceed seventeen (17).
5. The total number of seats for the restaurant shall not exceed twenty-five (25).

6. The restaurant shall close by 9 p.m.
7. Any events in the banquet facility will be concluded by 10 p.m.
8. The building footprint for the addition shall not exceed three thousand seven hundred twenty-one (3,721) square feet.
9. The Spa & Salon shall not be expanded and shall maintain hours of operation from 9 a.m. to 5 p.m., Monday – Saturday.
10. Any use not indicated on the site plan, including the number of guest rooms, number of seats in the restaurant or square footage of building addition exceeding that which is indicated in these proffers shall require approval by the City Council.
11. The length of construction, once started, shall not exceed one (1) year.
12. No trees or shrubbery will be removed unless approved by the City's Urban Forester.
13. The restaurant will be open to the general public and to the guests of the lodge.

And the Director of Community Development shall forthwith cause the "Official Zoning Map of Lynchburg, Virginia," referred to in Section 35.1-4 of this chapter to be amended in accordance therewith.

Adopted:

Certified:

Clerk of Council

020L2

The Department of Community Development

City Hall, Lynchburg, VA 24504

434-455-3900

To: Planning Commission
From: Planning Division
Date: December 8, 2010
Re: *Future Land Use Map* Amendment – Low Density Residential and Medium Density Residential to Regional Commercial

Rezoning: Acorn Hill – B-1C, Limited Business District (Conditional) to B-3C, Community Business District (Conditional)

I. PETITIONER

Robert D. Crocker, Acorn Hill, 2134 Old Forest Road, Lynchburg, VA 24501

Representative: Robert D. Crocker, Acorn Hill, 2134 Old Forest Road, Lynchburg, VA 24501

II. LOCATION

The subject property includes one (1) tract totaling three and twenty-four hundredths (3.24) acres at 2134 Old Forest Road.

Property Owners: Robert D. Crocker & Wanda E. Brooks-Crocker, 2134 Old Forest Road, Lynchburg, VA 24501

III. PURPOSE

The purpose of this petition is to allow the construction of a three thousand seven hundred twenty-one (3,721) square foot, two (2)-story building addition that would serve as a hotel/motel, banquet hall and restaurant.

IV. SUMMARY

- The petition would amend the *Comprehensive Plan 2002-2020's Future Land Use Map [FLUM]* designation which recommends Low Density Residential and Medium Density Residential use for the subject property.
- Petition agrees with the *Zoning Ordinance* which permits hotels, banquet halls and restaurants in a B-3, Community Business District with approval of the rezoning petition by City Council.

The Planning Division recommends approval of the *FLUM* amendment and rezoning petitions.

V. FINDINGS OF FACT

2. **Comprehensive Plan.** The *Comprehensive Plan 2002-2020* recommends Medium Density Residential and Low Density Residential uses in this area. Low Density Residential (**page 5.5**) areas “are dominated by single family detached housing at densities of up to four dwelling units per acre ... [and] may include public and institutional uses compatible in scale with single family residential homes. Private recreation uses, including country clubs and swim and racquet clubs, and private open space are also appropriate for Low Density Residential areas.” Medium Density Residential areas (**page 5.5**) “are characterized by small-lot single family detached housing, duplexes, and townhouses at densities up to 12 units per acre. Where neighborhoods already exist, infill development should be at a compatible density and housing type. In addition to residential uses, they may include public and institutional uses compatible in scale with single family residential homes. Private recreation uses, including country clubs, swim and racquet clubs, and private open space are also appropriate.

The petition would amend the *FLUM* for the subject property to a Regional Commercial use. Regional Commercial (page 5.5) areas “include retail, restaurant, entertainment, and hotel uses that draw customers from

the entire region, as well as the traveling public.” Adjacent land uses are designated for Low Density Residential and Medium Density Residential use by the *FLUM*; however, much of the surrounding zoning includes B-3, Community Business District zoning in addition to R-2, Low-Medium Density Single-Family Residential District and R-3, Medium Density Two-Family Residential District zoning.

3. **Zoning.** The subject property was annexed into the City in 1958 and was originally zoned as a R-2, Low-Medium Density Single-Family Residential District in 1978 with the adoption of the *Zoning Ordinance*. The existing B-1C, Limited Business District zoning was established on March 8, 1998 with the approval of a rezoning by City Council to allow the operation of a spa and bed and breakfast and, on March 9, 2004, rezoned to amend proffers to allow the operation of an eight (8) room lodging house in addition to the spa and salon uses.
4. **Proffers.** The petitioner voluntarily submitted the following proffers with the rezoning application:
 1. The property will be developed in substantial compliance with the “Rezoning Plan For an Addition to Acorn Hill” dated November 16, 2010.
5. **Board of Zoning Appeals (BZA).** The Zoning Official has determined that no variances would be needed for the development of the property as proposed.
6. **Surrounding Area.** There have been several items requiring City Council approval in the immediate area:
 - On March 9, 2004, City Council approved Robert D. Crocker & Wanda E. Brooks-Crocker’s petition to rezone two and nine tenths (2.9) acres from B-1C, Limited Business District (Conditional) to B-1C, Limited Business District (Conditional) to amend the existing proffers and allow the use of the property as an eight (8)-room lodging house in addition to the spa and salon uses at 2134 Old Forest Road.
 - On February 13, 2001, City Council approved Lynchburg Retirement Corporation’s petition for a CUP to allow the construction of a Planned Unit Development for eighty-seven (87) single-family detached homes in an R-3, Medium Density Two-Family Residential District at 2713 Old Forest Road.
 - On June 9, 1998, City Council approved Prayer of Faith Temple’s petition for a CUP to allow the construction of a church and parking area in an R-2, Low-Medium Density Single-Family Residential District at 3100 Hill Street.
 - On March 8, 1998, City Council approved Wanda E. Brooks-Crocker’s petition to rezone approximately three (3) acres from R-2, Low-Medium Density Single-Family Residential District to B-1C, Limited Business District (Conditional) to allow the construction of a building addition for use as a massage clinic at 2134 Old Forest Road and 2121 Maher Street.
 - On August 13, 1996, City Council approved Robert Crocker’s petition for a CUP to allow operation of a bed and breakfast for up to four (4) guests in an R-2, Low-Medium Density Single-Family Residential District at 2121 Maher Street.
 - On July 8, 1986, City Council approved East Ridge Associates’ petition for a CUP to allow the construction and operation of a nursing home and adult care facility in an R-3, Medium Density Two-Family Residential District at 2513 Old Forest Road and 100 Poindexter Street.
7. **Site Description.** The subject property includes an existing eight (8)-room lodging house, spa and salon facilities and associated parking; the balance of the property includes a pond and undeveloped forestal land. The property is bound to the north, east, south and west by existing single-family homes.
8. **Proposed Use of Property.** The purpose of this petition is to allow construction of a three thousand seven hundred twenty-one (3,721) square foot, two (2)-story building addition with four (4) lodging rooms, laundry facilities, and a banquet hall/small restaurant with a commercial kitchen to serve up to twenty-five (25) guests. The existing spa, salon and lodging rooms would remain and the petition would allow for a maximum of

seventeen (17) guest rooms for the entire facility. The site is currently served by City water and sewer and landscaping for the project would comply with the requirements of the City's *Zoning Ordinance* which includes foundation plantings and utility area screening.

The petitioner hosted a neighborhood meeting on Thursday, November 18, 2010. The petitioner presented the concept plan to seven (7) people in attendance and answered questions regarding the proposal.

9. **Traffic, Parking and Public Transit.** The vehicle trip threshold for the existing and proposed uses is less than the five hundred (500) daily trips and the fifty (50) peak hour trips that would warrant a traffic study. The City's Transportation Engineer had no concerns regarding the proposed building addition or additional uses.

Parking requirements are established by the City's *Zoning Ordinance* and include one (1) parking space for each lodging room, one (1) parking space for each residence, two (2) parking spaces for each one thousand (1000) square feet of floor space for the spa/salon uses and one space per four (4) persons for the banquet hall/restaurant. The entire project would require a total of thirty (30) parking spaces. The existing development currently has thirty-eight (38) parking spaces on site, thus meeting the requirement of City Code.

The Acorn Hill property is served by public transit. Greater Lynchburg Transit Company's Route 8 runs along Old Forest Road, with a bus stop located approximately five hundred (500) feet from the property at the intersection of Old Forest Road and Range Street..

