LYNCHBURG CITY COUNCIL
Agenda Item Summary

MEETING DATE: **September 22, 2015** AGENDA ITEM NO.: 1

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

ACTION: INFORMATION: **X**

ITEM TITLE: **Golf Carts and Utility Vehicles on Certain City Streets**

RECOMMENDATION: For discussion only.

SUMMARY: City staff has received requests (attached) from Liberty University, Lynchburg College, and Central Virginia Community College for City Council to adopt an ordinance allowing for the operation of golf carts and utility vehicles on certain streets near the respective institutions. In response, an ordinance was drafted that would establish the criteria for such operations.

Staff had some misgivings about allowing the operation of such vehicles on City streets and discussed the matter with the Physical Development Committee in August. There were mixed feelings on the committee regarding the proposal and staff was directed to bring it to full Council for discussion during a work session. Based on Council's guidance at that time, staff would finalize an ordinance for future adoption.

In response to comments made by members of the Physical Development Committee, staff conducted further review and made revisions to the draft ordinance (attached).

Council's options regarding this matter include:

1) Decline to allow the operation of golf carts and utility vehicles on City streets and instead encourage the use of "street legal" low speed/utility vehicles as proposed in the attached letter from an interested citizen.

2) Allow the use of golf carts and utility vehicles under certain conditions based on speed limits, traffic volume and road character, such as:

    - the vehicles should only be allowed on roads with posted speeds of 25 mph or less unless the road is within the property limits (internal streets) of a two or four year institution.
    - VDOT approval shall be required for any designated roadway that it maintains. VDOT standards include a traffic count of less than 1000 vpd, a pavement width of seventeen feet, and truck traffic of ten percent or less.

With respect to the specific requests from the institutions, staff offers the following for consideration:

- Liberty University: Allow the use of golf carts and utility vehicles on University Blvd, on Liberty Mt. Drive and crossing Candlers Mt. Road at University Blvd. at a designated and signal controlled crosswalk. It is not appropriate for such vehicles to operate on Candlers Mt. Road.

- Central Virginia Community College: Allow the use of golf carts and utility vehicles on Harvard Street (SR 368), which is maintained by VDOT.

- Lynchburg College: Public streets internal to Lynchburg College are appropriate for golf carts and utility vehicles. It is not appropriate for such vehicles to operate on Lakeside Drive, Thomas Road, Oakley Avenue (except for access to a crosswalk to cross Lakeside Drive), Breckenridge St., or Richmond St. Such vehicles could be allowed to cross Lakeside Drive at its intersection with Oakley Ave./Monticello Ave.; access to Oakley Ave. would be via Jubal St. and Macon St.

- It may also be appropriate to allow for the limited operation of golf carts and utility vehicles on sidewalks leading up to crosswalks at designated intersections.

Staff will be prepared to discuss this further with Council during the work session and representatives of the institutions have been advised of the discussion and may be in attendance.

PRIOR ACTION(S): Physical Development Committee, August 11, 2015

FISCAL IMPACT: None

CONTACT(S): Lee Newland, City Engineer, 455-3947

ATTACHMENT(S): Draft ordinance; State enabling legislation; Letters from institutions; Letter in opposition to the proposal.

REVIEWED BY: lkp

DRAFT DRAFT DRAFT DRAFT

ORDINANCE

AN ORDINANCE TO AMEND AND REENACT THE CODE OF THE CITY OF LYNCHBURG, 1981, BY ADDING THERETO NEW SECTIONS NUMBERED 25-200 through 25-200.8, RELATING TO THE OPERATION OF GOLF CARTS AND UTILITY VEHICLES ON THE PUBLIC STREETS .

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 Sections 25-200 through 25-200.8 as follows:

DIVISION 5. OPERATION OF GOLF CARTS AND UTILITY VEHICLES

Sec. 25-200. Definitions.

"Golf cart" for the purposes of this article means a self-propelled vehicle that is designed to transport persons playing golf and their equipment on a golf course.

"Utility vehicle" for the purposes of this article means a motor vehicle that is (i) designed for off-road use, (ii) powered by an engine of no more than 25 horsepower, and (iii) used for general maintenance, security, agricultural, or horticultural purposes. "Utility vehicle" does not include all-terrain vehicles as defined in Section 46.2-100 of the Code of Virginia, riding lawn mowers, or any other vehicle whose definition is included in Section 46.2-100 of the Code of Virginia.

Sec. 25-200.1. Use of golf carts or utility vehicles on public highways.

(a) No person shall operate a golf cart or utility vehicle on or over any public highway in the city except as provided in this division.

(b) The prohibitions of this section shall not apply to the operation of golf carts and utility vehicles by public employees and agents in the performance of governmental functions.

Sec. 25-200.2. Designation of public highways for golf cart and utility vehicle operations.

(a) No portion of the public highways may be designated for use by golf carts and utility vehicles unless the city council has reviewed and approved such highway usage.

(b) The city council may by ordinance authorize the operation of golf carts and utility vehicles on designated public highways within the city after (i) considering the speed, the volume of traffic, the average number of accidents, and the character of motor vehicle traffic using such highways, (ii) the physical characteristics of the public highways, such as the width, grade, condition of the pavement, etc. (iii) such other information as the city council may deed reasonably necessary to decide if golf carts and utility vehicles can be safely operated on such public highways, and (ii) determining that the operation of golf carts and utility vehicles on particular highways is compatible with state and local transportation plans and consistent with the Commonwealth's Statewide Pedestrian Policy.

(c) No public highway shall be designated for use by golf carts and utility vehicles if such golf cart and utility vehicle operations will impede the safe and efficient flow of motor vehicle traffic.

(d) Signs, approved by the city traffic engineer, alerting motorists that golf carts and utility vehicles may be in operation shall be erected along all roads designated for golf cart and utility vehicle operation in such locations

as determined by the city traffic engineer. The city shall be responsible for the installation and maintenance of any signs pertaining to the operation of golf carts or utility vehicles. The cost of the installation and continued maintenance of the signs on streets and highways designated for the use of golf carts and utility vehicles shall be the responsibility of the organizations, individuals, homeowners associations or other entities requesting the designations. All costs incurred by the city for the installation and continued maintenance of the signs shall be assessed to and recovered from the organization, individual, or entity that requested the designation.

(e) If such signage is not in place at all times, the operation of golf carts and utility vehicles shall be illegal and must immediately cease until the signs are repaired or replaced.

Sec. Sec. 25-200.3. public highways designated for golf cart and utility vehicle operations.

(a) The city council hereby designates the following public highways within the city upon which golf carts and utility vehicles may be operated in accordance with the provisions of this article.

(1)

(2)

(3)

(4)

Even if the city council has approved the operation of a golf cart or utility vehicle on a designated public highway, if the designated public highway is maintained by the Virginia Department of Transportation, no person shall operate any golf cart or utility vehicle on such public highway until the Virginia Department of Transportation also approves the operation of golf carts and utility vehicles on such public highway.

(b) With regard to each of the public highways listed in subsection (a) above, the city council has considered the factors set forth in subsection 25-200.2(b) above, as required by Section 46.2-916.2 of the Code of Virginia.

Sec. Sec. 25-200.4. Limitations on golf cart and utility vehicle operations on designated public highways.

(a) Golf cart and utility vehicle operations on designated public highways shall be in accordance with the following limitations:

(1) A golf cart or utility vehicle may be operated only on designated public highways where the posted speed limit is 25 miles per hour or less. A golf cart or utility vehicle may cross a highway at an intersection controlled by a traffic light if the highway has a posted speed limit of no more than 35 miles per hour;

(2) No person shall operate any golf cart of utility vehicle on any designated public highway unless the signage required by Section 25-200.2(d) of this division is installed at the time of said operation; if such signage is not in place, the operation of golf carts and utility vehicles shall be illegal and must immediately cease until the signs are repaired or replaced;

(3) No person shall operate any golf cart or utility vehicle on any public highway unless he has in his possession a valid driver's license;

(4) Every golf cart or utility vehicle, whenever operated on a public highway, shall display a slow-moving vehicle emblem in conformity with Section 4 6.2-1081 of the Code of Virginia;

(5) Golf carts and utility vehicles shall be operated upon the public highways only between sunrise and sunset, unless equipped with such lights as are required in Section 46.2-1010 *et seq.* of the Code of Virginia, for different classes of vehicles;

(6) Golf carts and utility vehicles operating on designated public highways pursuant to this section shall be covered by an insurance policy. Such policy shall meet the minimum liability amounts contained in Section 46.2-472 of Code of Virginia and provide coverage during the operation of the golf cart or utility vehicle on public highways; proof of such insurance shall be maintained in such golf cart or utility vehicle at all times such golf cart or utility vehicle is in operation on a designated public highway;

(7) Golf carts and utility vehicles must be operated in accordance with all applicable state and local laws and ordinances, including all laws, regulations, and ordinances pertaining to the possession and use of alcoholic beverages;

(8) Only the number of people the golf cart or utility vehicle is designed to seat may ride on a golf cart or utility vehicle. Additionally, passengers shall not be carried on the part of a golf cart or utility vehicle designed to carry golf bags or other cargo, and no one shall ride standing in a golf cart or utility vehicle;

(9) Golf carts and utility vehicles must be operated to the extreme right of the roadway and must yield to all vehicular and pedestrian traffic;

(10) Golf carts and utility vehicles should not be operated during inclement weather, nor when visibility is impaired by weather, smoke, fog, or other conditions; and

(11) The police chief or his designee may prohibit the operation of golf carts or utility vehicles on any highway if the police chief determines that the prohibition is necessary in the interest of public safety.

(b) The limitations of subsection (a) above shall not apply to golf carts and utility vehicles being operated as follows:

(1) To the extent necessary for local government employees or agents, operating only upon highways located within the locality, to fulfill a governmental purpose, provided the golf cart or utility vehicle is being operated on highways with speed limits of 35 miles per hour or less; and

(2) As necessary by employees of public or private two-year or four-year institutions of higher education if operating on highways within the property limits of such institutions, provided the golf cart or utility vehicle is being operated on highways with speed limits of 35 miles per hour or less.

Sec. 25-200.5. Application or nomination procedure.

(a) Any individual, organization, or entity may apply to the city manager to have a qualifying public highway in the city designated for golf cart or utility vehicle use, provided, however, that if the public highway is located within a neighborhood with a homeowners association, whether mandatory or not, the application shall be in the name of the homeowners association and shall be signed by a duly-authorized representative of the homeowners association.

(b) At a minimum, each application shall include the following:

(1) The full legal name of the individual, organization, or entity making the application;

(2) The name and route number, if any, of each public highway to be designated;

(3) An application fee of $250.00.

(c) Upon receipt and acceptance of the application by the city manager, it shall be considered by the chief of police and the city traffic engineer, who shall make a recommendation to the city manager.

(d) The city manager shall review the recommendations of the chief of police and city traffic engineer and shall make a recommendation to the city council.

(d) The city council shall consider the recommendations of the city manager, the factors set forth in Section 25-200.2(d) of this division, and the general merits of the application before making a determination.

(e) Any costs associated with the application, including advertising costs, shall be the responsibility of the individual, organization, or entity making the application. All such costs incurred by the city shall be assessed to and recovered from the individual, organization, or entity making the application.

Sec. Sec. 25-200.6. Penalty.

Except as otherwise specifically provided, any person who violates any provision of this article shall be guilty of a traffic infraction punishable by a fine of not more than $250.00.

Sec. Sec. 25-200.7. Revocation of designation.

The city council may, at its sole discretion and upon recommendations of the city manager, suspend the designation of any public highway for golf cart or utility vehicle use at any time.

Sec. Sec. 25-200.8. Liability disclaimer.

All persons who operate or ride upon golf carts or utility vehicles on public highways do so at their own risk and peril, and must be observant of and attentive to the safety of themselves and others, including their passengers, other motorists, bicyclists, and pedestrians. The city shall have no liability under any theory of liability and assumes no such liability for permitting golf carts and utility vehicles to be operated on designated public highways.

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

Adopted:

Certified: _____
Clerk of Council

095K

Excerpt from the Code of Virginia

§ 46.2-916.1. Golf cart and utility vehicle operations on public highways not otherwise designated for such operation.
No person shall operate a golf cart or utility vehicle on or over any public highway in the Commonwealth except as provided in this article. 2004, c. 746.

§ 46.2-916.2. Designation of public highways for golf cart and utility vehicle operations.
A. No portion of the public highways may be designated for use by golf carts and utility vehicles unless the governing body of the county, city, or town in which that portion of the highway is located has reviewed and approved such highway usage.

B. The governing body of any county, city or town may by ordinance authorize the operation of golf carts and utility vehicles on designated public highways within its boundaries after (i) considering the speed, volume, and character of motor vehicle traffic using such highways and (ii) determining that golf cart and utility vehicle operation on particular highways is compatible with state and local transportation plans and consistent with the Commonwealth's Statewide Pedestrian Policy provided for in § 33.2-354.

C. Notwithstanding the other provisions of this section, no town that has not established its own police department, as defined in § 9.1-165, may authorize the operation of golf carts or utility vehicles. The provision of this subsection shall not apply to the Towns of Claremont, Clifton, Irvington, Saxis, Urbanna, or Wachapreague.