10. **Stormwater Management.** The construction of the proposed three thousand seven hundred twenty-one (3,721) square foot building addition would exceed the one thousand (1,000) square foot threshold for stormwater management; as such, a plan to address water quantity and quality of the surface water runoff would be required for the construction. Section 16.2-20 of the City's Stormwater Ordinance provides for new impervious area between one thousand (1,000) and five thousand (5,000) square feet, the increase in post-development runoff can be managed by landscaping along the new building perimeter. The gutters from the new addition would discharge into an existing channel located near the southern portion of the site. Preliminary review of the site indicates that the channel is adequate to receive stormwater from the site once it meets the City's quantity and quality standards.

11. **Emergency Services.** The City's Fire Marshal had no concerns regarding the proposed building addition, or proposed use of the property.

The City Police Department had no concerns regarding the proposed building addition, or proposed use of the property.

12. **Impact.** The Acorn Hill property currently includes eight (8) lodging rooms, as well as a salon and spa. The proposed addition would allow the addition of four (4) guest rooms (as well as the renovation of the existing facilities to provide for five (5) additional rooms) and a banquet area for up to twenty-five (25) individuals. Although the site is located in a primarily residential area, Acorn Hill has operated commercially since 1996 and is in close proximity to other B-3, Community Business District zoned property, which is approximately seven hundred (700) feet east on Old Forest Road. The proposed addition would meet the required setbacks, would be screened from the closest property by an existing vegetative buffer and has adequate parking already on site for the addition. The City's Transportation Engineer, Environmental Reviewer, Fire Marshal and Crime Prevention Specialist had no concerns regarding the proposed building addition and the result would be the expansion of an existing business with minimal impact on the surrounding neighborhood.

13. **Technical Review Committee.** The Technical Review Committee (TRC) originally reviewed the preliminary site plan on October 19, 2010. 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 Robert D. Crocker's petition to amend the *Future Land Use Map* from Low Density Residential and Medium Density Residential to Regional Commercial for three and twenty-four hundredths (3.24) acres at 2134 Old Forest Road.

The Planning Commission waives the twenty-one (21) day submittal requirement for proffers.

Based on the preceding Findings of Fact, the Planning Commission recommends to City Council approval Robert Crocker's petition to rezone three and twenty-four hundredths (3.24) acres from B-1C, Limited Business District (Conditional) to B-3C, Community Business District (Conditional) at 2134 Old Forest Road, with the voluntarily submitted proffers.

This matter is respectfully offered for your consideration.



William T. Martin, AICP
City Planner

pc: Mr. L. Kimball Payne, III, City Manager
Ms. Bonnie M. Svrcek, Deputy City Manager
Mr. Walter C. Erwin, City Attorney
Mr. Kent L. White, Director of Community Development
Mr. J. Lee Newland, City Engineer
Ms. Cynthia Kozerow, Lynchburg Police Department
Battalion Chief Greg Wormser, Fire Marshal
Mr. Gerry Harter, Transportation Engineer
Mr. Doug Saunders, Acting Building Commissioner
Mr. Robert Fowler, Zoning Administrator
Ms. Erin Hawkins, Environmental Reviewer
Mr. Robert Crocker, Applicant, Acorn Hill

VII. ATTACHMENTS

- 1. Vicinity Zoning Pattern**
- 2. Vicinity Proposed Land Use**
- 3. Watershed Location Map**
- 4. Concept Plan**
- 5. Project Description**
- 6. Parking Calculations and Proffers**
- 7. Photos**

MINUTES FROM THE JANUARY 26, 2011 PLANNING COMMISSION MEETING (MINUTES HAVE NOT BEEN APPROVED):

a. Consideration of amending the *Future Land Use Map* from Low Density Residential and Medium Density Residential to Regional Commercial for the 3.21 acres at 2134 Old Forest Road, as originally petitioned by Robert Crocker.

Mr. Kevin Henry remarked that on December 8, 2010, the Planning Commission had considered a petition to amend the *Future Land Use Map* from Low and Medium Density Residential to Regional Commercial for approximately 3.24 acres at 2134 Old Forest Road. Due to an error in advertising the legal notice for the December 8, 2010 meeting, (the *FLUM* amendment portion was inadvertently omitted) the *FLUM* amendment should not have been acted upon by the Planning Commission. The rezoning petition was advertised correctly and was recommended for approval by the Planning Commission to City Council.

The rezoning petition was considered by City Council on January 11, 2011 and tabled until Mr. Crocker submitted additional proffers and the *FLUM* amendment was properly advertised and reconsidered by the Planning Commission. Mr. Crocker has submitted revised proffers for consideration by City Council. Pending Planning Commission approval, the rezoning and *FLUM* petitions will be reconsidered by City Council on February 8, 2011. Staff recommends approval of the *FLUM* amendment.

Mr. Robert Crocker came forward to represent the petition. Mr. Crocker said everything is good to go for the project. Everyone is very happy and proud of the project. Craddock & Cunningham has done a great job of designing a complete wraparound porch. The addition has a very homey feel to it.

Chair Hamilton asked if anyone else was present to speak in favor of the petition. No one came forward. She asked if there was anyone who wished to speak in opposition to or with concerns about the petition. Mr. Steve Driskill of 2135 Old Forest Road came forward. Mr. Driskill noted that Mr. Crocker is making quite a few proffers. He is not real pleased to have a commercial establishment across the street from him that might continue to expand, but he believes that City Council and Mr. Crocker are working to hold that at bay after this petition. He thought the commissioners had made their feelings pretty clear at the last public hearing, so he did not think it did much good to object. Chair Hamilton asked him to state his concerns for the record.

Mr. Driskill said his main concern is having a commercial development in residential zoning directly across the street from him with the potential for garish signs, high traffic, etc. Mr. Driskill acknowledged that Mr. Crocker is working to alleviate most of those concerns.

Chair Hamilton asked if there was anyone else who wished to speak in opposition to the petition. No one came forward.

Mr. Crocker stated that he has spent some time on Mr. Driskill's issues and it has been a learning experience. He has fine tuned the project regarding the hours of operation. It is not a very large addition but it will change it to a commercial piece of property. Mr. Crocker has attended to all Mr. Driskill's issues and has made sure that it will be a quiet business. Quiet zone starts around 9:00 p.m. Mr. Crocker remarked that Lynchburg College rents his whole building. It is difficult for them to operate a kitchen out of an apartment. That is how the whole project started in the first place. The Health Department will be happy about the commercial kitchen. Customers will be happy that there are enough places to sit for meals.

Chair Hamilton asked Mr. Driskill if he had anything to add. He said he did not. Chair Hamilton closed the public hearing portion of the petition.

Commissioner Coleman asked Mr. Driskill if he had heard of anything that would make him concerned about what is going on now in relationship to what could happen in the future. Mr. Driskill said Mr. Crocker is attempting to change the zoning from whatever it is now to B-3, a much higher zoning classification. His concern is what could be put there five or ten years down the road. If he understands the proffers that Mr. Crocker is going to be making, it will pretty much be what Mr. Crocker is proposing for the foreseeable future. Chair Hamilton asked Mr. Henry for clarification on those proffers. Mr. Henry said the proffers are different than what the commissioners had reviewed at their December 8, 2010 meeting. Ms. Craig explained that she did not give them the revised proffers because they are not being considered by

the commissioners at this hearing. At the request of Chair Hamilton, Ms. Craig went to get copies of the proffers and the sign rendering for the commissioners and Mr. Driskill.

Mr. Driskill asked how the sign rendering relates to the B-3 sign restrictions. Mr. Crocker said it is smaller than what he would be allowed. Mr. Driskill reiterated that his main concern is not what Mr. Crocker is going to do now so much as what he or another owner may do in a few years. A lot of undesirable things could go in there. Mr. Driskill is trying to make this as palatable to him as possible. Chair Hamilton asked Mr. Driskill if he understood that Mr. Crocker is currently zoned B-1 and Mr. Driskill said he understood that but pointed out that B-3 is a higher zoning.

After reviewing the revised proffers, Mr. Driskill asked what uses are indicated on the site plan. Chair Hamilton said the site plan indicates the banquet hall, restaurant, commercial kitchen, laundry facilities and four new lodging rooms without kitchens. The building footprint will be approximately 3,721 square feet. Mr. Henry and Ms. Craig explained that the conditional zoning stays with the property. If a future owner wanted to change the uses allowed on the property, he or she would have to go through another rezoning. Chair Hamilton asked Mr. Driskill if that sets some of his concerns at ease and he indicated that it did.

Commissioner Coleman asked what it means when the police department has no concerns about a proposed project. Does that mean there has been no reported incidents at all or the numbers have not suggested any reason for alarm or concern? Mr. Henry thought it meant that there have not been things in the past that have occurred that would alarm them. Ms. Craig explained that the Crime Prevention Specialist looks at things like lighting and security. Commissioner Hannon indicated that the police also look at connectivity between properties—whether or not there is bleed over from one type of use to another type of use. When there is connectivity of the streets and there is a commercial use next to a residential use, there is typically an increase of criminal activity in the residential area. Ms. Craig explained that the Crime Specialist looks at the projects through the eyes of Crime Prevention Through Environmental Techniques (CPTED).

Commissioner Sale indicated that he was for this petition originally and the additional proffers “sweeten” it. He made the following motion, which was seconded by Commissioner Hannon, and passed by the following vote:

“That the Planning Commission recommends to City Council approval of Robert D. Crocker’s petition to amend the *Future Land Use Map* from Low Density Residential and Medium Density Residential to Regional Commercial for three and twenty-four hundredths (3.24) acres at 2134 Old Forest Road.”

AYES:	Barnes, Hamilton, Hannon, Hooper, Sale and Swienton	6
NOES:		0
ABSTENTIONS:		0
ABSENT:	Swienton (excused)	1

MINUTES FROM THE DECEMBER 8, 2010 PLANNING COMMISSION MEETING (MINUTES HAVE BEEN APPROVED):

- b. Petition of Robert Crocker to amend the *Future Land Use Map* from a Low Density Residential and Medium Density Residential to Regional Commercial and to rezone 3.21 acres from B-1C, Limited Business District (Conditional) to B-3C, Community Business District (Conditional) to allow the use of the existing buildings as a hotel-motel and the use of the property as a restaurant/banquet facility at 2134 Old Forest Road.**

Mr. Martin explained that this property (also known as Acorn Hill) has been before the Planning Commission and City Council several times over the years. Mr. Crocker originally had a conditional use permit from the Board of Zoning Appeals to do massage therapy at the location. He later came in to do a bed and breakfast and obtained a conditional use permit. Increasing the number of rooms required a rezoning of the property in 1998 and again in 2004 when substantial improvements were made to the property. At this time, Mr. Crocker is requesting to rezone to B-3C primarily to do a few more uses on the property that are really in conjunction with the bed and breakfast. The *Zoning Ordinance* limits the number of rooms for a bed and breakfast and increasing the number of rooms really puts it more into a hotel/motel use. The rezoning would also allow a restaurant type use for the property.

The *FLUM* does recommend Low Density and Medium Density Residential. The request is to go to Regional Commercial. However, this is another instance where the property was zoned for commercial before the *FLUM* was adopted but still remains designated for residential uses. *FLUM* amendments need to be looked at on their own merits. You have to look at the existing uses, as well as the surrounding uses. Mr. Martin mentioned that Mr. Crocker did hold a neighborhood meeting that was well attended.

Stormwater management will exceed the threshold required to do a plan but since the expansion is below 5,000 square feet, stormwater management issues can be handled by additional landscaping. The City's Transportation Engineer, Fire Marshal and Crime Prevention Specialist had no comments or concerns. The Planning Division does recommend approval of both the *FLUM* amendment and rezoning petitions.

Mr. Robert Crocker came forward to represent the petition. Mr. Crocker explained that Acorn Hill has grown over the years. People like to stop by and have breakfast. He also works closely with Lynchburg College. Mr. Crocker tries to meet all the requirements in everything he does on the property.

Mr. Crocker would like to have a small banquet facility. The addition will square up his building and will be a beautiful addition. Right now, every event they have has to be outside. He would like to use the banquet hall for family reunions or weddings. He works closely with funeral homes as well. Sometimes family members gather in his lobby. If there are more than ten or fifteen people, it gets crowded. He would like to have a small restaurant. There used to be a small restaurant down the street and now people seem to be gathering at his place. He does not mind serving them breakfast but he would like to be able to charge them for it. He would also like the possibility of having a Sunday brunch. If there is an event, the restaurant would turn into the banquet hall.

He would also like to add some additional rooms over the banquet hall. The salon is closing due to illness of the person who has been running it. He might like to convert some of the salon into lodging areas. He would like to downsize the spa and salon. He is asking for approximately 15 to 16 rooms. Mr. Crocker mentioned that he was just voted Lynchburg Guide's best bed and breakfast in town. He tries to have a very nice place.

Chair Hamilton asked for anyone else who wished to speak in favor of the petition. Ms. Edith Barley of 2001 Roxbury Street came forward to speak. She is a close neighbor of the Crockers. She wanted to say that the property is one of the prettiest places she has ever seen and the Crockers are wonderful neighbors.

Mr. Steve Driskill lives directly across from the property and came forward to speak. He can speak in favor of the general petition but does have concerns. He would like to see the signs and lighting down the driveway remain substantially the way they are now. He is opposed to the public restaurant but he can speak in favor of all other aspects of the proposal.

Chair Hamilton asked for anyone else who wished to speak in favor of this petition. No one came forward. She asked for anyone else who wished to speak in opposition to the petition. No one came forward. She asked Mr. Crocker to come back and address Mr. Driskill's concerns.

Mr. Crocker said he will be working with Mr. Driskill to make sure that there is no large sign or direct lighting onto Mr. Driskill's property. He has worked with Mr. Driskill in the past in regard to the lighting. Mr. Crocker has plans for a different sign but it will be in accordance with the sign ordinance. Mr. Crocker tries to attend to every neighbor's concerns and get their point of view.

As far as the restaurant is concerned, he would like to have that for when people from Lynchburg College come over and he has a banquet party that he can serve the banquet party and charge them. Guests like to have family and friends over as well.

Chair Hamilton asked Mr. Driskill if he would like to come back to comment. Mr. Driskill asked if they understand his concerns. Chair Hamilton said they do and they will try and get them answered. Chair Hamilton closed the public hearing portion of the petition.

Chair Hamilton asked Mr. Crocker to clarify the details of the restaurant in terms of how many meals they will serve and how many people. Mr. Crocker said it will be like the Home Place restaurant in Roanoke, which is open Thursday through Sunday. The same restaurant room will be used for the banquet hall. He currently has only 12 seats for guests and has to feed guests in shifts or seat them in the lobby. The public seems to stop in as well. The restaurant would be open in the evening as well Thursday through Sunday.

Commissioner Sale said the restaurant itself is kind of a quasi restaurant because sometimes it will be used for banquets and will not be open to the public. Commissioner Sale asked about the amount of seating. Mr. Crocker said they are asking for seating for 30 people at the most. Mr. Crocker mentioned that the restaurant will help sustain him as the lodging needs go up and down.

Chair Hamilton asked Mr. Martin if the current signs comply with the sign ordinance or are grandfathered. Mr. Martin said they were up before the current sign ordinance but thinks they would comply with a B-3 zoning, B-1 is questionable. Mr. Martin would like to clarify the numbers that have been mentioned. The proffered site plan indicates 17 rooms and a 25-seat restaurant.

Commissioner Hooper asked for clarification that the restaurant is more of a catering business-- catering to events, meetings and guests that are staying at the bed and breakfast. It is not so much for the public walking in off the street. Mr. Crocker said that is correct.

Commissioner Swienton asked for clarification from Mr. Martin that there would be nothing preventing Mr. Crocker from opening up a full public restaurant. Mr. Martin said that is correct. The only limit would be the number of seats.

Commissioner Swienton asked about the required landscape buffer between Acorn Hill and Mr. Charles Walker's property next door, which is zoned R-2. Mr. Martin stated that between a commercial and a conforming residential use, there is a 50-foot setback and a double staggered row of evergreen trees four foot in height, ten foot on center with a two-foot shrub. That is not shown on the concept plan but would have to be shown on the site plan submitted for final approval. Commissioner Swienton is concerned with making sure there is an adequate buffer for Mr. Walker for any late night events that may occur. Mr. Crocker mentioned that this is the third time he is going through this process. It has been brought up every time to put in a row of cypress trees and Mr. Walker protests every time. Mr. Crocker will put it on the site plan but Mr. Walker does not want any trees put between his property and Mr. Crocker's property.

Commissioner Swienton asked what the hours would be for an evening event. Mr. Crocker said they would end at 9:00 p.m. He tries to shut everything off at 9:00 p.m. and everyone should be gone by 10:00 p.m.

Chair Hamilton asked Mr. Martin for clarification that stormwater management would be handled by additional landscaping. There is already a stormwater detention pond. Mr. Martin said that is correct, since the proposed addition falls below the 5,000 square foot threshold. It will be primarily water quality that needs to be addressed. The preliminary review of the receiving channel is adequate.

Commissioner Hooper made the following motion, which was seconded by Commissioner Sale:

“That the Planning Commission recommends to City Council approval of Robert D. Crocker’s petition to amend the *Future Land Use Map* from Low Density Residential and Medium Density Residential to Regional Commercial for three and eighty-four hundredths (3.84) acres at 2134 Old Forest Road.”

Commissioner Hooper thinks that the plan is a good plan. Obviously, the *FLUM* needs to be amended to conform to the use of the property. He thinks the amendment is appropriate.