D. No public highway shall be designated for use by golf carts and utility vehicles if such golf cart and utility vehicle operations will impede the safe and efficient flow of motor vehicle traffic.

E. The county, city or town that has authorized the operation of golf carts or utility vehicles shall be responsible for the installation and continuing maintenance of any signs pertaining to the operation of golf carts or utility vehicles. Such county, city or town may include in its ordinance for designating highways the ability to recover its costs of the signs and maintenance pertaining thereto from organizations, individuals or entities requesting the designations. The cost of installation and continuing maintenance of any signs pertaining to the operation of golf carts or utility vehicles shall not be paid by the Virginia Department of Transportation.

F. Notwithstanding the other provisions of this section, employees of the Department of Conservation and Recreation may operate golf carts and utility vehicles on those portions of public highways located within Department of Conservation and Recreation property and on Virginia Department of Transportation-maintained highways that are adjacent to Department of Conservation and Recreation property, provided the golf cart or utility vehicle is being operated on highways with speed limits of no more than 35 miles per hour.2004, c. 746; 2006, c. 728; 2008, c. 196; 2009, cc. 68, 504; 2011, c. 469; 2012, c. 9; 2013, c. 64; 2014, c. 69.

§ 46.2-916.3. Limitations on golf cart and utility vehicle operations on designated public highways.
A. Golf cart and utility vehicle operations on designated public highways shall be in accordance with the following limitations:

1. A golf cart or utility vehicle may be operated only on designated public highways where the posted speed limit is 25 miles per hour or less. However, a golf cart or utility vehicle may cross a highway at an intersection controlled by a traffic light if the highway has a posted speed limit of no more than 35 miles per hour and in the Town of Colonial Beach may cross any highway at an intersection marked as a golf cart crossing by signs posted by the Virginia Department of Transportation;

2. In towns with a population of 2,000 or less, a golf cart or utility vehicle may cross a highway at an intersection conspicuously marked as a golf cart crossing by signs posted by the Virginia Department of

Transportation if the highway has a posted speed limit of no more than 35 miles per hour and the crossing is required as the only means to provide golf cart access from one part of the town to another part of the town;

3. No person shall operate any golf cart or utility vehicle on any public highway unless he has in his possession a valid driver's license;

4. Every golf cart or utility vehicle, whenever operated on a public highway, shall display a slow-moving vehicle emblem in conformity with § 46.2-1081; and

5. Golf carts and utility vehicles shall be operated upon the public highways only between sunrise and sunset, unless equipped with such lights as are required in Article 3 (§ 46.2-1010 et seq.) of Chapter 10 for different classes of vehicles.

B. The limitations of subdivision A 1 shall not apply to golf carts and utility vehicles being operated as follows:

1. To cross a highway from one portion of a golf course to another portion thereof or to another adjacent golf course or to travel between a person's home and golf course if (i) the trip would not be longer than one-half mile in either direction and (ii) the speed limit on the road is no more than 35 miles per hour;

2. To the extent necessary for local government employees, operating only upon highways located within the locality, to fulfill a governmental purpose, provided the golf cart or utility vehicle is being operated on highways with speed limits of 35 miles per hour or less;

3. As necessary by employees of public or private two-year or four-year institutions of higher education if operating on highways within the property limits of such institutions, provided the golf cart or utility vehicle is being operated on highways with speed limits of 35 miles per hour or less;

4. On a secondary highway system component that has a posted speed limit of no more than 35 miles per hour and is within three miles of a motor speedway with a seating capacity of at least 25,000 but less than 90,000 on the same day as any race or race-related event conducted on that speedway; and

5. To the extent necessary for employees of the Department of Conservation and Recreation, operating only on highways located within Department of Conservation and Recreation property or upon Virginia Department of Transportation-maintained highways that are adjacent to Department of Conservation and Recreation property, to fulfill a governmental purpose, provided that the golf cart or utility vehicle is being operated on highways with speed limits of no more than 35 miles per hour.

C. The governing body of any county, city, or town may by ordinance impose additional restrictions or limitations on operations of golf carts, utility vehicles, or both, on public highways within its boundaries, provided that the restrictions or limitations imposed by any such ordinance are no less stringent than the restrictions and limitations contained in this article. In the event that any provision of any such ordinance conflicts with any provision of this section other than subdivision B 5, the provision of the ordinance shall be controlling. 2004, c. 746; 2008, c. 456; 2009, cc. 743, 835; 2010, c. 112; 2011, cc. 68, 140, 469.

LIBERTY UNIVERSITY.
OFFICE *of the* PRESIDENT

April 10, 2015

VIA U.S. MAIL & EMAIL

Kim Payne
City Manager
900 Church Street, 3rd Floor
Lynchburg, VA 24504

RE: Ordinance to Permit Golf Cart and Utility Vehicle Use on Certain Public Roads

Dear Kim:

In response to Walter Erwin's letter of January 2, 2014 and pursuant to Virginia Code Section 46.2-916.3.B.3., I write to request that the Lynchburg City Council adopt an ordinance that would designate certain public roads in the vicinity of Liberty University to permit use by golf carts and utility vehicles.

Section 46.2-916.3.B.3. of the Virginia Code provides an exception to the general rule that golf carts and utility vehicles may not be operated on public roads. A recent opinion from the Attorney General has indicated that an institution may only take advantage of this exception to the extent that the City has already designated, by ordinance, the specific public roads as permitting use by golf carts and utility vehicles by the public generally. It would be beneficial for the City to designate certain public roads within and adjacent to properties owned or controlled by Liberty University.

Like other such institutions within Lynchburg, Liberty University's day-to-day operations, particularly with regard to maintenance, landscaping, and the like, depend on having golf cart and utility vehicle access across campus via the public roads. In Liberty's case, the roads that we request be designated for use by golf carts and utility vehicles are described as follows and are graphically depicted on the attached Exhibit A:

- Candlers Mountain Road: Beginning on Candlers Mountain Road/US 501 just as it splits with the on-ramps to US 460, between the Norfolk Southern bridge and the Department of Emergency Services Communications Center, and ending where Candlers Mountain Road reaches the boundary the City of Lynchburg approximately 1.9 miles away (Highlighted in yellow on Exhibit A).

- University Boulevard: Beginning at the intersection of Candlers Mountain Road and University Boulevard, and ending at the intersection of University Boulevard and Liberty University Drive approximately .4 miles away (Highlighted in green on Exhibit A).
- Liberty University Drive (US 460 Overpass): Beginning where Liberty University Drive intersects University Boulevard and ending where Liberty University Drive intersects Liberty Mountain Drive approximately .1 miles away (Highlighted in blue on Exhibit A).
- Liberty Mountain Drive: Beginning where Liberty Mountain Drive intersects Candlers Mountain Road and ending where Liberty Mountain Drive reaches the southern boundary of Liberty University's property approximately 1.1 miles away (Highlighted in orange on Exhibit A).

Liberty University respectfully requests that you submit this proposal to the City Council to facilitate the operation of golf carts and other utility vehicles by Liberty University employees on the public roads described.

As you may know, other Lynchburg institutions of higher education would benefit from similar designation. Liberty University supports their efforts and believes it would be more efficient and enlightening for the City to consider such designations at the same time.

Please let me know if you have any questions regarding this matter.

Sincerely,

Jerry Falwell
President

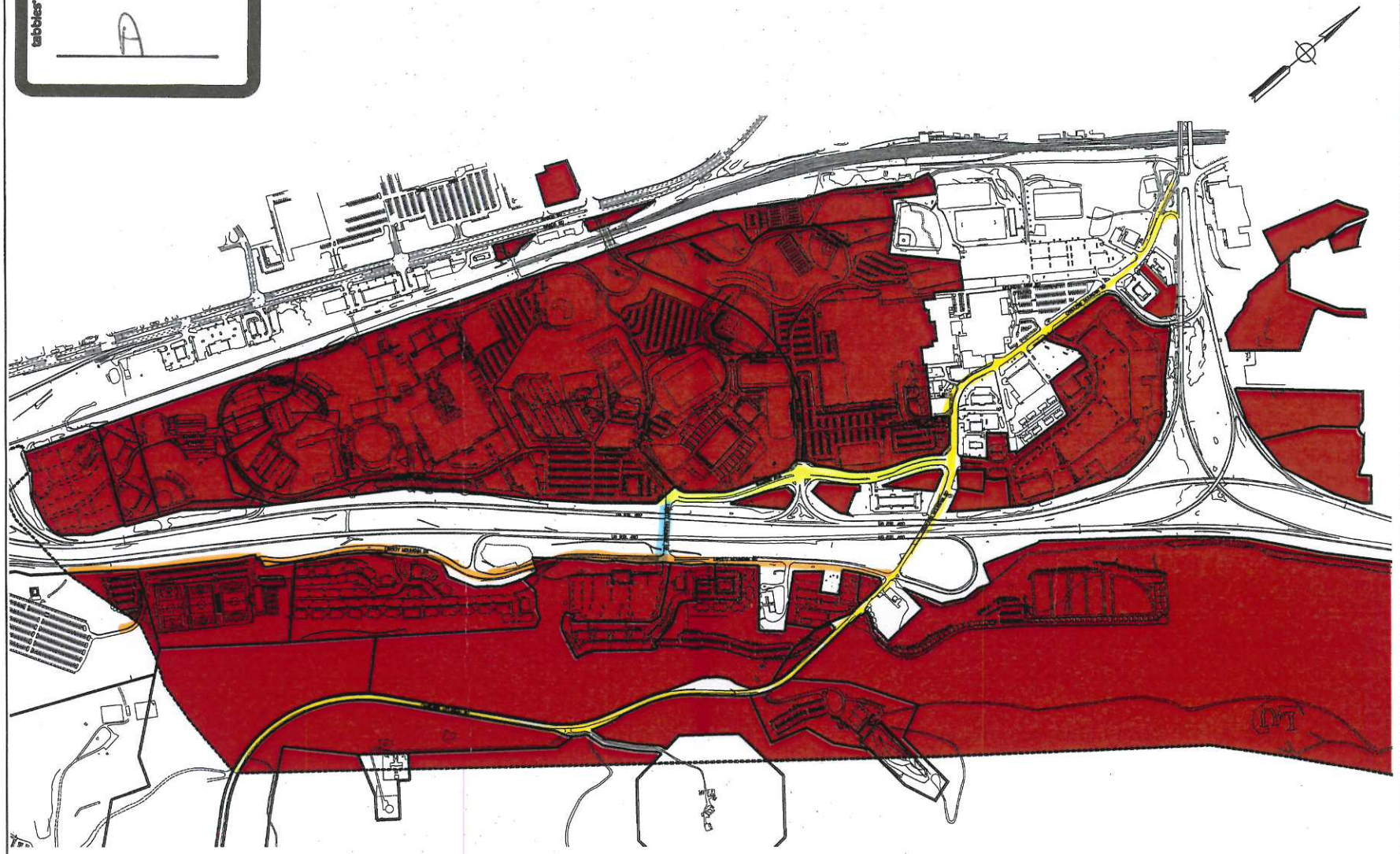
Enclosure

cc: David Corry, General Counsel, Liberty University
Walter Erwin, City Attorney, City of Lynchburg

EXHIBIT

tabbies

A



LIBERTY
UNIVERSITY

LIBERTY UNIVERSITY
PLANNING AND CONSTRUCTION
1971 UNIVERSITY BLVD
LYNCHBURG, VA. 24502
PHONE: 434-582-4131
FAX: 434-522-0470

NAME:

LIBERTY UNIVERSITY

CITY OF LYNCHBURG, VIRGINIA

GRAPHIC SCALE
0 20 40
1"=20'

ISSUE DATE: 8/23/13

REV.	DATE	REMARK	CAD TECH

Cad File Number: ATV TRAVEL

PROJECT NUMBER

DRAWING NUMBER

DRAWN BY: SSD

CHECKED BY: MHC

APPROVED BY: MHC

SHEET: C-100

SHEET NO.: 1 OF 1

Central Virginia Community College
Where your future begins

3506 Wards Road, Lynchburg, VA 24502-2498
434-832-7600 • FAX: 434-386-4681 • www.cvcc.vccs.edu

OFFICE OF THE PRESIDENT

March 12, 2015

Mr. Kim Payne
Lynchburg City Manager
900 Church Street, 3rd Floor
Lynchburg, VA 24504

RE: Ordinance to Permit Golf Cart and Utility Vehicle Use on Certain Public Roads

Dear Kim:

Pursuant to Virginia Code Section 46.2-916.3.B.3., I write to request that the Lynchburg City Council adopt an ordinance that would designate certain roads in the vicinity of Central Virginia Community College to permit use by golf carts and utility vehicles.

Section 46.2-916.3.B.3., of the Virginia Code provides an exception to the general rule that golf carts and utility vehicles may not be operated on public roads. A recent opinion from the Attorney General has indicated that an institution may only take advantage of this exception to the extent that the City has already designated, by ordinance, the specific public roads as permitting use by golf carts and utility vehicles by the public generally. It would be beneficial for the City to designate certain public roads within adjacent properties owned by Central Virginia Community College.

Like other such institutions within Lynchburg, the College's day-to-day operations particularly with regard to maintenance, landscaping, and the like, depends on having golf cart and utility vehicle access across campus via the public roads. In Central Virginia Community College's case, the road that we request be designated for use by golf carts and utility vehicles is Harvard Street from Wards Road to Wards Ferry and the access road across the front of the campus, all designated as State Route 368.