Commissioner Sale thinks there has been a significant attempt to accommodate the neighbors. He notices that there is a lot of access from various directions other than Old Forest Road. This indicates to him a place that has been there for a while and has established a relationship with the community and the City. He thinks this is a very interesting idea and that is useful to the community to have this kind of flexible arrangement. He thinks it is an interesting business model also. He particularly appreciates the relationship with Lynchburg College. The extension of what Mr. Crocker is suggesting makes sense to Commissioner Sale.

Commissioner Swienton commented that a lot of times we have to navigate the line between encouraging businesses to grow and at the same time protecting residences from any encroachment on their lifestyle. He thinks this is a good example of something that started off small and has grown to a much larger business venture. The City wants to encourage businesses to grow. He has given some thought to if the plan presented today was originally presented back in 1996, would it have been approved? He does not know. He thinks the nature of this is okay for an area that is surrounded by residences. He thinks the nature of the events and the restaurant will lend them to being neighborhood friendly and not like some other type of commercial ventures that might be open almost 24 hours a day.

Commissioner Coleman agrees with what the other commissioners have said. Commissioner Coleman thinks the kind of community spirit demonstrated by this establishment and its neighbors is very refreshing. The commission is trying to take every precaution to remain in compliance with our *Comprehensive Plan* but there are times where we can promote business interests in this way. He feels this is an appropriate use for the property and commended Mr. Crocker for his most recent accomplishment.

Chair Hamilton agrees with the comments made. She is not sure if this would have been approved in earlier years in its present form. Incremental growth is probably not a bad thing when you are nested in a residential area. The sign ordinance should address Mr. Driskill’s concerns and she is sure Mr. Crocker will continue to be a good neighbor.

The motion passed by the following vote:

AYES:	Coleman, Hamilton, Hooper, Sale and Swienton	5
NOES:		0
ABSTENTIONS:		0
ABSENT:	Barnes (leave of absence) and Hannon (excused)	2

Commissioner Hooper made the following motion, which was seconded by Commissioner Sale:

“That the Planning Commission waives the twenty-one (21) day submittal requirement for proffers.”

AYES:	Coleman, Hamilton, Hooper, Sale and Swienton	5
NOES:		0
ABSTENTIONS:		0
ABSENT:	Barnes (leave of absence) and Hannon (excused)	2

Commissioner Coleman made the following motion, which was seconded by Commissioner Sale:

“That the Planning Commission recommends to City Council approval of Robert Crocker’s petition to rezone three and eighty-four hundredths (3.84) acres from B-1C, Limited Business District (Conditional) to B-3C, Community Business District (Conditional) at 2134 Old Forest Road, with the voluntarily submitted proffers.”

AYES:	Coleman, Hamilton, Hooper, Sale and Swienton	5
NOES:		0
ABSTENTIONS:		0
ABSENT:	Barnes (leave of absence) and Hannon (excused)	2



MEMORANDUM

The Department of Community Development

Planning

455-3900

To: Planning Commission
From: Tom Martin, AICP, City Planner
Subj: Future Land Use Map Amendment – 2134 Old Forest Road
Date: January 26, 2011

On December 8, 2010, the Planning Commission considered the petition of Robert D. Crocker to amend the *Future Land Use Map (FLUM)* from Low and Medium Density Residential to Regional Commercial and to rezone approximately three and twenty-four hundredths (3.24) acres from B-1C, Limited Business District (Conditional) to B-3C, Community Business District (Conditional) at 2134 Old Forest Road. The purpose of the petitions were to allow the construction of a three thousand, seven hundred twenty-one (3,721) square foot, two (2)-story building addition and to allow the use of the property as a hotel/motel, banquet hall and restaurant. At this meeting, the Planning Commission waived the twenty-one (21) day submittal requirement for proffers and recommended approval of the *FLUM* and rezoning petitions (5-0 with 2 members absent – Barnes and Hannon).

Due to an error in advertising the required legal notice, the *FLUM* amendment should not have been acted upon by the Planning Commission. The rezoning petition was advertised correctly.

The rezoning petition was considered by City Council on January 11, 2011 and tabled until Mr. Crocker submitted additional proffers and the *FLUM* amendment was properly advertised and reconsidered by the Planning Commission.

Mr. Crocker has submitted revised proffers for consideration by City Council. Pending Planning Commission approval, the rezoning and *FLUM* petitions will be reconsidered by City Council on February 8, 2010.

The minutes from the December 8, 2010, Planning Commission meeting and the Planning Commission report for 2134 Old Forest Road are attached for your consideration.

January 26, 2011

[illegible]



Acorn Hill Lodge
2134 Old Forest Road
Lynchburg, VA 24501

Phone: 434-528-0983
Fax: 434-528-3081
Web: www.acornhilllodge.com

RECEIVED

JAN 18 2011

COMMUNITY
DEVELOPMENT

Proffers
Acorn Hill
2134 Old Forest Road

1. The property will be developed in substantial compliance with the "Rezoning Plan for an Addition to Acorn Hill" dated November 15, 2010.
2. The proposed sign shall not exceed 40 square feet and shall be constructed as shown in the rendering by Manley Signs date January 18th 2011.
3. All lighting including lighting for proposed sign shall be glare shielded and non directional as to prevent illumination beyond the property line.
4. The total number of guest rooms including the owner's residence shall not exceed seventeen (17).
5. The total number of seats for the restaurant shall not exceed twenty-five (25).
6. The restaurant shall close by 9 p.m.
7. Any events in the banquet facility will be concluded by 10 p.m.
8. The building foot print shall not exceed three thousand seven hundred twenty-one (3,721) square feet.
9. The SPA & Salon shall not be expanded and shall maintain hours of operation from 9 a.m. to 5 p.m., Monday – Saturday.
10. Any use not indicated on the site plan, including the number of guest rooms, number of seats in the restaurant or square footage of building addition exceeding that which is indicated in these proffers shall require approval by the City Council.
11. The length of construction, once started, shall not exceed one (1) year.
12. No trees or shrubbery will be removed unless approved by the City's Urban Forester.
13. The restaurant will be open to the general public and to the guests of the lodge.

Signed: _____

Robert Crocker



SUBMITTED BY

Robert D. Ash
1/18/2011

JAN. 18, 2011

DESIGNED BY:

Sharon M. Miles

JAN. 18, 2011

MANLEY SIGNS
2300 12th ST.
LYNCHBURG, VA.

RECEIVED

JAN 18 2011

COMMUNITY
DEVELOPMENT

LYNCHBURG CITY COUNCIL

Agenda Item Summary

MEETING DATE: **January 11, 2011**

AGENDA ITEM NO.:

CONSENT:

REGULAR: **X**

WORK SESSION:

CLOSED SESSION:

(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: Rezoning: B-1C, Limited Business District (Conditional) to B-3C, Community Business District (Conditional)

RECOMMENDATION: Approval of the rezoning petition.

SUMMARY: Robert D. Crocker is petitioning to rezone three and eighty four hundredths (3.84) acres from B-1C, Limited Business District (Conditional) to B-3C, Community Business District (Conditional) at 2134 Old Forest Road. The purpose of the petitions is to allow the construction of a three thousand, seven hundred twenty-one (3,721) square foot, two (2)-story building addition and to allow the use of the property as a hotel/motel, banquet hall and restaurant.

The Planning Commission recommended approval of the rezoning petition because:

- The petition agrees with the *Zoning Ordinance* which permits hotels, banquet halls and restaurants in a B-3, Community Business District with approval of the rezoning petition by City Council.
- The petitions would allow for the expansion of an existing business that blends well with the neighboring area.

Mr. Crocker has also petitioned to amend the Future Land Use Map (*FLUM*) from Low Density and Medium Density Residential to Regional Commercial. Due to a staff error in advertising the required legal notice, the *FLUM* amendment should not have been acted upon by the Planning Commission and can not be acted upon by the City Council at this time. The rezoning of the property could occur if deemed appropriate by the City Council which would not result in a delay of the project. City staff will advertise the *FLUM* amendment for consideration by Planning Commission on January 26 and City Council on February 8.

PRIOR ACTION(S):

December 8, 2010: The Planning Division recommended approval of the proposed *FLUM* amendment and the rezoning petition.

The Planning Commission waived the twenty-one (21) day submittal requirement for proffers.

The Planning Commission recommended approval of the proposed *FLUM* amendment and the rezoning petition (5-0 with 2 members absent - Barnes and Hannon).