Central Virginia Community College respectfully requests that you submit this proposal to the City Council to facilitate the operation of golf carts and other utility vehicles by Central Virginia Community College employees on the public road described.

As you may know, other Lynchburg institutions of higher education would benefit from similar designation. Central Virginia Community College supports their efforts and believes it would be more efficient and enlightening for the city to consider such designations at the same time.

Please let me know if you have any questions regarding this matter.

Sincerely,

John Capps
President

cc: John Poole

LYNCHBURG COLLEGE EST. 1903

Business Office

March 6, 2015

VIA U.S. MAIL & EMAIL

Mr. Kim Payne
City Manager
900 Church Street, 3rd Floor
Lynchburg, VA 24504

RE: Ordinance to Permit Golf Cart and Utility Vehicle Use on Certain Public Roads

Dear Kim:

Pursuant to Virginia Code Section 46.2-916.3.B.3., I write to request that the Lynchburg City Council adopt an ordinance that would designate certain public roads in the vicinity of Lynchburg College to permit use by golf carts and utility vehicles.

Section 46.2-916.3.B.3. of the Virginia Code provides an exception to the general rule that golf carts and utility vehicles may not be operated on public roads. A recent opinion from the Attorney General has indicated that an institution may only take advantage of this exception to the extent that the City has already designated, by ordinance, the specific public roads as permitting use by golf carts and utility vehicles by the public generally. It would be beneficial for the City to designate certain public roads within and adjacent to properties owned or controlled by Lynchburg College.

Like other such institutions within Lynchburg, the College's day-to-day operations, particularly with regard to maintenance, landscaping, and the like, depend on having golf cart and utility vehicle access across campus via the public roads. In Lynchburg College's case, the roads that we request be designated for use by golf carts and utility vehicles are described as follows:

- From the entrance of Lynchburg College on Lakeside Drive to the entrance to Faculty Drive and including Faculty Drive.
- The block including McCausland Street to Thomas Road, Thomas Road to Vernon Street, Vernon Street to College Street back to McCausland.
- The block of Vernon Street, College Drive, Breckenbridge, and Richmond Streets.
- From College Drive to the entrance of Lynchburg College from Lakeside Drive.
- The block including College Drive to Jubal Street, Oakley Avenue, and Macon Street.
- The block including Hood Street, Bristol Street, Monticello Avenue, and Lakeside Drive.

Lynchburg College respectfully requests that you submit this proposal to the City Council to facilitate the operation of golf carts and other utility vehicles by Lynchburg College employees on the public roads described.

As you may know, other Lynchburg institutions of higher education would benefit from similar designation. Lynchburg College supports their efforts and believes it would be more efficient and enlightening for the City to consider such designations at the same time.

Please let me know if you have any questions regarding this matter.

Sincerely,

Stephen E. Bright
Vice President for Business & Finance

SEB/lbw

1750 Independence Blvd. Bedford, VA 24523 – 540-586-8221

August 28, 2015

L. Kimball Payne, III
City Manager
City of Lynchburg, VA

By email to: kpayne@lynchburgva.gov

Kim,

An article entitled "Colleges in Lynchburg petition council for use of golf carts on city streets" was published in The News & Advance on August 12, 2015. I am writing you to discuss this petition.

On behalf of my employees, my family, our fellow citizens and myself I state my opposition to the operation of off-road vehicles on city streets. Such off-road vehicles are not designed to operate safely on public roads and can therefore put all drivers and pedestrians at risk. For example:

1. Many off-road models are only equipped with mechanical drum brakes on rear wheels. This braking system is not as safe as automobile style 4-wheel hydraulic brakes found on most Street-Legal models.
2. Most off-road vehicles only have a rudimentary suspension and turf tires that are not designed for and cannot handle the potholes and other imperfections in our pavement.
3. The top speed of most off-road vehicles is 10 – 15 miles per hour. Operation on public streets at this slow speed would create road hazards, traffic jams and other safety concerns.
4. Off-road vehicles have virtually no safety equipment at all – no seat belts, no safety glass windshield, no windshield wiper, no turn signals, no horn, no reflectors, etc. This puts operators, other motorists and pedestrians at high risk of serious injury.

However, there is a simple and readily available compromise solution to the colleges' petition. My business and several others in the area sells various models of vehicles generically referred to as "golf carts" that are designed and certified as "Street-Legal" (also referred to as Low Speed Vehicles) under both Federal and State laws.

In Virginia § 46.2-100 these vehicles are defined as:

"Low-speed vehicle" means any four-wheeled electrically-powered vehicle, except a motor vehicle or low-speed vehicle that is used exclusively for agricultural or horticultural purposes or a golf cart, whose maximum speed is greater than 20 miles per hour but not greater than 25 miles per hour and is manufactured to comply with safety standards contained in Title 49 of the Code of Federal Regulations, 571.500.

Virginia § 46.2-908.2 specifies the minimum vehicle safety equipment required to comply with this law. Virginia § 46.2-908.3 defines the permitted operation of these vehicles on city streets.

The use of Certified Street-Legal vehicles is the ideal compromise solution to the petition from the colleges because:

1. These vehicles have much more safety equipment than off-road golf carts and can thus offer protection for drivers and passenger in low speed operations. They must have safety glass windshields, windshield wipers, turn signals, horn, headlights, brake lights, tail lights, 4-way hazard lights, center high-mounted stop light, reflectors, 3-point seat belts and Street-Rated tires. All of this safety gear must be approved by the department of Transportation.
2. Street-legal vehicles can go 25 MPH. They are thus better able to keep up with traffic on city streets with speed limits of 35 MPH or less. At 25 MPH these vehicles are unlikely to cause traffic jams and road hazards.
3. The additional cost for Street-Legal equipment and certification is reasonable and affordable
4. Off-Road golf carts frequently are equipped with gas motors that are both noisy and high emissions. Street-Legal vehicles in Virginia must be electric powered. This reduces the carbon footprint of the city and helps attain your various Green and Sustainability goals
5. There are a wide variety of makes, models, configurations and manufacturers of Street-Legal vehicles. I have attached flyers on the models our company sells.

I recommend that you deny the petition of the colleges to use off-road carts on city streets due to safety concerns. Instead I recommend that you encourage the colleges to use Street-Legal carts for this purpose.

We would be glad to bring demonstration models of the Street-Legal vehicles we sell to your office, to a Council Meeting or anywhere else you suggest. This would give interested parties the opportunity to evaluate the suitability of these vehicles for the intended purpose of the colleges.

Thank you very much for your consideration of this opinion.

Sincerely,

Andy

Andy Kaplan
540-793-2777 cell
akaplan@dominiondodge.com

Villager LSV 2+2

Street-legal,[1] environmentally smart

Ingersoll Rand

Club Car

Villager LSV 2+2

Legendary Club Car performance, now street-legal.

There's no question Club Car has the most reliable and cost-effective transport vehicles in the industry. Now, we are equipping them to be street legal on many roads posted at 35 mph or less.

Introducing the all new electric Villager LSV. It emits zero emissions, seats 4 passengers, costs just pennies per mile to operate, and helps reduce your annual operating expenses. Test drive one today and experience the thrill of a zero-emission transportation vehicle.

Vehicle may be shown with additional options.

Features

- 20 – 30 mile range on a single charge
- 800 lb vehicle load capacity
- Impact-resistant ABS / ArmorFlex body with UV protective coating
- Corrosion resistant, aircraft aluminum chassis
- Independent front suspension
- 2-passenger canopy with 3-point front seat belts, rear lap seat belts
- Automotive glass windshield with wiper
- Headlights, LED taillights / turn signals, reverse / back-up lights and horn
- Center and driver-side mirrors
- Dual beverage / radio holders
- On-board charger
- Two-year limited warranty (including parts and labor)

LX Package

10-in alloy wheels (205/50R-10)

Passenger side mirror

Beige / Oyster 2-tone sport seats

Custom dash with wood accents

Speedometer / odometer / trip

Battery capacity indicator

LX accent package

Hour meter

SPECIFICATIONS

Drive Motor	5 hp continuous, 14 hp intermittent
Electrical System	48-volt DC, reduced speed reverse
Steering	Self-adjusting rack & pinion
Suspension	Front / rear leaf springs and dual hydraulic shocks
Brakes	4-wheel drum
Frame / Chassis	Aluminum I-Beam
Body (front / rear)	ABS/Armorflex©
Tires	18 x 8.5-8
Instrumentation	Battery warning light
Overall (L x W x H)	110.1 x 50.8 x 49.8 in
Wheelbase	67.3 in
Ground Clearance	4.5 in
Weight (without batteries)	742 lb
Weight (with batteries)	1129 lb
Forward Speed	22 – 24 mph
Outside Clearance Circle	19.4 ft (5.9 m)
Vehicle Warranty[3]	2-year limited vehicle / 4-year battery

Options[2]

Factory Accessories

10-in alloy wheels (205/50R-10)
Extended length canopy
Unique key switch
Speedometer / odometer / trip
Rear reflector triangle
Differential guard
Hour meter
Ashtray
Beige / Oyster 2-tone sport seats
White, beige, gray, or black seats
Battery capacity indicator

Field-Installed Accessories

Accessory plug
CartKey vehicle security
Enclosure
Single point watering system
Safety strobe post mounted
Wheel covers
Windshield washer kit
Passenger side mirror
Custom Dash with wood accents

Standard

White
Beige
Black

Non-standard

Red
Classic Blue

Premium Metallic

Diamond White Pearl
Titanium Silver
Desert Sand

www.clubcar.com 1.800.ClubCar

[1] The vehicles referenced herein have been designed and manufactured to comply with the United States National Highway Transportation and Safety Administration's Low Speed Vehicle rules and regulations. The operation of these vehicles is also subject to all applicable state and local laws, the effect of which may be to further limit or prohibit the lawful operation of these vehicles in certain environments. Do not operate these vehicles without a valid and appropriate state-issued driver's license. Club Car supports only the safe and legal use of our products and, therefore, strongly recommends that you inquire with the relevant state and local municipalities before attempting to operate these vehicles on roadways or in closed communities. Do not operate these vehicles in violation of applicable law, contrary to the instructions or recommendations contained in the Owner's Manual or in a manner that impedes traffic. To reduce the risk of injury, always operate these vehicles in a safe and conscientious manner while wearing the seat belts that come as standard safety equipment on all Carryall LSV models. [2] All vehicles shown may include additional options/accessories and may not be available on all models. Ask your authorized Club Car dealer representative for a complete listing of accessories and availability. [3] There are no warranties, expressed or implied, contained herein. See Limited Warranty found in the owner's manual or write to Club Car, Inc. The company reserves the right to make design changes without obligation to make these changes on units or systems previously sold.

CCN18033944 Rev 11/09

TRANSPORT LSV

Easy to drive and highly maneuverable, GEM®'s electric transport vehicles offer a quality ride for both you and your passengers. These street-legal† transport vehicles are purpose-built and feature all-electric operation, and the full lineup of zero-emission solutions is backed by 60 years of Polaris® performance and innovation.

GEM HIGHLIGHTS:

All-electric
Zero emissions

Street legal on roads less than 35 mph (48 kph) · most states

Plugs in to any standard 110-volt outlet

Low cost of ownership – less than $.02 per mile to operate

Exceptional safety and carlike comfort

2 year warranty

PACKAGE OPTIONS:

CLASSIC

Windshield Washer
Mud Flaps
Gel Batteries

DELUXE

Classic Package PLUS
Chrome Headlight Bezels
Chrome Hood Decals
Chrome License Plate Light
Deluxe Steering Wheel

LUXURY

Deluxe Package PLUS
Embroidered Floor Mats
Audio System

e2

UNIQUE FEATURES:
- Ergonomic seating for two
- Six 12-volt flooded electrolyte batteries
- 99" length (251 cm)
- 11.5 ft (3.5 m) Turning radius
- Up to 35 miles (56 km)*

THE PERFECT VEHICLE FOR:
- Valet & customer service
- Parking enforcement
- Campus & public safety patrol
- Neighborhood commuting

e4

UNIQUE FEATURES:
- Ergonomic seating for four
- Six 12-volt flooded electrolyte batteries
- 128" length (325 cm)
- 15 ft (4.6 m) Turning radius
- Up to 30 miles (48 km)*

THE PERFECT VEHICLE FOR:
- Facility site tours
- Neighborhood commuting
- Guest transportation

e4S model available with additional cargo space of 34 x 48 in (86 x 122 cm) and box capacity of 330 lbs (150 kg)

e6®

UNIQUE FEATURES:
- Ergonomic seating for six
- Nine 8-volt maintenance free batteries
- 162" length (411cm)
- 15 ft (4.6 m) Turning radius
- Up to 30 miles (48 km)*

THE PERFECT VEHICLE FOR:
- Client transportation
- Shuttles
- Facility site tours
- Neighborhood commuting

e6S model available with additional cargo space of 34 x 48 in (86 x 122 cm) and box capacity of 330 lbs (150 kg)

* Range will vary depending on temperature, grade, payload and driving style

LIGHT UTILITY LSV

GEM® light utility electric vehicles can handle any task. Durable, thermoplastic body panels and diamond plate beds, along with multiple bed and box configurations and numerous accessory options, make them perfect for hauling cargo. Built with proven Polaris® quality and performance, these vehicles are street-legal† and feature all-electric operation.