FISCAL IMPACT: None

CONTACT(S): Tom Martin, City Planner - 455-3900

Kent White, Director of Community Development – 455-3900

ATTACHMENT(S):

- Ordinance – Rezoning
- Planning Commission Report
- Rezoning Plan for Acorn Hill Lodge – November 15, 2010
- Proffer
- Project Description

- Speaker Sign Up Sheet – December 8, 2010
- Planning Commission Minutes – December 8, 2010
- Vicinity Map
- Future Land Use Map
- Watershed Location Map
- Property Photographs

REVIEWED BY: bms

December 8, 2010

PLEASE PRINT

[illegible]

November 30, 2010

Department of Community Development
Planning Division
900 Church St.
Lynchburg, VA 24504

RE: Proffer Submission

Dear Mr. Martin:

I hereby voluntarily submit the following proffer with my rezoning petition for 2134 Old Forest Road:

- The property will be developed in substantial compliance with the "Rezoning Plan for an Addition to Acorn Hill" dated November 16, 2010.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert D. Crocker". The signature is fluid and cursive, with a long horizontal stroke at the end.

Robert Crocker
Owner

Acorn Hill Addition
2134 Old Forest Road Lynchburg Virginia
REZ1010-0001

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Narrative:

Project Description:

The project will consist of the construction of a new building addition having two floors with a building footprint of 3721 square feet after construction including decks and patios. The facility will be used as a combination Extended Stay Lodge, Spa, Salon and small restaurant with commercial kitchen seating 20 to 25 people. The new addition will also have a laundry facility for use exclusively for the lodging rooms. The existing facility currently has 9 lodging units with an additional 8 being added as part of the new project. The existing lodging units are distributed between the main building and the smaller annex building located on the northeastern edge of the property. The new lodges will also be distributed between the main building and annex. The annex building currently has a 3755 square foot dedicated as spa and salon which will be reduced to a total of 450 square feet (3 – 150 square foot Therapy Rooms). The remaining 3303 will be dedicated to the new lodging units.

Stormwater Management:

It is anticipated that stormwater from the 3721 square foot building addition will discharge from roof guttering systems located at several points of the building and discharged into landscape areas located in the building perimeter. As the building addition does not exceed 5000 square feet it is anticipated that water quantity and quality can be satisfied by enhanced landscaping.

Adequate Receiving Channel:

There an adequate receiving channel located near the southern portion of the site. Stormwater from the proposed building addition can potentially reach this channel but will not be necessary if enhanced landscaping is used for stormwater quality and quantity management.

This property is located in Flood Zone "X" and is not located in the 100 year floodplain.

Environmental Impacts:

The proposed building addition will be located in an area of previous improvements and is not located in any environmentally sensitive areas.

REQUIRED PARKING FOR PROPOSED LODGE:

1 SPACE PER LODGING ROOM X 17 ROOMS = 17 SPACES REQUIRED
 1 SPACE PER RESIDENCE ROOM X 1 ROOM = 1 SPACE REQUIRED

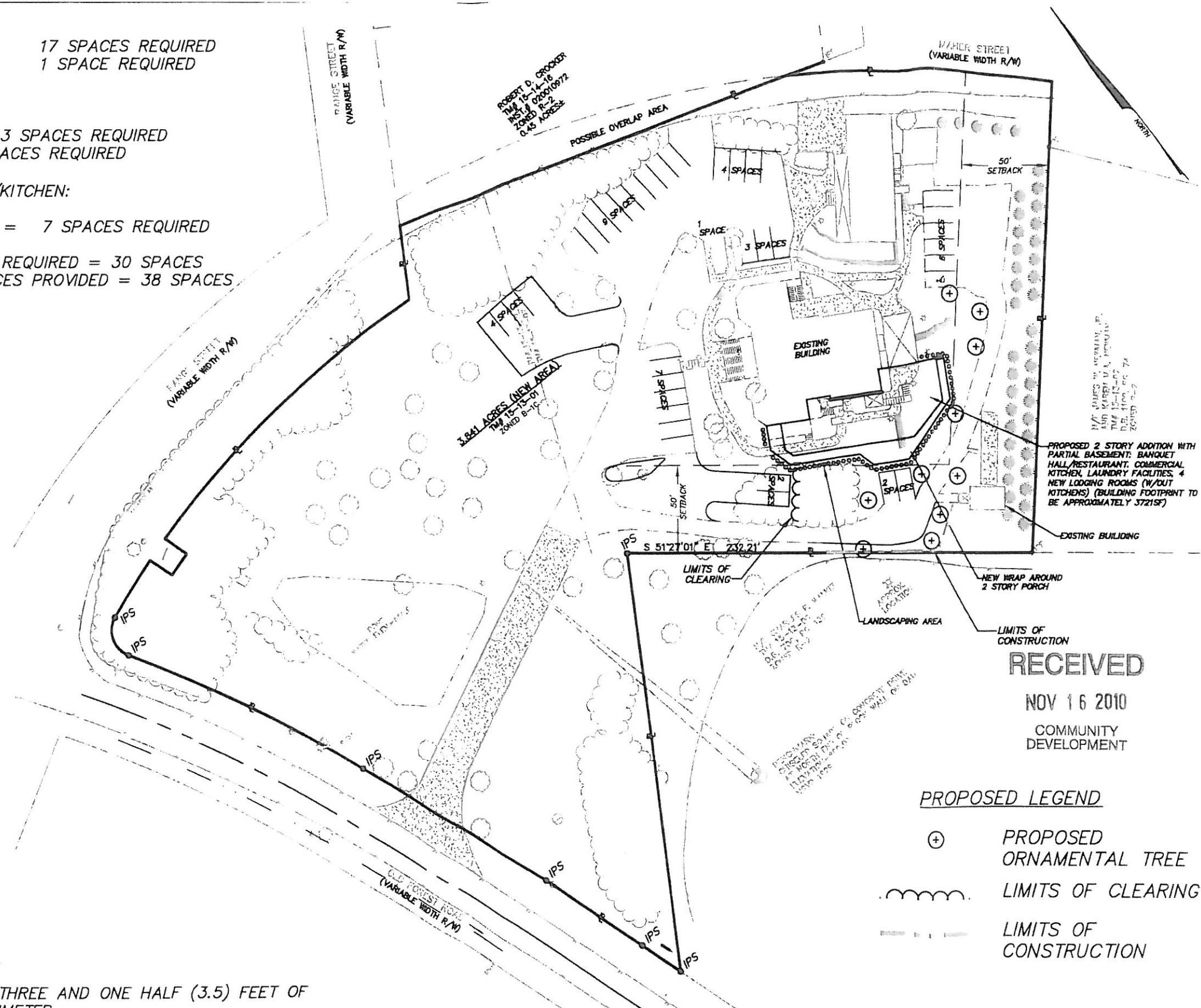
REQUIRED PARKING FOR SPA AND SALON:

1 SPACE PER EMPLOYEE X 3 EMPLOYEES = 3 SPACES REQUIRED
 1 SPACE PER 300 SF X 450 SF = 2 SPACES REQUIRED

REQUIRED PARKING FOR SMALL RESTAURANT/KITCHEN:

1 SPACE PER FOUR PERSONS X 25 PERSONS = 7 SPACES REQUIRED

TOTAL SPACES REQUIRED = 30 SPACES
 TOTAL OF SPACES PROVIDED = 38 SPACES



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PROPOSED LEGEND



PROPOSED
ORNAMENTAL TREE



LIMITS OF CLEARING



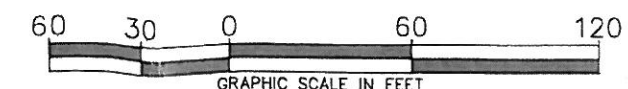
LIMITS OF
CONSTRUCTION

LANDSCAPE FOR STORMWATER MANAGEMENT

REQUIRED: 1 LARGE SHRUB FOR EVERY THREE AND ONE HALF (3.5) FEET OF
 NEW BUILDING EXTERIOR PERIMETER.
 202 LF X 1 LARGE SHRUB/3.5 LF = 58 LARGE SHRUBS

REQUIRED: 1 ORNAMENTAL TREE FOR EVERY TWENTY (20) FEET OF
 NEW BUILDING EXTERIOR PERIMETER.
 202 LF X 1 ORNAMENTAL TREE/20 LF = 10 ORNAMENTAL TREES