STANDARD GEM LSV FEATURES:

- 7.0 HP DC Motor
- 25 mph top speed
- Regenerative Braking
- 3 pt seat belts
- High/low beam headlights
- Street Rated Tires
- 72 Volt Battery System with Onboard Charger
- Advanced Suspension
- 4 wheel hydraulic brakes w/ front disc and rear drum
- Customizable to fit your needs

COLOR OPTIONS:

Red Rock Pearl

Crystal White

Ocean Sapphire Metallic

eS

UNIQUE FEATURES:
- 108” length (274 cm)
- 670 lbs payload capacity (305 kg)
- 34” x 48” flatbed (86 x 122 cm)
- Six 12-volt flooded electrolyte batteries
- Up to 35 miles (56 km)*

THE PERFECT VEHICLE FOR:
- Hospitality
- Foodservice
- Parking enforcement
- Security patrol

eL

UNIQUE FEATURES:
- 144” length (366 cm)
- 1,015 lbs payload capacity (462 kg)
- 70” x 48” flatbed (178 x 122 cm)
- Six 12-volt flooded electrolyte batteries
- Up to 30 miles (48 km)*

THE PERFECT VEHICLE FOR:
- Indoor warehousing
- Maintenance
- Groundskeeping
- Hospitality

eL XD

UNIQUE FEATURES:
- 144” length (366 cm)
- 1,450 lbs payload capacity (659 kg)
- 70” x 48” flatbed (178 x 122 cm)
- Nine 8-volt maintenance free gel batteries
- Up to 40 miles (64 km)*

THE PERFECT VEHICLE FOR:
- Housekeeping
- Emergency service
- Maintenance
- Groundskeeping

POLARIS | Build and customize your perfect GEM® at **GEMcar.com.**

†Polaris® LSVs comply with the NHTSA Low Speed Vehicles rules and regulations and can be operated on many streets with posted speed limits of 35 mph or less. Check local laws regarding street use and vehicle equipment requirements. Drivers must be at least 16 years old with a valid driver’s license. Driver and passengers should always wear seat belts. Range on all Polaris® electric vehicles will vary depending on temperature, grade, payload, and driving style. All pricing, specifications, claims, and information contained in this sell sheet are based on information available at the time of publication. Polaris® assumes no responsibility for any inaccuracies, opinions, or omissions in those publications. All pricing, specifications, and descriptions are subject to change without notice, and Polaris® assumes no responsibility for changes in pricing or specifications. Unless otherwise noted, all trademarks are the property of Polaris Industries, Inc. © 2014 Polaris Industries Inc. Part # 9930087

Shown with optional accessories

GEM® eM™1400 LSV

DIMENSIONS/CAPACITIES

- Dry Wt. 1,703 lbs. (773 kg)
- GVW 2,950 lbs. (1,342 kg)
- Payload cap. 1,250 lbs. (567 kg)
- Towing cap. 1,250 lbs. (567 kg)
- Length 115" (292 cm)
- Height 73" (185 cm)
- Width 57" (144 cm)
- Cargo box inside 51.5" x 41.75" (131 cm x 106 cm)
- Wheelbase 79" (201 cm)
- Ground clearance 8.5" (22 cm)
- Turning radius 13.9 ft. (424 cm)
- Range – range up to 45 mi. (72 km)
- Top speed – 25 mph (40 kph)

FEATURES

- 2-passenger seating
- LSV compliant – horn, headlights/taillight/turn signals, automotive grade windshield, wiper and seat belts
- Indicator panel indicates directional selection, park brake and motor or controller malfunction
- Digital charge indicator – indicates battery discharge
- Digital hour meter indicates accumulative hours of use
- 12-volt accessory auxiliary power outlet
- Dual 55 watt headlights/taillights
- LED 1.8 watts brake lights at 12 volts
- Glove box storage
- Receiver hitch 2" standard
- Options: Under seat storage, manual and electric box lifts, 3,500 lbs. winch, Max Box, Box sides, Poly cab, Poly roof, Poly or canvas door set, Poly cab rear panel, Canvas cab roof + rear panel, Chainsaw mount, Reverse beeper, Nerf bars, Canvas cab poly windshield, Canvas bimini top, Lock & Ride® cargo box, 60" snow blade, Plow frame, Plow mount plate, Maintenance free batteries

ACCESSORIES

Scan code with your mobile device to view all GEM accessories

POLARIS®

Build and customize your perfect GEM® eM™1400 LSV at **GEMcar.com**.

Assembled in the USA

GEM® eM™1400 LSV

PERFORMANCE

- Single, 48-volt, high efficiency, AC induction motor
- 7.5 HP continuous, 16.35 HP peak
- 450 amp Sevcon Gen IV controller with regenerative braking
- 10.4 kw battery pack at 48VDC with 8 ea. 6-volt batteries in series configuration
- Redundant non-contact, inductive sensing speed throttle
- Delta Q 120 volt AC on-board charger, 48-volt DC output
- Charge time – 8 hours (depending on depth of discharge)

SUSPENSION

- Independent MacPherson front suspension struts with 5" (13 cm) travel
- Dual A-arm rear suspension with 6" (15 cm) travel

DRIVE TRAIN

- Direct drive motor to transaxle with low noise gears
- Turf friendly rear wheel drive

BRAKING

- 4-wheel hydraulic disc brakes
- Lever actuated mechanical park brake

VEHICLE WARRANTY

- Two year or 8,000 mile (12,750 km) limited warranty (whichever occurs first) on all components (except batteries) against defects in material or workmanship. Warranty covers the parts and labor charges for repair or replacement of defective parts. Pro-rated battery coverage. See owner's manual for more details.

GSA GS-30F-0017W

NJPA AWARDED CONTRACT 090512-PSI

polarisdefense.com

POLARIS | Build and customize your perfect GEM® eM™1400 LSV at **GEMcar.com**.

Polaris® LSVs comply with the NHTSA Low Speed Vehicles rules and regulations and can be operated on many streets with posted speed limits of 35 mph or less. Check local laws regarding street use and vehicle equipment requirements. Drivers must be at least 16 years old with a valid driver's license. Driver and passengers should always wear seat belts. Where appropriate for work and riding conditions, helmets and eye protection should also be worn. Never engage in stunt driving, and avoid excessive speeds and sharp turns. Range on all Polaris® electric vehicles will vary depending on temperature, grade, payload, and driving style. All pricing, specifications, claims, and information contained in this brochure are based on information available at the time of publication. Polaris® assumes no responsibility for any inaccuracies, opinions, or omissions in those publications. All pricing, specifications, and descriptions are subject to change without notice, and Polaris® assumes no responsibility for changes in pricing or specifications. Unless otherwise noted, all trademarks are the property of Polaris Industries Inc. ©2014 Polaris Industries Inc.

HARDWORKING HERO: JOB 610

Road Runner. Why use a fuel-guzzler just to pick up a part from a supply house, shuttle a worker from site to site, or run errands when a street-legal Carryall 510 LSV are so much less expensive? The zero-emission electric vehicles cost just pennies a day to operate, make parking a breeze and get about 30 miles to a full charge.

HARDWORKING HERO: JOB 555

Green power. Busy downtown areas can be a challenge. Congestion, pollution and limited parking can create issues for parking enforcement. The Carryall 710 street-legal LSV overcomes these issues and for just pennies a day.

1.800.ClubCar www.clubcardealer.com/HardworkingHero

Club Car®

CARRYALL 510//710

A THOUSAND JOBS. ONLY ONE

CARRYALL

VERSATILITY & RELIABILITY

Payload. Total Vehicle Capacity of up to 1250 lb (567 kg).

Street legal. Carryall LSVs can be driven on streets with speed limits of 35 mph or less in almost all states. Check state and local laws.

Green. Reduce your carbon footprint and cut fuel costs with this sturdy electric vehicle.

Safety-equipped. Carryall LSVs come with all required safety equipment: headlights, tail lights, turn signals, 3-point safety belts, hip restraints and more.

Improved charging. The industry's only standard on-board high-efficiency charger with cord retractor. This new system operates on voltages around the globe, and tolerates voltage swings that would shut down lesser chargers.

More durable than steel. Carryalls are built on Club Car's exclusive lightweight, rustproof, air-craft-grade aluminum frame that's designed to be stronger than steel. Unlike competitive steel frames, it resists corrosion and retains resale value.

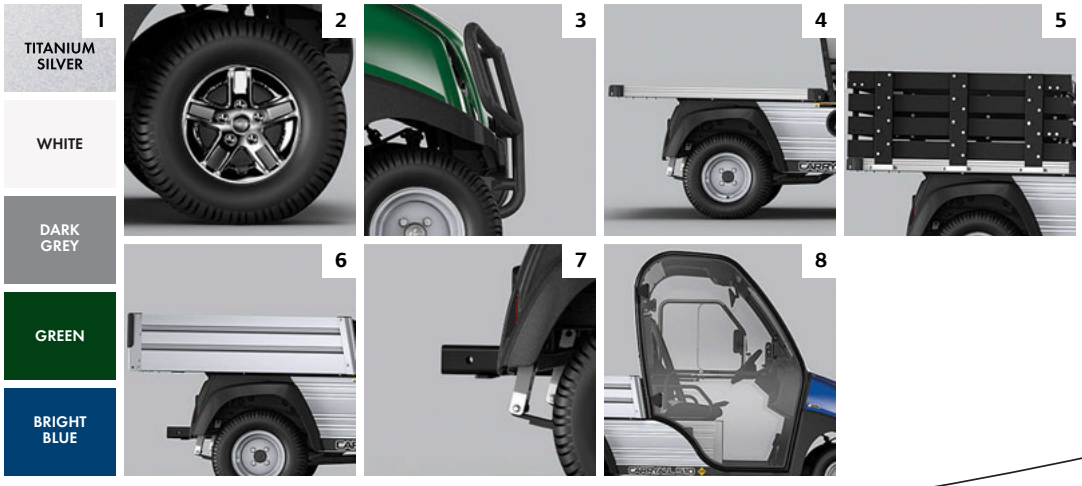
Fit-to-task utility. A one-of-a-kind bed box with an integrated track-based attachment system, optional tool holders, bed dividers and cargo tie downs increases versatility and saves floor space. So you can do more with less.

The best warranty in the industry. The industries longest standard battery, powertrain and bumper to bumper warranty.

CATEGORY	510 ELECTRIC	710 ELECTRIC
Engine/Motor Type	48V 3-phase AC	
Controller	400 Amp - Solid State	
Horsepower (Rated)	4.4 hp (3.3 kW), Peak 16 hp (11.7 kW)	
Transmission	Direct drive, double reduction helical gear	
Gear Selection	Forward/Neutral/Reverse	
Gear Ratio	12.32:2	
Battery	Eight (8) - 6 V Flooded Lead Acid	
Charger	DeltaQ QuiQ (1KW High Frequency)	
Lighting	37.5 Watt Halogen headlights, turn signals, horn, and LED taillights/brake light	
Steering Mechanism	Self-adjusting Rack and Pinion	
Suspension (Front)	Independent leaf spring with dual hydraulic shocks	
Suspension (Rear)	Independent leaf spring with dual hydraulic shocks	
Brakes	4-wheel hydraulic disk/drum	
Park Brake	Hand Operated, Multi-lock	
Body (Front & Finish)	ArmorFlex with automotive paint/clearcoat	
Body (Rear)	Aluminum rear body	
Tires (Front)	205-65-10 6-Ply, DOT	
Tires (Rear)	205-65-10 6-Ply, DOT	
Wheelbase	78.1 in (198.3 cm)	
Overall Height	74.3 in (188.72 cm)	
Overall Length	118 in (299.7cm)	137.5 in (349.3 cm)
Bed L x W x H (Cargo Box)	46.3 x 49.8 x 10.5 in (117.6 x 126.5 x 26.7cm)	67.6 x 49.8 x 10.5 in (171.7 x 126.5 x 26.7cm)
Ground Clearance (Differential)	5.6 in (14.2 cm)	
Track Width (Front)	34.6 in (87.8 cm)	
Track Width (Rear)	39.2 in (99.5 cm)	
Max Width (w/o Mirrors)	50.3 in (127.7cm)	
Total Vehicle Capacity	950 lb (430.0 kg)	1250 lb (567.0 kg)
Bed Load Capacity	550 lb (249.5 kg)	850 lb (385.6 kg)
Towing Capacity	1250 lb (567.0 kg)	1250 lb (567.0 kg)
Combined Gross Vehicle Capacity	1250 lb (567.0 kg)	1250 lb (567.0 kg)
Tongue Weight	150 lb (68.0 kg)	150 lb (68.0 kg)
Max Speed	25 mph (40 kph)	
Warranty	2 year/2000 hour limited warranty	

ACCESSORIES & OPTIONS

1. Vehicle Colors
2. Wheel Cover
3. Brush Guard
4. Flatbed
5. Stakeside
6. Cargo Box
7. Rear Receiver Hitch
8. Cab (Shown with optional glass doors)



Club Car®

CARRYALL 510/710

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CCN 18040037 Rev 11/13

Ingersoll Rand

// A regular meeting of the Council of the City of Lynchburg was held on the 8th day of September, 2015, at 4:00 P.M. in the Council Chamber, City Hall, Michael Gillette, President, presiding. The following Members were present:

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

Absent: 0

// Horizon Behavioral Health CEO Damien Cabezas provided Council with a report on Mental Health Services in the Central Virginia Region. Since 1969 Horizon Behavioral Health has been supporting and promoting the health, independence, and self-worth of individuals and families in this Region. Horizon Behavioral Health provides mental health, substance use and intellectual disability services to more than 9,000 children and adults in Central Virginia. Mr. Cabezas provided a portfolio of services that Horizon Behavioral Health offers:

- Case Management
- Housing Services
- Emergency Services
- School Based Services
- Health Services
- Psychiatric Services
- Outpatient Services
- Intensive Services

// City Manager Kimball Payne gave background information on the firm that conducted the Citizen Survey. Mr. Payne stated in 2004, 2006, 2008, and 2013, the City conducted surveys using the National Citizen Survey (NCS) instrument administered by the National Research Center, Inc. (NRC). The purpose of conducting the surveys is to obtain statistically valid data concerning resident satisfaction with community amenities and the services provided by local government.

Next, Mr. Payne introduced President and CEO, Tom Miller with National Research Center, Inc. (NRC) which provided the results of the survey. Mr. Miller stated that NCS captures residents' opinions within the three pillars of a community (Community Characteristics, Governance and Participation) across eight central facets of community (Safety, Mobility, Natural Environment, Build Environment, Economy, Recreation and Wellness, Education and Enrichment and Community Engagement). In May 2015, the survey was mailed to 1400 residents with a final overall response rate of 26%. The City included three questions of special interest on the NCS. The first question asked residents to indicate which methods they prefer to receive information about City government, its activities, events and services. About 8 in 10 respondents indicated that local electronic media outlets would be the most preferable way to receive information. Close to three-quarters of participants also identified the City web site and local print media outlets as at least preferable. The local government channel was the least preferable option for information. The second question asked residents about their opinions about the importance of various City issues for the next five years. The most important issue was workforce training, which rated as essential or very important by 83% of participants. This was closely followed by maintaining and

improving infrastructure, health and wellness opportunities and reducing the poverty rate with 8 in 10 respondents giving high importance to each. It was also noted that about 4 in 10 residents gave high levels of importance to reducing food deserts. The survey also gauged the importance of strategic planning area to the overall quality of life in Lynchburg. Residents indicated that safe neighborhoods and education were the most important to quality of life with at least 9 in 10 respondents deeming these areas as essential or very important.

In conclusion, Lynchburg residents continue to enjoy a high quality of life. Mobility rates have increased but there are still opportunities for improvement. The residents identified Economy and Safety as main focus areas. A vast majority of residents reported a high level of feeling safe in their neighborhoods and in Lynchburg's downtown/commercial area. The residents also gave excellent or good ratings to safety services, and the ratings for fire prevention and emergency preparedness improved since the last iteration of the survey. The members of the City's Leadership Team and a group of Emerging Leaders will participate in a Next Steps Workshop designed to assist in analyzing the survey results, assess priorities and determine next steps in moving the use of the results from research to action.

// Director of Financial Services Donna Witt provided information for amending FY 2016 Operating and Capital Budgets and appropriating funds to reflect the FY 2016 First Quarter Adjustment. The General, City/Federal/State Aid, Technology, Asset Forfeiture, Fleet Services, and City Capital Projects Fund were reviewed to reflect the FY 2016 First Quarter Adjustments. Ms. Witt further stated that Council policy requires a minimum Unassigned General Fund Balance of 10% of General Fund revenues. The unaudited Unassigned Fund Balance is projected to be approximately $31.0 million, or 17.6%, of General Fund revenues as of June 30, 2015. Of the $31.0 million, approximately $13.0 million is left to fund First Quarter Adjustments and FY 2017 Capital Improvement Program (CIP) pay-as-you-go expenditures. There will be a public hearing on this item at the 7:30 p.m. meeting. After the public hearing Council is asked to adopt a Resolution.

// During roll call Council Member Nelson mentioned he had received several complaints from residents at the end of Griffin Street regarding water runoff. He stated that Public Works has taken notice of the situation but would like a follow up to see what the City's obligations are regarding this.

// Council Member Tweedy stated she had attended several community meetings and one big concern was City sidewalks. She asked for an explanation on the costs of putting sidewalks in those areas.

// Council Member Foster mentioned an article in the VML magazine regarding "Maker's Space" and asked how the City could become a part of it? She also mentioned how much she loves the new Parks and Recreation magazine.

// Vice Mayor Johnson mentioned a sidewalk repair needed at the corner of the Daily Bread building.

// City Council recessed the meeting at 5:27 p.m.

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

The following Members were present:

Present: Foster, Helgeson, Nelson, Perrow, Tweedy, Gillette 6

Absent: Johnson 1

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

// Copies of the minutes of the August 11, 2015 meeting, having been previously furnished Council, reading was dispensed with, and on motion of Council Member Nelson, seconded by Council Member Tweedy, Council by the following recorded vote approved the minutes as presented:

Ayes: Foster, Helgeson, Nelson, Perrow, Tweedy, Gillette 6

Noes: 0

Absent: Johnson 1

// In the matter of Police – General, City Council Report #6 was considered. On motion of Council Member Nelson, seconded by Council Member Tweedy, Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-15-067, as presented, to amend the FY 2016 City/Federal/State Aid Fund budget and appropriate $25,750 with resources of $8,397 from the 2015 Byrne/JAG Crisis Intervention Team Grant and $17,353 is transferred from the General Fund Police Department FY 2016 Budget to continue the Crisis Intervention program:

Ayes: Foster, Helgeson, Nelson, Perrow, Tweedy, Gillette 6

Noes: 0

Absent: Johnson 1

// In the matter of Fire – General, City Council Report #7 was considered. On motion of Council Member Nelson, seconded by Council Member Tweedy, Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-15-068, as presented, to amend the FY 2016 City/Federal/State Aid Fund budget and appropriate $67,246 with resources of $49,238 from the Virginia Office of Emergency Medical Services – Rescue Squad Assistance Fund (RSAF) and $18,008 transferred from the FY 2016 General Fund Fire Department budget to purchase one (1) Physio LifePak 15 cardiac monitor/defibrillator, one (1) Lucas 2 chest compression device, one (1) Panasonic H2 reporting tablet, and one (1) Stryker Power Pro XT stretcher for the Fire Department:

Ayes: Foster, Helgeson, Nelson, Perrow, Tweedy, Gillette 6

Noes: 0

Absent: Johnson 1

// In the matter of Community Development - Zoning Amendments, a public hearing was held regarding City Council Report # 8 outlining the petition of Lynchburg Renting LLC to rezone approximately seven and one hundred twenty-five thousandths (7.125) acres at 714 Leesville Road from R-1, Low Density, Single-Family, Residential District to R-3C, Medium Density Two-Family Residential District (Conditional), and for a conditional use permit to construct sixty-eight (68) townhomes for sale.

Council Member Nelson stated that he represents the owner and developer and in this instance the Legal Rules of Professional Ethics prohibit him, as an attorney, from using his position as an elected official to benefit a client; therefore, he would abstain from discussion and voting on this item.

Mayor Gillette stated that although he does not have an actual conflict of interest, he does have an apparent conflict of interest since Mr. Bruce Gallier's company manages rental properties owned by his 401(k) plan; therefore, he would rather avoid even the appearance of a conflict by abstaining from discussion and voting on this item. Mayor Gillette asked Vice Mayor Johnson to proceed with the public hearing. City Planner Tom Martin provided an overview of the rezoning and Conditional Use Permit (CUP) for Lynchburg Renting LLC. Mr. Martin did note that the rezoning and CUP petitions are in keeping with the City's Future Land Use Map (FLUM) and the City's Comprehensive Plan 2013-2030. Mr. Martin went on to say that the Planning Commission ultimately recommended approval of the rezoning to R-3 but did not recommend the CUP for the townhouse use. However, because the developer proffered to comply with the concept plan, approving the rezoning and denying the CUP may potentially prohibit the future development of the property for any use. Mr. Bill Berkley of Berkley Howell and Associates, representing the petitioner, outlined the request and asked for approval. Mr. Bruce Gallier, owner of Lynchburg Renting, LLC, also asked Council for approval stating that the number of townhouses have been reduced from the original plan. Six individuals spoke in opposition to the proposed rezoning citing concerns regarding water runoff to adjacent property, property value decreasing, increased crime rate, and increased traffic. There was no one else present who wished to speak to this item, and the public hearing was closed. Council Members discussed the proposed rezoning and offered the following comments and concerns, i.e., stormwater maintenance, Comprehensive Plan, traffic and sidewalks. On motion of Council Member Helgeson, seconded by Council Member Perrow, Council by the following recorded vote agreed to deny the Lynchburg Renting LLC to rezone at 714 Leesville Road:

Ayes: Foster, Helgeson, Johnson, Perrow, Tweedy,	5
Noes:	0
Abstention: Nelson, Gillette	2

// City Council Report #9 was presented before Council Report #8. Vice Mayor Johnson arrived at the meeting after the action on Council Report #9.

// In the matter of Budget, a public hearing was held regarding City Council Report #9 regarding amending the FY 2016 Operating and Capital Budgets and appropriating funds to reflect the FY 2016 First Quarter Adjustments in the General, City/Federal/State Aid, Asset Forfeiture, Technology, Fleet Services, and City Capital Projects Fund. Director of Financial Services Donna Witt gave an overview of the FY 2016 First Quarter Adjustments. There was no one else present who wished to speak to this item, and the public hearing was closed. On motion of Council Member Foster, seconded by Council Member Nelson, Council by the following recorded vote adopted Resolution #R-15-069, as presented, amending the FY 2016 Operating and Capital Budgets and appropriating funds to reflect the FY 2016 First Quarter Adjustments in the General, City/Federal/State Aid, Asset Forfeiture, Technology, Fleet Services, and City Capital Projects Fund:

Ayes: Foster, Helgeson, Nelson, Perrow, Tweedy, Gillette	6
Noes:	0
Absent: Johnson	1

// In the matter of City Council, Ricky Theodore spoke before Council regarding an incident that occurred at the James Crossing Apartments.

// In the matter of City Council, Ronald BB Shavers, President and Founder of The Shopo Foundation for Youth Inc., spoke before Council regarding recent incidents and actions of Lynchburg Police Department officers towards citizens in our city.

// In the matter of Public Works – General, City Council Report #12 was considered. Council Member Perrow, Chair of the Physical Development Committee (PDC), stated that this item came before PDC which recommended approval. This motion does not require a second. Council by the following recorded vote adopted Resolution #R-15-070, as presented, with regard to the construction of Phase 2 of the Route 460/29 (Richmond Highway) corridor improvements in the City of Lynchburg between Campbell Avenue and Concord Turnpike. City Council asks that the Virginia Department of Transportation commit to the following: 1) the continued access from Tyreeanna Road onto westbound Route 460/29, 2) the installation of appropriate warning signals advising drivers on westbound Route 460/29 of traffic entering from Tyreeanna Road, and 3) support for future improvements to the access from Tyreeanna Road onto Route 460/29 as a part of the statewide and local transportation planning process:

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

Noes: 0

// In the matter of Economic Development – General, City Council Report #13 was considered. On motion of Council Member Nelson, seconded by Vice Mayor Johnson, Council by the following recorded vote adopted Resolution #R-15-071, as presented, for an Industrial Revitalization Fund application:

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

Noes: 0

// In the matter of Economic Development – General, City Council Report #14 was considered. On motion of Council Member Nelson, seconded by Vice Mayor Johnson, Council by the following recorded vote adopted Ordinance #0-15-072, as presented, to amend and reenact the Code of the City of Lynchburg by adding Chapter 13.2 containing sections numbered 13.2-1 through 13.2-5, the new Chapter and Sections relating to the designation of the City as a Tourism Zone:

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

Noes: 0

// In the matter of Parks and Recreation – General, City Council Report #15 was considered. Council Member Helgeson, Chair of the Finance Committee (FC), stated that this item came before FC which recommended approval. This motion does not require a second. Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-15-073, as presented, to amend the FY 2015 General Fund budget and appropriate $76,304 to the Parks and Recreation Department with resources of $65,817 from Debt Service Payments from the Economic Development Authority of the City of Lynchburg for Miller Center and $10,487 from the FY 2015 Unassigned Fund Balance to make lease payments to Miller Center Building, LLC as required by the Miller Center Project Lease Agreement:

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

Noes: 0

// In the matter of City Council, City Council Report #16 was considered. Deputy City Manager Bonnie Svrcek gave an overview of the request to approve funds that were adopted in the FY 2016 Adopted Budget to address poverty. Council Member Helgeson stated he would not be supporting this Resolution to use funds to study the Bridges Out of Poverty Initiatives because he felt that it was a poor use of taxpayers funds. On motion of Council Member Foster, seconded by Council Member Tweedy, Council by the following recorded vote adopted Resolution #R-15-074, as presented, to expend $28,088 of the $50,000 in funding available to address poverty in the FY 2016 Adopted Budget. Of the $28,088, an amount of $18,088 is allocated for an analysis of demographic and related data that impacts the City's poverty rate by The Demographic Research Group at the University of Virginia and $10,000 is allocated to continue training employees and the faith and business communities on the "Bridges Out of Poverty" model:

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

Noes: Helgeson 1

// In the matter of Airport – General, City Council Report #17 was considered. City Manager Kimball Payne presented the lease agreement with Aviation Resources, Inc. to City Council for approval with a few modifications such as higher lease rates and fewer facilities that would be leased to Aviation Resources. Mr. Payne stated that certain items were requested, such as performance standards pertaining to discrimination, separation of church and state and customer satisfaction, and have been included. One such provision states Aviation Resources shall provide equal access by all classes of airport users to facilities under its control. Mr. Payne went on to say that the lease agreement covers a three-year term with an option to renew for an additional five years. Council Member Perrow made a motion, seconded by Council Member Helgeson to accept the lease agreement with Aviation Resources, Inc. Council Member Nelson made a friendly amendment to the lease agreement to include a change to the lease's wording that Aviation Resources, Inc. financial statement would be audited. Council Member Perrow accepted the friendly amendment, seconded by Council Member Helgeson. Council by the following recorded vote adopted Resolution #R-15-075, as amended, to execute a lease with Aviation Resources, Inc. for facilities at the Lynchburg Regional Airport formerly leased by Virginia Aviation:

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

Noes: 0

// The meeting was adjourned at 10:05 P.M.