ADDRESS: 2134 OLD FOREST ROAD, LYNCHBURG, VA
 PROPOSED ZONING: B3 (CONDITIONAL) USE
 REF. PROJECT #REZ1010-0001



ENGINEERING & SURVEYING & PLANNING

HURT & PROFFITT
INCORPORATED

2524 LANGHORNE ROAD
 LYNCHBURG VA 24501
 800.242.4906 TOLL FREE
 434.847.7796 MAIN
 434.847.0047 FAX

REZONING PLAN
FOR
ACORN HILL LODGE
LYNCHBURG, VIRGINIA

PROJECT NO. 20100453
 G.I. NO. 299-13-D3.6
 FILE NO.
 DATE: 11/15/2010
 DRAWN BY: NRO
 CHECKED BY: PCP

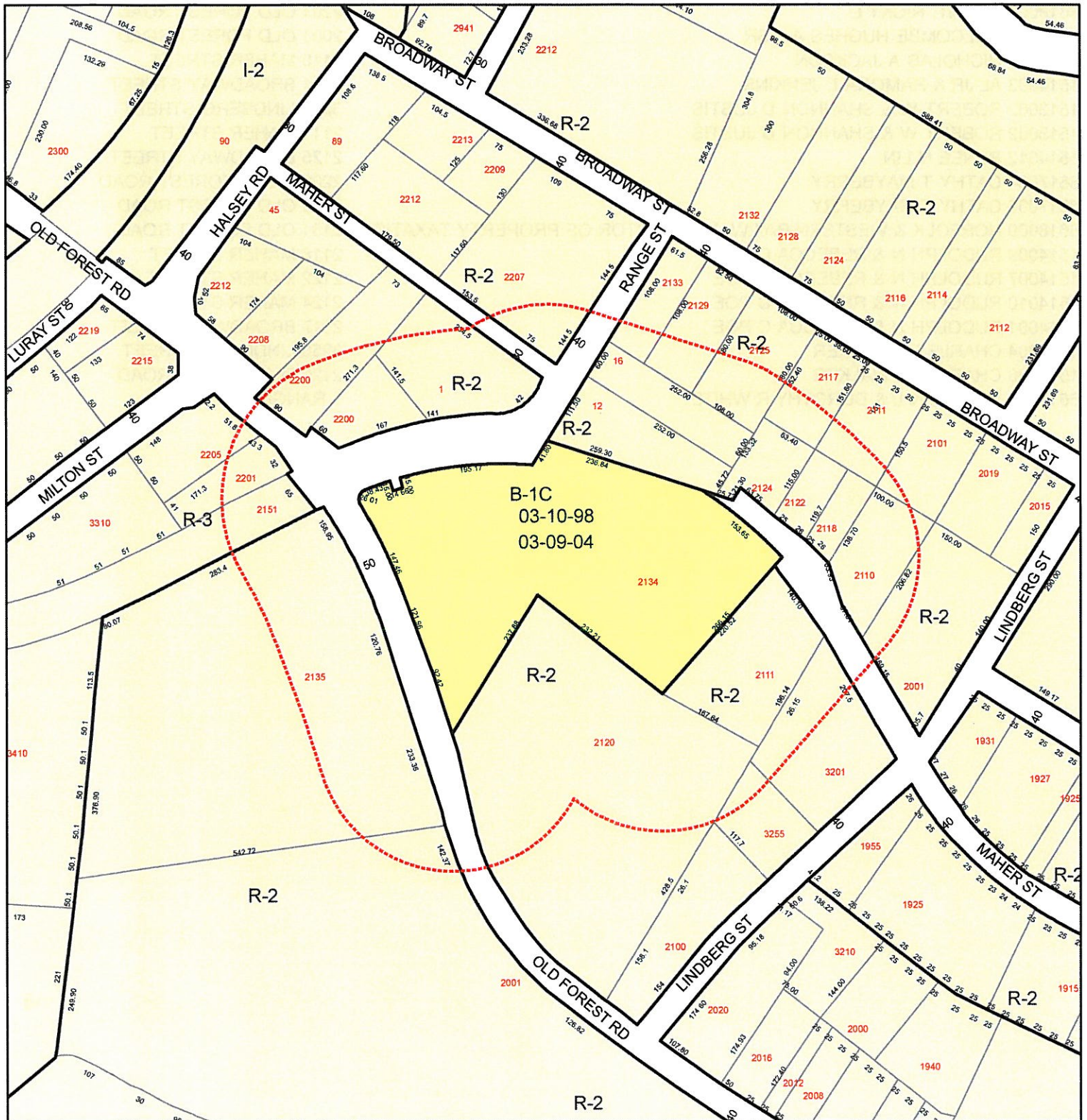
SHEET NO.
1 OF 1

ACORN HILL

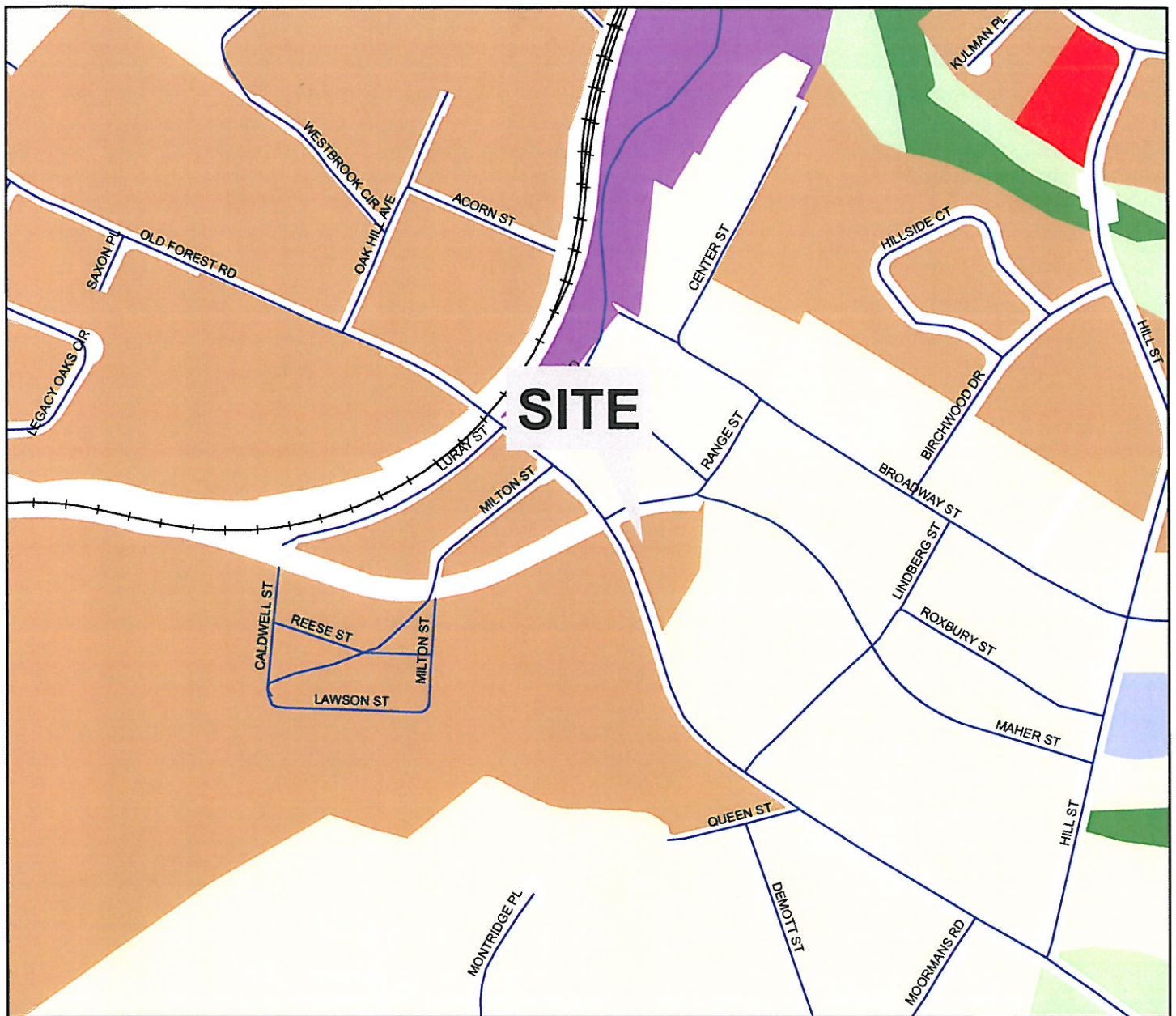
Rezoning from B-1C to B-3C

2134 Old Forest Road
Petitioner - Robert Crocker

-  Subject Property
-  200 Foot Buffer



PIN	Owner	Local Address
01514006	EDITH H BARLEY	2001 ROXBURY STREET
01514002	HUGH H BUGG	2111 BROADWAY STREET
01514013	CLAGAR PARTNERS	2129 BROADWAY STREET
01514014	CLAGAR PARTNERS	2133 BROADWAY STREET
01514015	ROBERT D CROCKER	16 RANGE STREET
01514016	ROBERT D CROCKER	12 RANGE STREET
01513001	ROBERT D CROCKER & WANDA E BROOKS-CROCKER	2134 OLD FOREST ROAD
16624001	STEPHEN M & NANCY C DRISKILL	2135 OLD FOREST ROAD
16705005	JOHN R & DAVID A GIBSON	2207 BROADWAY STREET
16618002	CAROLYN GRANT& RICK & KATHY ROGERS, C/O JOHN S WALKER	2205 OLD FOREST ROAD
16618001	GRANT, RICKY L	2201 OLD FOREST ROAD
01512001	HOLCOMBE HUGHES A J SR	2001 OLD FOREST ROAD
01514008	NICHOLAS A JACKSON	2110 MAHER STREET
01514003	AL JR & RAMONA L JENKINS	2101 BROADWAY STREET
01513003	ROBERT W & SHANNON D JUSTIS	3201 LINDBERG STREET
01513002	ROBERT W & SHANNON D JUSTIS	2111 MAHER STREET
01514012	RENEE N LIN	2125 BROADWAY STREET
16617004	CATHY T MAYBERRY	2200 A OLD FOREST ROAD
16617005	CATHY T MAYBERRY	2200 OLD FOREST ROAD
16618009	NORFOLK & WESTERN RAILWAY, DIRECTOR OF PROPERTY TAXATION	2151 OLD FOREST ROAD
01514009	RUDOLPH N & REBECCA C POE	2118 MAHER STREET
01514007	RUDOLPH N & REBECCA C POE	2122 MAHER STREET
01514010	RUDOLPH N & REBECCA C POE	2124 MAHER STREET
01514001	RUDOLPH N & REBECCA C POE	2117 BROADWAY STREET
01513004	CHARLES F WALKER	3255 LINDBERG STREET
01513006	CHARLES F WALKER	2120 OLD FOREST ROAD
16617003	FRANKLIN L & DOROTHY R WHITE	1 RANGE STREET