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Clerk of Council

// A regular meeting of the Council of the City of Lynchburg was held on the 22nd day of September, 2015, at 4:30 P.M. in the Council Chamber, City Hall, Ceasor Johnson, Vice President, presiding. The following Members were present:

Present: Foster, Helgeson, Johnson, Nelson, Perrow, Tweedy 6

Absent: Gillette 1

// City Manager Kimball Payne stated that he had received requests from Liberty University, Lynchburg College, and Central Virginia Community College to adopt an ordinance allowing for the operation of golf carts and utility vehicles on certain streets near the respective institutions. Mr. Payne further stated that in response, an ordinance was drafted that would establish the criteria for such operations. Mr. Payne went on to say that staff had some concerns about allowing the operation of such vehicles on City streets and discussed the matter with the Physical Development Committee (PDC). There were mixed feelings on the committee regarding the proposal and they asked staff to bring it to full Council for discussion during a work session. In response to comments made by members of the Physical Development Committee, staff conducted further review and made revisions to the draft ordinance. Council's options regarding this matter include:

1) Decline to allow the operation of golf carts and utility vehicles on City streets and instead encourage the use of "street legal" low speed/utility vehicles.
2) Allow the use of golf carts and utility vehicles under certain conditions based on speed limits, traffic volume and road character, such as:
    - the vehicles should only be allowed on roads with posted speeds of 25 mph or less unless the road is within the property limits (internal streets) of a two or four year institution.
    - VDOT approval shall be required for any designated roadway that it maintains. VDOT standards include a traffic count of less than 1000 vpd, a pavement width of seventeen feet, and truck traffic of ten percent or less.

With respect to the specific requests from the institutions, staff offers the following for consideration:

Liberty University: Allow the use of golf carts and utility vehicles on University Boulevard, on Liberty Mountain Drive and crossing Candlers Mountain Road at University Boulevard at a designated and signal controlled crosswalk. It is not appropriate for such vehicles to operate on Candlers Mountain Road.

Central Virginia Community College: Allow the use of golf carts and utility vehicles on Harvard Street (SR 368), which is maintained by VDOT.

Lynchburg College: Public streets internal to Lynchburg College are appropriate for golf carts and utility vehicles. It is not appropriate for such vehicles to operate on Lakeside Drive, Thomas Road, Oakley Avenue (except for access to a crosswalk to cross Lakeside Drive), Breckenridge Street, or Richmond Street. Such vehicles could be allowed to cross Lakeside Drive at its intersection with Oakley Avenue/Monticello Avenue; access to Oakley Avenue would be via Jubal Street and Macon Street.

- It may also be appropriate to allow for the limited operation of golf carts and utility vehicles on sidewalks leading up to crosswalks at designated intersections.

During Council discussion the majority of Council was in favor of receiving more information on the request by the three area institutions to allow golf carts and utility vehicles on certain city streets near their campuses. Council made no decision in regards to the draft golf cart ordinance, but suggested that Staff revise the draft ordinance to address concerns posed by Council such as the type of safety equipment installed on the vehicles, and which roadways would be specified in the ordinance. Based on Council's guidance at that time, staff would finalize an ordinance for future consideration.

// During roll call Council Member Foster mentioned that last week the Live Healthy Coalition in Lynchburg was invited to attend an event hosted by the White House in celebration of The First Lady Michelle Obama Initiative, Let's Move Cities, Towns and Counties. The City of Lynchburg received three gold medals, one silver and one bronze from the Let's Move Initiative. Council Member Foster stated she would like an update from the Coalition on these efforts across the nation helping communities with Economic Development as well as issues around poverty (for example food insecurities). She went on to say that the Live Healthy Lynchburg Coalition has used their collective impact to move the needle on creating a culture of health in this community.

// Council Member Helgeson mentioned that after hearing that bells are required on bicycles, he would like to have a discussion in the near future regarding the law that requires bells on bicycles.

// Council Member Perrow mentioned the crosswalk at the intersection of VES Road and Rivermont Avenue.

// Vice Mayor Johnson made three announcements; 1) unveiling the marker for Margaret Pauline Fletcher Weeden Maloney on Saturday, September 26, 2015; 2) Council Planning Session, Thursday, September 24, 2015 and 3) Artful Bike Rack Installation Ceremony, Thursday, September 24, 2015.

// On motion of Council Member Foster, seconded by Council Member Perrow, Council by the following recorded vote elected to hold a closed meeting to consider appointments to Council-appointed Boards and Commissions, i.e., Virginia Alcohol Safety Action Program (VASAP) Board, Social Services Advisory Board, Board of Building Code Appeals, Redevelopment and Housing Authority and Lynchburg Business Development Centre; pursuant to Section 2.2-3711(A)(1), Code of Virginia (1950), as amended:

Ayes: Foster, Helgeson, Johnson, Nelson, Perrow, Tweedy	6
Noes:	0
Absent: Gillette	1

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

// Council Member Perrow made the following motion:

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

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

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

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

Ayes: Foster, Helgeson, Johnson, Nelson, Perrow, Tweedy 6

Noes: 0

Absent: Gillette 1

// In the matter of Appointments, and on nomination of Council Member Foster, seconded by Council Member Tweedy, Council by the following recorded vote appointed Brenda Castle Finch, to serve on the VASAP Board for a term to expire August 31, 2018:

Ayes: Foster, Helgeson, Johnson, Nelson, Perrow, Tweedy 6

Noes: 0

Absent: Gillette 1

On nomination of Council Member Foster, seconded by Council Member Tweedy, Council by the following recorded vote appointed Amy Clemons, Timothy P. Griffin and James B. Polk, Jr. to serve on the Social Services Advisory Board for terms to expire September 30, 2019:

Ayes: Foster, Helgeson, Johnson, Nelson, Perrow, Tweedy 6

Noes: 0

Absent: Gillette 1

On nomination of Council Member Foster, seconded by Council Member Tweedy, Council by the following recorded vote reappointed Barry E. Layne, Otto F. Schonfelder and Mark W. Smith to serve on the Board of Building Code Appeals for terms to expire September 30, 2019:

Ayes: Foster, Helgeson, Johnson, Nelson, Perrow, Tweedy 6

Noes: 0

Absent: Gillette 1

On nomination of Council Member Foster, seconded by Council Member Tweedy, Council by the following recorded vote appointed Jorge Gomez to serve on the Redevelopment & Housing Authority Board for a term to expire September 30, 2019:

Ayes: Foster, Helgeson, Johnson, Nelson, Perrow, Tweedy 6

Noes: 0

Absent: Gillette 1

On nomination of Council Member Foster, seconded by Council Member Tweedy, Council by the following recorded vote reappointed Kaleb Matson and John M. Stone to serve on the Lynchburg Business Development Centre Board for terms to expire September 30, 2018:

Ayes: Foster, Helgeson, Johnson, Nelson, Perrow, Tweedy 6
Noes: 0
Absent: Gillette 1

On nomination of Council Member Foster, seconded by Council Member Tweedy, Council by the following recorded vote appointed Holly Roark to serve on the Lynchburg Business Development Centre Board for a term to expire September 30, 2018:

Ayes: Foster, Helgeson, Johnson, Nelson, Perrow, Tweedy 6
Noes: 0
Absent: Gillette 1

// City Council recessed the meeting at 6:27 p.m.

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

The following Members were present:

Present: Foster, Helgeson, Johnson, Nelson, Perrow, Tweedy 6
Absent: Gillette 1

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

// Copies of the minutes of the September 8, 2015 meeting, having been previously furnished Council, reading was dispensed with, and on motion of Council Member Helgeson, seconded by Council Member Nelson, Council by the following recorded vote approved the minutes as amended:

Ayes: Foster, Helgeson, Johnson, Nelson, Perrow, Tweedy 6
Noes: 0
Absent: Gillette 1

// In the matter of Police – General, Resolution #R-15-067 to amend the FY 2016 City/Federal/State Aid Fund budget and appropriate $25,750 with resources of $8,397 from the 2015 Byrne/JAG Crisis Intervention Team Grant and $17,353 is transferred from the General Fund Police Department FY 2016 Budget to continue the Crisis Intervention program, laid over from the September 8, 2015 meeting, was again presented and read, and on motion of Council Member Helgeson, seconded by Council Member Nelson, Council by the following recorded vote adopted the Resolution:

Ayes: Foster, Helgeson, Johnson, Nelson, Perrow, Tweedy 6
Noes: 0
Absent: Gillette 1

// In the matter of Fire – General, Resolution #R-15-068 to amend the FY 2016 City/Federal/State Aid Fund budget and appropriate $67,246 with resources of $49,238 from the Virginia Office of Emergency Medical Services – Rescue Squad Assistance Fund (RSAF) and $18,008 transferred from the FY 2016 General Fund Fire Department budget to purchase one (1) Physio LifePak 15 cardiac monitor/defibrillator,

one (1) Lucas 2 chest compression device, and (1) Panasonic H2 reporting tablet, and one (1) Stryker Power Pro XT stretcher for the Fire Department, laid over from the September 8, 2015 meeting, was again presented and read, and on motion of Council Member Helgeson, seconded by Council Member Nelson, Council by the following recorded vote adopted the Resolution:

Ayes: Foster, Helgeson, Johnson, Nelson, Perrow, Tweedy	6
Noes:	0
Absent: Gillette	1

// In the matter of Budget, Resolution #R-15-069 to amend the FY 2016 Operating and Capital Budgets and appropriating funds to reflect the FY 2016 First Quarter Adjustments in the General, City/Federal/State Aid, Asset Forfeiture, Technology, Fleet Services, and City Capital Projects Fund, laid over from the September 8, 2015 meeting, was again presented and read, and on motion of Council Member Helgeson, seconded by Council Member Nelson, Council by the following recorded vote adopted the Resolution:

Ayes: Foster, Helgeson, Johnson, Nelson, Perrow, Tweedy	6
Noes:	0
Absent: Gillette	1

// In the matter of Parks and Recreation – General, Resolution #R-15-073 to amend the FY 2015 General Fund budget and appropriate $76,304 to the Parks and Recreation Department with resources of $65,817 from Debt Service Payments from the Economic Development Authority of the City of Lynchburg for Miller Center and $10,487 from the FY 2015 Unassigned Fund Balance to make lease payments to Miller Center Building, LLC as required by the Miller Center Project Lease Agreement, laid over from the September 8, 2015 meeting, was again presented and read, and on motion of Council Member Helgeson, seconded by Council Member Nelson, Council by the following recorded vote adopted the Resolution:

Ayes: Foster, Helgeson, Johnson, Nelson, Perrow, Tweedy	6
Noes:	0
Absent: Gillette	1

// In the matter of Community Development - Zoning, a public hearing was held regarding City Council Report #8 outlining the petition of Liberty University for a Conditional Use Permit (CUP) at 3125 Albert Lankford Drive to convert the existing one hundred twenty-four (124) unit hotel into a sixty-four unit apartment style dormitory for married and graduate students in an R-C, Resource Conservation and B-5, General Business District. Planner I Rachel Frischeisen provided a brief summary regarding the petition, explaining that both the Planning Division and Planning Commission are recommending approval of the Conditional Use Permit. Ms. Maggie Cossman, Corporate Engineer with Liberty University representing the petitioner, asked Council for approval of the CUP. There was no one else present who wished to speak to this item, and the public hearing was closed. Council Member Nelson stated he previously represented Liberty University and currently represents the proposed manager of this project. His professional ethics prohibit him, as an attorney, to use his elected position to promote the interests of a client unless doing so is clearly in the public's interest. He believes the current proposal has a limited

impact and is clearly in the public's interest, so he feels comfortable participating and will support this request. On motion of Council Member Helgeson, seconded by Council Member Perrow, Council by the following recorded vote adopted Resolution #R-15-076, as presented, granting the petition of Liberty University for a Conditional Use Permit at 3125 Albert Lankford Drive to convert the existing one hundred twenty-four (124) unit hotel into a sixty-four unit apartment style dormitory for married and graduate students in an R-C, Resource Conservation and B-5, General Business District:

Ayes: Foster, Helgeson, Johnson, Nelson, Perrow, Tweedy	6
Noes:	0
Absent: Gillette	1

// In the matter of City Council, Joseph Pallone, representing Creating Opportunities through Partnership and Education (COPE) International - USA, spoke before Council regarding their program. Mr. Pallone stated that the objective of the program is to enable Veterans to own and run a long-term sustainable, successful, indoor farming business.

// In the matter of Community Development – Zoning, City Council Report #10 was considered. On motion of Council Member Helgeson, seconded by Council Member Perrow, Council by the following recorded vote adopted Resolution #R-15-077, as presented, granting a final twelve month extension of the Conditional Use Permit for the Kirkley Apartments project; such extension to expire on November 13, 2016:

Ayes: Foster, Helgeson, Johnson, Nelson, Perrow, Tweedy	6
Noes:	0
Absent: Gillette	1

// In the matter of City Code, City Council Report #11 was considered. On motion of Council Member Foster, seconded by Council Member Nelson, Council by the following recorded vote adopted Ordinance #0-15-078, as presented, amending Sections 26-55 and 26-57 of the City Code relating to the City's Noise Ordinance:

Ayes: Foster, Helgeson, Johnson, Nelson, Perrow, Tweedy	6
Noes:	0
Absent: Gillette	1

// The meeting was adjourned at 7:59 P.M.

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Clerk of Council

Agenda Item #9

COPE International-USA
Creating Opportunities through Partnership and Education

September 16, 2015

Ms. Valeria Chambers, City Clerk
City of Lynchburg
900 Church Street
Lynchburg, VA 24504

Dear Ms. Chambers,

This is a request to appear before the City Council on September 22 to present information about the program we are conducting in Lynchburg.

I would like to appear with Ms. Joan Kasprowicz, who is the principal supporter of the program. We would explain the program in overview and the benefits to the City.

Attached please find some information that I ask be provided to the members of the Council in advance of the meeting.

Thank you for your courtesy in speaking with me yesterday and for your consideration.

Sincerely yours,

Joseph Pallone
President

094K

630 Old Rectory Lane · Fork Union, VA 23055
www.copeusa.org · TEL/FAX 703 721-1832

Commercial Indoor Farming

a Sustainable Program for Long-Term Veteran Employment

Summary. COPE International-USA is conducting a program in Lynchburg, VA, to enable Veterans and others to own and operate a viable commercial business by growing produce for which there is significant current and projected market demand, year-round, using a tested and proven, innovative, remarkably profitable system for indoor food production.

Program Objective. The focus of this program is on Veterans starting their own business; food production is the business. The program is open to non-Veterans.

The objective of the program is to provide the capability to enable Veterans to own and run a long-term sustainable, successful, indoor farming business.

Veteran Employment. The unemployment situation is well-known and requires no elaboration. Typical employment efforts have focused on how to write a resume, translate military skills into business skills, and prepare for an interview. However, efforts to fit Veterans into private sector molds, especially in the current job market, have had limited success.

We find that many Veterans would prefer to own their own business because they are self-starters: entrepreneurs who have had to think on their feet to respond quickly and decisively to changing situations; experienced team players who take charge, are accountable, and can be relied on to perform their duties; hands-on participants who are accustomed to demanding requirements and hardships.

But, even when start-up funding is available, these Veterans have had few real opportunities to own and operate a successful business outside of franchising, and where established businesses provide stiff competition. The odds against Veterans (and non-Veterans) succeeding with owning their own business is understandably high, especially because they have to learn how to run a business while needing to be profitable in the very near term.

This program addresses each of those constraints. We do not want people to compete for existing jobs; we want to create employment opportunities in a new business sector.

PROGRAM CONCEPT AND ELEMENTS ARE PROPIETARY

Why Grow Food? Because there is a genuine, unmet demand for fresh produce and this demand presents a highly profitable, long-term sustainable business opportunity.

You are likely aware of the attention that nutrition and fresh produce have received and the interest in increasing the proportion of fresh fruits and vegetables in the diet. Associated issues include the rise in obesity, health and medical conditions, and "food deserts" where fresh produce is typically not even available. In the macro, these issues translate into public health and public sector costs for a population that continues to rely on prepared foods that are high in sodium, fat, and artificial ingredients. Also, food availability has national security implications in a nation that relies on imported food. At the micro level, school lunches, people on low or fixed incomes, and people who live in small rural or large urban areas are not able to find or afford fresh produce throughout the year. And, good restaurants and food retailers are looking to buy year-round supplies of fresh, first quality produce.

That said, the fact is that no matter how effective a "Farm to Table" campaign to promote eating fresh and nutritious food may be, the growing season for most crops is typically three to four months. This means that fresh produce must be transported from California and Florida, or imported from countries where there are often questions about the use of pesticides and safe handling. That produce is typically picked immature and not naturally ripe by the time it gets to the consumer. And, the transportation, cold storage, and trans-shipment costs are reflected in the sale price.

So, a grower who can provide fresh, fully ripe and nutritious, clean and pesticide-free produce at or near the point of consumption enjoys a decided market advantage. That is why the program is based on a business that will grow food.

Commercial **Indoor** Farming? Yes. The program is designed for growers to use existing buildings. You are probably aware of the number of unused and abandoned buildings to include those that are on a city's books, where they take up city funds for repair and maintenance, and generate no tax revenue. We see these buildings as perfect choices for indoor farms. Buildings can often be made available to a business that is willing to maintain them; this generates tax revenue for the city and creates jobs.

But, how can you grow plants indoors, and at a commercial scale, profitably? We use a growing system that combines existing technologies in a new and innovative way and has been proven to be profitable. The system avoids the high operating costs of hydroponics, high tunnel greenhouses, and growing with high intensity discharge lamps.

The big point here is that the system will grow crops out of season, year-round. That means growers can have year-round (not just seasonal) sales, and at premium prices for out-of season crops like micro greens.

PROGRAM CONCEPT AND ELEMENTS ARE PROPIETARY

The indoor growing system has four components: a metal grow table with a pan that holds the growing medium; a special, all-natural compost growing medium in a sock; standard drip irrigation; and magnetic induction lamps which provide light that is closest to natural sunlight at a cost that is less than LED, and last 22 years. The system is unique and fully scalable up or down. The system is made in the USA.

Veteran Farmers? There is a body of research that concludes Veterans make great, happy, successful farmers. Veterans have operated, maintained, and used to full potential a significant number of mechanical, electrical, and other systems, many of them sophisticated, but all of them designed to achieve superior results in highly demanding environments. The Farmer Veteran Coalition and similar groups agree with and validate the research.

How does a Veteran afford and acquire the grow system? With one or more financing sources that are in place and currently available. These include the VA, SBA, and USDA. There are also state, local, and other incentives available.

COPE-USA does not handle the financing or sell the grow systems but we advise and guide the Veteran through the funding and acquisition process. COPE-USA does not take a fee or a percentage; advising and guiding the Veteran are all part of the program.

So, what does the COPE-USA program cost the Veteran? Nothing. We have designed the program to provide training, education, and guidance. There is no cost to or eventual payback from the Veteran entrepreneur for COPE-USA. However, even though the Veteran does not pay for the training, the Veteran is fully invested in the venture and has “skin in the game.” Read on.

How the program works. In a nutshell, we have a training facility in an old building in Lynchburg, VA that is also a working indoor farm. The farm will sell fresh produce at the market rate; that sustains the program operation. Students are trained at the facility and then guided to stand up and operate a business, using the growing system we recommend or something else.

Ideally, the Veteran will enroll as a full-time student at Central Virginia Community College in Lynchburg to take a series of business, accounting, and horticulture courses that result in the awarding of a certificate. This certificate process has been specifically designed for the program. Here’s the point: the Dept. of Veterans Affairs pays for the courses and provides a living allowance to sustain the Veteran as a full-time student. We teach two semester-long courses in the training facility, where students learn how to operate a commercial indoor farmer, everything from growing to marketing produce.

At any point in this certificate process, or at the end, the Veteran can decide to set up a commercial indoor farm. We guide and advise the Veteran (again, at no cost). We have a list of buyers now who will take everything the Veteran can grow, not because they care about Veterans (let's be frank) but because they need the fresh produce.

How does COPE-USA fund the program? A very kind benefactor has provided the funds to equip and operate the Lynchburg facility. She is committed to a "Do More Than Give" approach to philanthropy and we welcome her energy and guidance as a full partner. We are looking for more donors and will ask Dept. of Veterans Affairs to enable us to deliver a business "package" to the Veteran and expand.

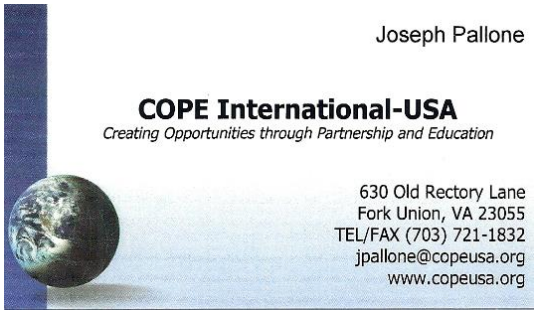
The program roles and costs are spread across partners and we are leveraging existing resources rather than duplicating efforts or reinventing the wheel:

- Central Virginia Community College is not charging the program a fee. All of the certificate program and course costs are covered through the GI Bill.
- The CVCC small business center, Virginia Cooperative Extension, SBA and various agencies will provide guidance at no cost.
- Benefactors will donate time to mentor and coach individual Veterans as needed. There is a long list of business owners who are willing to provide their time.
- The City of Lynchburg will facilitate and work with students to obtain space for their commercial indoor farm.
- Our facility is co-located at a working urban farm that currently uses our growing medium in their greenhouses. They can grow crops only in-season and demand far outstrips their capacity, further illustrating the need for year-round farming.

About COPE-USA. COPE International-USA is a 501(c)(3) nonprofit, incorporated in Virginia in 1999, EIN 54-1925460, registered with GuideStar and the Virginia State Corporation Commission. Our mission is to create sustainable, indigenous capabilities to ameliorate or resolve needs, both at home and abroad, in partnership with governmental and non-governmental organizations.

Contact:

Joseph Pallone
jpallone@copeusa.org
703 721-1832 (O)
571 289-1522 (C)



PROGRAM CONCEPT AND ELEMENTS ARE PROPIETARY

COPE International-USA

Creating Opportunities through Partnership and Education

Thank you for visiting the CVCC open house!

Our mission is to create sustainable, indigenous capabilities to ameliorate or resolve needs, both at home and abroad, in partnership with governmental and non-governmental organizations.

In a nutshell, we have a facility in Lynchburg that is also a working indoor farm where you will be trained and guided to stand up and operate your own business. You pay us nothing. Zip. Nada. We're a nonprofit.

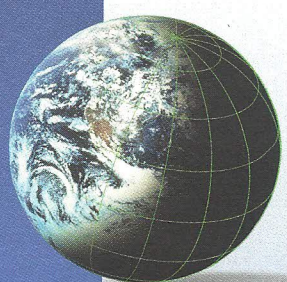
The objective of the program is to provide you with the skills and capabilities to start up, own, and operate a long-term sustainable, successful, commercial indoor farming business.

You can enroll as a full-time student at CVCC and take a series of courses. That will prepare you to run a business and result in the awarding of a business certificate. The Dept. of Veterans Affairs pays for coursework and provides a living allowance.

Two of the courses are taught at our farm where you will learn how to grow and market first quality fresh produce, year-round. At any point in the program, or at the end, you decide to set up your own commercial indoor farm. We line up buyers together. We help, guide and advise you (again, at no cost).

Starting your own commercial indoor farm will take a business plan and money. With CVCC and our partners we help you to write a real plan and get your business financed through VA, SBA, and others. Your first sales of produce will occur about four months after planting. The business plan shows how you will earn a living and service your financing from the sales. We help, guide and advise you (again, at no cost).

COPE International-USA is a 501(c)(3) nonprofit and our EIN is 54-1925460. We are registered with the Virginia State Corporation Commission.



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LYNCHBURG CITY COUNCIL
Agenda Item Summary

MEETING DATE: **September 22, 2015** AGENDA ITEM NO.: 8

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

ACTION: **X** INFORMATION:

ITEM TITLE: **Conditional Use Permit: Liberty University College Dormitory – 3125 Albert Lankford Drive**

RECOMMENDATION: Approval of the conditional use permit (CUP) petition.

SUMMARY: Liberty University is petitioning to convert the existing one hundred twenty-four (124)-unit hotel at 3125 Albert Lankford Drive to a sixty-four (64)-unit college dormitory that would accommodate one (1) to two (2) students per unit. The petition is consistent with the *Zoning Ordinance* which provides that colleges are permitted by Conditional Use Permit in the B-5, General Business District and R-C, Resource Conservation District. The use also matches the designation in the *Campbell Avenue/Odd Fellows Road Land Use Master Plan Study* which recommends a Major Center for Mixed-Use Development that includes infill development to complement existing commercial, office and institutional uses.

Following Planning Commission's recommendation for approval on September 9th, the Planning Division received a revised concept plan from the petitioner that addressed minor Technical Review Committee comments. The City Planner confirmed those changes did not substantially alter the concept plan reviewed by the Planning Commission and staff modified the first condition of the CUP resolution to reflect substantial compliance with the revised concept plan, received on September 11, 2015.