-  Local Historic District
-  Traditional Residential
-  Low Density Residential
-  Medium Density Residential
-  High Density Residential
-  Neighborhood Commercial
-  Community Commercial
-  Regional Commercial
-  Employment 1
-  Employment 2
-  Office
-  Institution
-  Downtown
-  Public Use
-  Public Parks
-  Resource Conservation
-  Residential Mixed Use
-  General Mixed Use
-  Employment Mixed Use

ACORN HILL

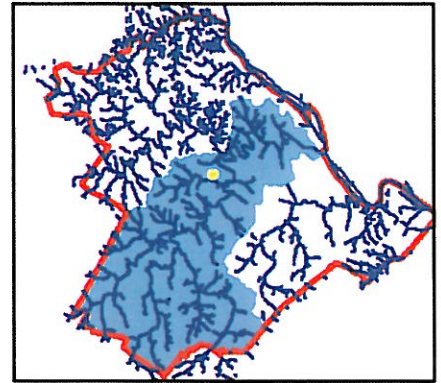
2134 OLD FOREST ROAD

LAND USE PLAN



Acorn Hill Watershed Location Map

-  Project Site
-  Blackwater Creek
-  Base Flood Elevation
-  FloodzoneA
-  FloodzoneAE
-  Corporate Limit





Back lot – Range Street



Parking area – front of salon building

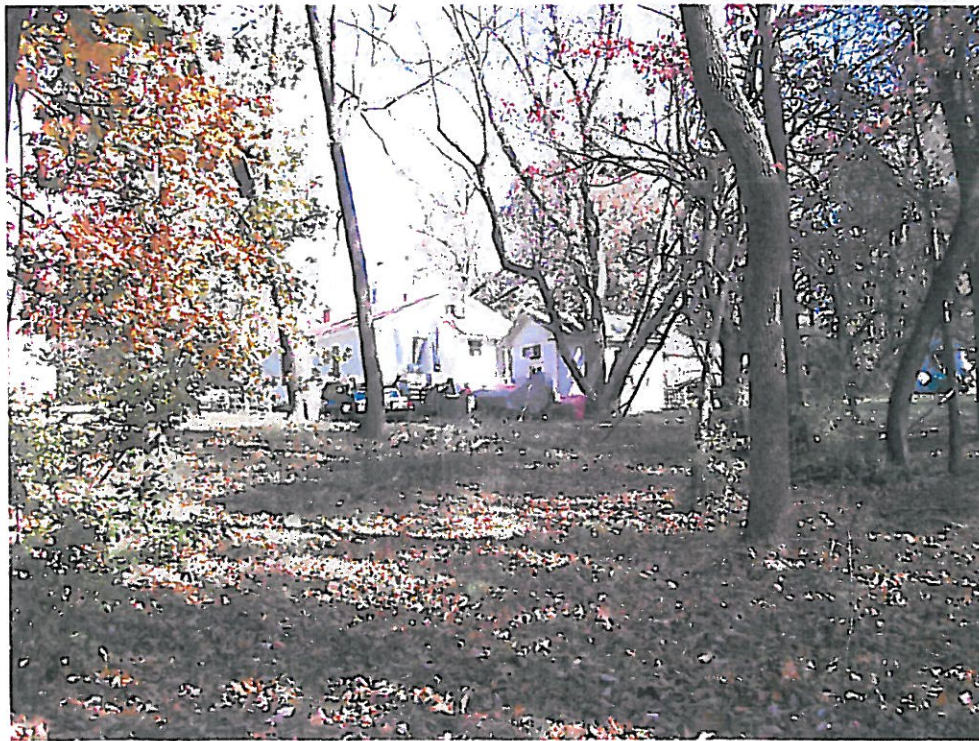
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Back Lot – Range Street adjacent to Poe Property – right side



Back Lot – Range Street adjacent to Poe Property – left side



View from salon parking area toward Old Forest Road entrance



View from Maher Street toward spa/salon parking and left side of lodge



Range Street empty lot



Range street empty lot



Driveway to back of lodge and spa/salon building



Drive-up area to terrace level (left) and driveway to back of buildings (right)



Lodge parking in front of lodge building



Hillside in front of lodge building



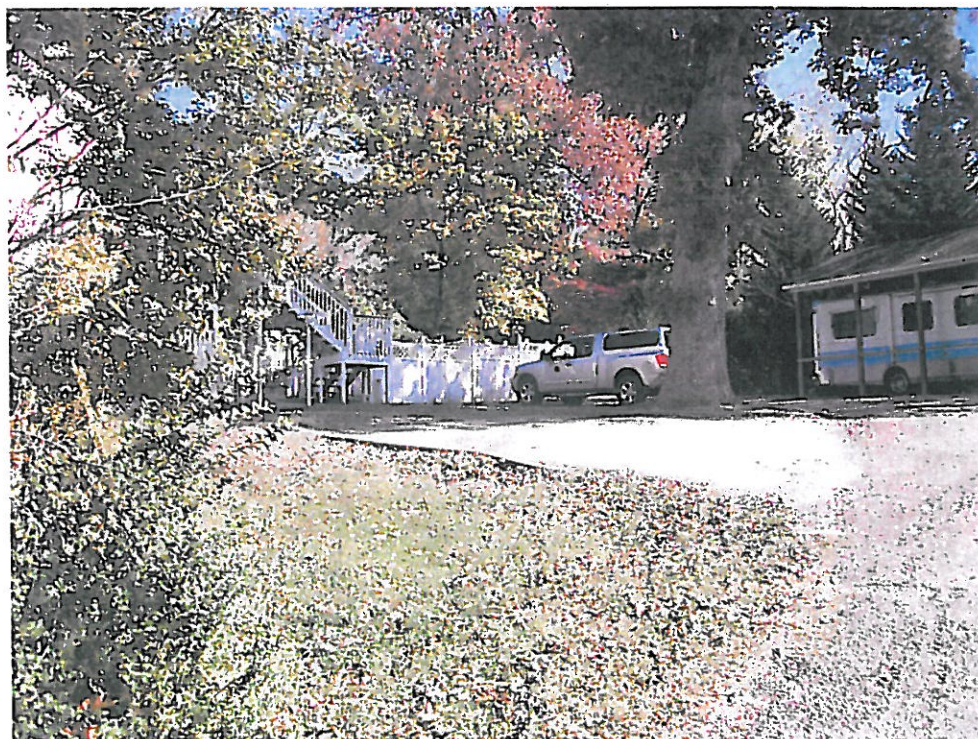
Steps to upper level from patio



Patio area



Right/back side of lodge building



Rear driveway and parking pad – back right side of lodge building



Spa and Salon Building



Spa and Salon Building



Lodge Building



Spa and Salon Building – left side
Lodge Building – right side

LYNCHBURG CITY COUNCIL

Agenda Item Summary

MEETING DATE: **February 8, 2011**

AGENDA ITEM NO.: 14

CONSENT: REGULAR: **X**

WORK SESSION:

CLOSED SESSION:
(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: **Discussion Regarding Council's Work Session Schedule and Starting Times**

RECOMMENDATION: Consider alternatives to Council's work session schedule and starting times. Approve the schedule for budget deliberations.

SUMMARY: Recently, it has become increasingly challenging to prepare agendas for Council's work sessions that both accommodate the many different topics of interest or necessity and provide an appropriate amount of time for Council's exploration of and deliberation on the issues. In addition to the many issues that staff brings before Council (stormwater, redistricting, HUD programs, etc.), from time to time organizations or groups ask to be given time to speak to Council and, more recently, Council members have asked for briefings and suggested dates for them to occur. Some recent requests include a report on the activities of the Code Enforcement Task Force, a report on immediate steps that the School Board is considering to address issues at Heritage High School, a report on the Business Development Center, and a briefing by a nuclear engineering outreach group.

It is our practice to accommodate requests by Council members for particular items be placed on a future agenda, however, we are finding that the timely scheduling of such requests is becoming more difficult. Staff is usually looking at the work session schedule at least two months out and the two hours that are available, from 5:00 p.m. to 7:00 p.m., fill quickly, especially if an item calls for Council discussion. Providing the time for thoughtful discussion is exactly what the work sessions should facilitate and that is difficult if too many items are included.

In the months of March and April, the schedule will be fuller as budget deliberations will be taking place. It is also anticipated that additional work sessions will be scheduled as in the past. Attached is the budget calendar.

There are several options for Council to consider:

- Maintain the status quo and work more deliberately to manage work session schedules and agendas.
- Shift some items, such as briefings, onto the regular agenda, depending on the press of other business such as public hearings.
- Start Council work sessions earlier; 1:00 p.m. or 4:00 p.m. have been suggested, however, the earlier time will conflict with other meetings such as the Parking Authority.
- Add additional work sessions.

Staff will seek Council's guidance during its meeting on Tuesday.

PRIOR ACTION(S): N/A

FISCAL IMPACT: N/A

CONTACT(S): Kimball Payne, 455-3990

ATTACHMENT(S): Budget Calendar

REVIEWED BY: lkp

027L

**CITY OF LYNCHBURG
BUDGET CALENDAR
FY 2012**

July 2, 2010 Send Carry forward Letter to Departments

July 15, 2010 Carry forward due to Budget Office

August 31, 2010 Leadership Team Retreat

September 10, 2010 Council Retreat - FY 2012 Budget Preview

September 30, 2010 Technology Project requests due to IT

**October 1, 2010 Preliminary Benefit Rates due to Budget Office from Human Resources;
Preliminary Debt Numbers due to Budget Office from Finance**

**October 12, 2010 Work Session/Council Meeting;
Carry forward to Council**

November 1, 2010 Citizen Civic Engagement Ward II - R. S. Payne Elementary School

November 4, 2010 Citizen Civic Engagement Ward I - Bedford Hills Elementary School

November 8, 2010 Citizen Civic Engagement Ward III - Heritage High School

November 15, 2010 Citizen Civic Engagement Ward IV - Linkhorne Middle School

November 19, 2010 Small & Medium Departments Operating & CIP Budget Submissions due

December 1, 2010 Large Departments & Constitutional Offices Operating & CIP Budget Submissions due

December 21, 2010 Non-Departmental Budget due from Human Resources

December 30, 2010 Revenue Projections to City Manager

January 14, 2011 Schools Operating & CIP Budget due

January 18, 2011 Budget Council Retreat

January 21, 2011 Department Performance Measures due

February 1, 2011 Water & Sewer Operating & CIP Budget Submissions due

February 24, 2011 Departmental Review of Budgets

March 3, 2011 Manager's Proposed Budget to Council

March 8, 2011 Council Work Session - City Manager to Present Budget to Council

March 15, 2011 Council Work Session - City Manager to Present Budget to Council

**March 22, 2011 Council Work Session - City Manager to Present Budget to Council;
Ad for Public Hearing**

March 25, 2011 Send Third Quarter Letter to Departments

March 29, 2011 Council Work Session - Council Balance Budget

April 5, 2011 Council Meeting - Public Hearing for Budget

April 8, 2011 Third Quarter Requests due from Departments

April 12, 2011 Council Work Session - Council Balance Budget

**April 19, 2011 Ad for 3rd Quarter;
Council Work Session - Council Balance Budget**

**April 26, 2011 Council Work Session - Council Balance Budget
Resolution for Manager Approval**

May 10, 2011 Council Meeting - First Reading of Budget for Adoption; 3rd Quarter Public Hearing

May 24, 2011 Council Meeting - Second Reading of Budget for Adoption; 3rd Quarter Adoption

July 1, 2011 Adopted Budget to Council and Departments

June 28, 2007

July 13, 2007

August 1, 2007

August 7, 2007

August 14, 2007

September 10, 2007

September 21, 2007

September 28, 2007

October 2, 2007

October 8, 2007

October 10, 2007

October 10, 2007

October 12, 2007

October 15, 2007

October 16, 2007

October 24, 2007

October 24, 2007

October 26, 2007

November 2, 2007

November 9, 2007

November 12, 2007

November 13, 2007

November 21, 2007

December 3, 2007

December 3-7, 2007

December 5, 2007

December 10-14, 2007

December 11, 2007

January 7-11, 2008

January 8, 2008

January 16, 2008

January 18, 2008

January 21-25, 2008

February 1, 2008

February 4, 2008

February 7, 2008

February 11, 2008
February 15, 2008

March 3, 2008
March 11, 2008
March 18, 2008

March 25, 2008

April 1, 2008
April 8, 2008
April 15, 2008
April 22, 2008

May 13, 2008
May 27, 2008

**CITY OF LYNCHBURG
BUDGET CALENDAR
FY 2009**

Send Carry forward Letter to Departments
Carry forward due to Budget office

Debt Capacity Meeting

CIP Instructions sent to departments
Carry forward to Council

CIP submissions due to Budget office

Reclassification and new position requests due to Human Resources
Project requests due to IT

Initialize Budget

Budget Instructions to Departments

New CIP project submissions to the Planning Commission for review for compliance with the Comprehensive Plan
Meetings with Project Managers to discuss project priorities

Reclassification and new position results due to Departments from Human Resources

Open Budget Module for Keying

Q&A for Budget Contacts

Recommendations due from Planning Commission

Draft CIP submissions to PDC for review

Small Departments Personnel Services Due (Assessor, Atty, Mngr, Comm&Mrk, ED, Fleet, HR, Int Aud, Rsk Man)

Medium Departments Personnel Services Due (Finance, Police, Fire, Libraries, Museums, IT)

Large Departments Personnel Services Due (Airport, Solid Waste, SS, JS, Detention Home, Comm Dev, P&R, Public Works, Constitutionals, Utilities)

Small Departments Budget Requests Due (Assessor, Atty, Mngr, Comm&Mrk, ED, Fleet, HR, Int Aud, Rsk Man)

First Draft of Financial Projections (Expenditures/Revenues/Debt) completed by Finance

CIP Financing Plans Due from Accountants to Budget Office

Medium Departments Budget Requests Due (Finance, Police, Fire, Libraries, Museums, IT)

Large Departments Budget Requests Due (Airport, SS, JS, Detentn Home, Comm Dev, P&R, Public Works, Constitutionals)

Manager meet with Small Departments, as necessary

CIP Project Status Meeting

Manager meet with Medium Departments, as necessary

Proposed CIP and Debt capacity information to Council work session

Manager meet with Large Departments, as necessary

Final Draft CIP to Council Work Session

Expenditure Base to Finance for Projections/Budgets Updated in Module;

Non-Departmental budget due from Human Resources

Schools Operating Budget Due; Fund Summaries Due From Accountants

Revenue Projections to City Manager

Balance Proposed Budget

Budget Submission and Fund Summaries for Water and Sewer Funds Due

Close Budget Module

Recommendations to Departments

Departments Adjustments Due by NOON

Draft Proposed Budget Posted on Intranet for Departments to Review

Department Changes to Proposed Document Due to Budget Office by NOON
Proposed Budget to Printer

Proposed Budget to Council
Council Work Session - City Manager to Present to Council
Council Work Session - City Manager to Present Budget to Council/CDBG & Home Discussion;
Ad for Public Hearing
Council Work Session - City Manager to Present Budget to Council

Council Meeting - Public Hearing for Budget
Council Work Session - Council Balance Budget
Council Work Session - Council Balance Budget
Council Work Session - Council Balance Budget
Council Meeting

Council Meeting - First Reading of Budget for Adoption; 3rd Quarter Public Hearing
Council Meeting - Second Reading of Budget for Adoption; 3rd Quarter