PRIOR ACTION(S):

September 9, 2015: The Planning Division recommended approval of the CUP petition.

The Planning Commission recommended approval of the CUP petition (6-0 with one vacancy.)

FISCAL IMPACT: N/A

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

ATTACHMENT(S):

- Resolution
- Planning Commission Report and Minutes – September 9, 2015
- Zoning Map
- *FLUM* Map
- Watershed Map
- Planimetric and Topographic Map
- Concept Plan
- Narrative
- Property Photograph
- Speaker Signup Sheet

REVIEWED BY: lkp

RESOLUTION:

A RESOLUTION GRANTING A CONDITIONAL USE PERMIT FOR LIBERTY UNIVERSITY TO ALLOW THE CONVERSION OF THE EXISTING 124-UNIT HOTEL AT 3125 ALBERT LANKFORD DRIVE TO A 64-UNIT COLLEGE DORMITORY IN A B-5, GENERAL BUSINESS DISTRICT AND R-C, CONSERVATION DISTRICT.

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF LYNCHBURG that the petition Liberty University for a conditional use permit to allow the conversion of the existing 124-unit hotel to a 64-unit college dormitory is hereby approved subject to the following conditions:

1. The property shall be developed in substantial compliance with the "Liberty University CUP Dormitory Request Concept Plan" received on September 11, 2015.
2. The property shall be brought into compliance with the City's Landscaping Ordinance.
3. All exterior lighting shall be controlled so that no direct illumination will occur beyond any property line.
4. The existing stairs leading to Odd Fellows Road shall be removed. These stairs may be replaced by the petitioner upon completion of pedestrian and bicycle improvements by the City of Lynchburg/VDOT as recommended by the Campbell Avenue / Odd Fellows Road Land Use Master Plan Study.

Adopted:

Certified: _____
Clerk of Council

091K

The Department of Community Development

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

To: Planning Commission
From: Planning Division
Date: September 9, 2015
Re: **Conditional Use Permit: Convert a 124-unit hotel into a college dormitory with 64 suites for graduate students and married students in a B-5 & RC zone – 3125 Albert Lankford Dr.**

I. PETITIONER

Liberty University, 1971 University Boulevard, Lynchburg, VA 24502
Representative: Maggie Cossman & Charles Spence, Liberty University, 1971 University Boulevard, Lynchburg, VA 24502

II. LOCATION

The subject property is located at 3125 Albert Lankford Drive, totaling four and forty-seven hundredths (4.47) of an acre.
Property Owner:
Liberty University, 1971 University Boulevard, Lynchburg, VA 24502

III. PURPOSE

The purpose of this petition is to allow the conversion of the existing 124-unit hotel to a 64-suite college dormitory with one (1) to two (2) students per unit.

IV. SUMMARY

- The *Comprehensive Plan 2013-2030* recommends Mixed Use development in this area.
- The petition agrees with the Zoning Ordinance in that schools and colleges are allowed in an R-C, Conservation District & B-5, General Business District upon approval of a CUP by City Council.

The Planning Division recommends approval of the CUP petition.

V. FINDINGS OF FACT

1. **Comprehensive Plan.** The Lynchburg Comprehensive Plan 2013-2030 Mixed Use for the area. The property is included in the *Campbell Avenue / Odd Fellows Road Land Use Master Plan Study*. The Plan recommends that the property be developed into a Major Center for Mixed-Use Development. This area is recommended for infill development that would complement the existing commercial, office and institutional uses. (**p. 30**)

   The Comprehensive Plan also states that quality education opportunities must be provided for youth at the secondary school level and college level and for adults as part of continuing education. The City places a high value on its colleges and will continue to support their presence within the City and to work with them in coordinating City planning with campus master planning. (**p. 109**)

2. **Zoning.** The subject property was annexed into the City in 1958. The existing R-C, Conservation District and B-5, General Business District were established in 1978 with the adoption of the Zoning Ordinance. The petition would not change the underlying zoning.

3. **Board of Zoning Appeals (BZA).** The Zoning Official has determined that no variances would be needed for the development of the property as proposed.

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

   - On November 11, 1987, City Council approved Centel Cellular Company's petition for a CUP to allow the construction of an office building with a cellular tower in the 3500 Block of Mayflower Drive.
   - On July 11, 1995, City Council approved Webb Oil Company's petition or a CUP to allow the construction of a commercial fueling center at 112 Bradley Drive.
   - On June 11, 1996, City Council approved Lovelace Oil's petition to rezone twelve and twenty-six hundredths (12.26) acres from I-2, Light Industrial District, to I-3 (Conditional), Heavy Industrial District, to allow the construction of a petroleum fuel storage facility and operation of a fuel distribution facility.
   - On July 8, 1997, City Council approved Outback Steakhouse's petition to rezone two and six-tenths (2.6) acres at 3100 Albert Lankford Drive from I-2, Light Industrial District, to B-5 (Conditional), General Business District, to allow the construction of a restaurant and parking lot
   - On October 13, 1998, City Council approved Center Point, LLC's petition to rezone one and seventy-six hundredths (1.76) acres at 3417 Odd Fellows Road from I-2, Light Industrial District, to B-3, Community Business District, to allow the construction of a branch bank.
   - On June 23, 2004, City Council approved Quarles Fuel Network's petition to for a CUP and to rezone two and twenty-two hundredths (2.22) acres at 3121 Odd Fellows Road and 3100 Mayflower Drive from I-2, Light Industrial District, and I-3, Heavy Industrial District, to I-3C (Conditional) to allow construction of an unmanned automobile fueling station.

5. **Site Description.** The subject property includes a five-story, fire-resistant frame, brick masonry hotel consisting of seventy-three thousand and thirty (73,030) square feet. The building was constructed in 1972. The property is bound to the north by a tributary of Fishing Creek and the Lynchburg Expressway, to the west by onramps for the Lynchburg Expressway, to the south by Albert Lankford Drive, and to the east by a parking lot also owned by Liberty University.

6. **Proposed Use of Property.** The purpose of the CUP petition is to convert the existing hotel into housing consisting of forty-eight (48) one-bedroom suites, six (6) two-bedroom suites, and ten (10) studio suites, all with complete kitchens. The suites would house one (1) to two (2) students each and would be primarily for married or graduate students. The only exterior modifications proposed to the building at this time are additional landscaping to bring the site into compliance with the Zoning Ordinance and the removal of the access stairs to Odd Fellows Road.

7. **Traffic, Parking and Public Transit.** The City's Transportation Engineer expressed concern about the access stairs leading to Odd Fellows Road. Liberty University has agreed to remove those stairs to discourage student passage to the University-owned hotel across the street at 3436 Odd Fellows Road. In addition, it is the University's intent to cease

student housing operations at 3436 Odd Fellows Road upon completion of the dormitory currently under construction on the main campus. This will eliminate students' inclination to cross the road.

The Zoning Ordinance provides that parking requirements for Colleges & Universities are to be set at time of Conditional Use Permit (CUP) approval. The subject property contains one-hundred and forty (140) parking spaces, providing more than adequate parking facilities for the proposed use.

The Greater Lynchburg Transit Company Bus Route 9 has three (3) stops located within two hundred (200) feet from the proposed college dormitory. There is a stop located at the entrance to the building, and two (2) stops located on either side of Albert Lankford Drive, adjacent to the property.

8. **Stormwater Management.** An Erosion & Sediment Control / Stormwater Management Plan will not be required as there will be no new impervious areas.

9. **Emergency Services.** The City's Fire Marshal had no concerns regarding the CUP.

   The City Police Department recommended specifications about lighting, signage, door/window security, and general safety.

10. **Impact.** The proposed conversion of the hotel to student housing would have limited impact on the surrounding area. The total number of occupants in the facility would be reduced below the current hotel use, and there is ample parking to serve the use as proposed. The addition of kitchen facilities to the suites, combined with the removal of the use of the property at 3426 Odd Fellows Road for hotel use by the University should negate some of the desire of students to cross the road unsafely.

11. **Technical Review Committee.** The TRC reviewed the concept plan on August 18, 2015. Comments related to the proposed use were minor in nature and have or will be addressed by the petitioner 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 Liberty University's petition for a conditional use permit (CUP) to convert the existing one hundred and twenty-four (124) unit hotel into a sixty-four (64) suite dormitory within a B-5, General Business District.

1. **The property shall be developed in substantial compliance with the "Liberty University CUP Dormitory Request Concept Plan" received on August 4, 2015.**
2. **The property shall be brought into compliance with the City's Landscaping Ordinance.**
3. **All exterior lighting shall be controlled so that no direct illumination will occur beyond any property line.**

4. **The existing stairs leading to Odd Fellows Road shall be removed. These stairs may be replaced upon completion of pedestrian & bicycle improvements by the City of Lynchburg / VDOT as recommended by the Campbell Avenue / Odd Fellows Road Land Use Master Plan Study.**

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 Thomas Goode, Fire Marshal
Mr. Don DeBerry, Transportation Engineer
Mr. Doug Saunders, Building Commissioner
Mr. Kevin Henry, Zoning Administrator
Mr. Charles Spence, Liberty University
Ms. Maggie Cossman, Liberty University

VII. ATTACHMENTS

1. **Zoning Map**
2. **FLUM Map**
3. **Watershed Map**
4. **Planimetric and Topographic Map**
5. **Concept Plan**
6. **Narrative**
7. **Property Photograph**

MINUTES OF THE SEPTEMBER 9, 2015 PLANNING COMMISSION MEETING (MINUTES HAVE NOT BEEN APPROVED):

Ms. Rachel Frischeisen had the following comments for the Planning Commission. The *Comprehensive Plan* recommends Mixed Use for this area. The property is included in the Campbell Avenue/Odd Fellows Road Land Use Master Plan Study. The Plan recommends that the property be developed into a major center for mixed use development. This area is recommended for infill development that would complement the existing commercial, office and institutional uses. This property would fall into the class of institutional use. The petition is consistent with the *Zoning Ordinance*, which provides that colleges and their accessory uses are permitted by conditional use permit in the B-5, General Business District.

The proposed college dormitory is intended for graduate or married students. As it is currently constructed, this building is a hotel with 124 units, which would be converted into 64 suite-style units, each including a kitchen capable of housing one to two students each. The current on-site parking will be more than adequate for this less intensive use of the building. The occupancy of the building would be reduced below the current hotel use. The only exterior modifications to the site would be additional landscaping to bring the site into compliance with the *Zoning Ordinance*. It is staff's belief that this petition will improve the situation between pedestrians and vehicular traffic by reducing the desire of students to cross Odd Fellows Road. The stairs leading to Odd Fellows Road will be removed as part of this project. The converted dorm will have full kitchens (thus eliminating the need to access the dining hall across the road). In addition, the university intends to close the facility across the street at 3426 Odd Fellows Road upon completion of the second high rise dorm located on campus. The combination of factors should negate the inclination of students to cross the road unsafely.

Staff's conclusion is that the proposed conversion of the hotel to a dormitory should have limited impact on the area. The Planning Division recommends approval of this petition with the conditions outlined. I will be happy to answer any questions you may have.

Ms. Maggie Cossman of Liberty University was present to represent the petition. She indicated that the university is very excited about the proposed use for this facility. It will meet a unique need they have to provide housing for graduate and married students. Chair Swienton asked if there was anyone else who wished to speak in favor of the petition. No one came forward. He asked if there was anyone who wished to speak in opposition of the petition. No one came forward. He closed the public hearing portion of the petition.

Commissioner Lowe commented that he thought this was a great use for the facility. He inquired if there would be laundry facilities in the rooms and Ms. Cossman indicated that there would be a central laundry room. Commissioner Swienton asked why the college had not been required to obtain a conditional use permit previously, as this facility has been used for student housing for some time. Ms. Cossman explained that the use had remained a hotel and they had rented out the rooms to students. As the use is proposed to change to apartments, the need to obtain a conditional use permit had become necessary. There was a question as to how they planned to use the dorm facility across the street after it closes. Ms. Cossman indicated that they did not anticipate using it for housing students but the college has not determined a use for it at this time. The second high rise dorm is scheduled to be ready for the winter semester and that is when they plan to move the students located across the street.

Commissioner Perault asked about allowing this use in the Resource Conservation area and whether this would be considered an appropriate use for the Resource Conservation district. Mr. Tom Martin indicated that there may be a small portion of the building located in the Resource Conservation area, which is why it was included. However, the college has no plans to expand the facility, so there should be no impact on the Resource Conservation area. If they ever did plan to expand the facility, the university would have to come back for another conditional use permit.

Commissioner Light indicated that he can remember when both of these facilities were hotels and there has always been a tendency for people to cross the street between the two facilities. He feels that closing the facility across the street for housing students and changing the use of this facility to married and graduate students would be a good thing. He also believes that the pedestrian safety issue should improve with these changes.

Commissioner Light made the following motion, which was seconded by Commissioner Lowe, and passed by the following vote:

"That the Planning Commission recommends to City Council approval Liberty University's petition for a conditional use permit (CUP) to convert the existing one hundred and twenty-four (124) unit hotel into a sixty-four (64) suite dormitory within a B-5, General Business District.

1. **The property shall be developed in substantial compliance with the "Liberty University CUP Dormitory Request Concept Plan" received on August 4, 2015.**

2. **The property shall be brought into compliance with the City's Landscaping Ordinance.**

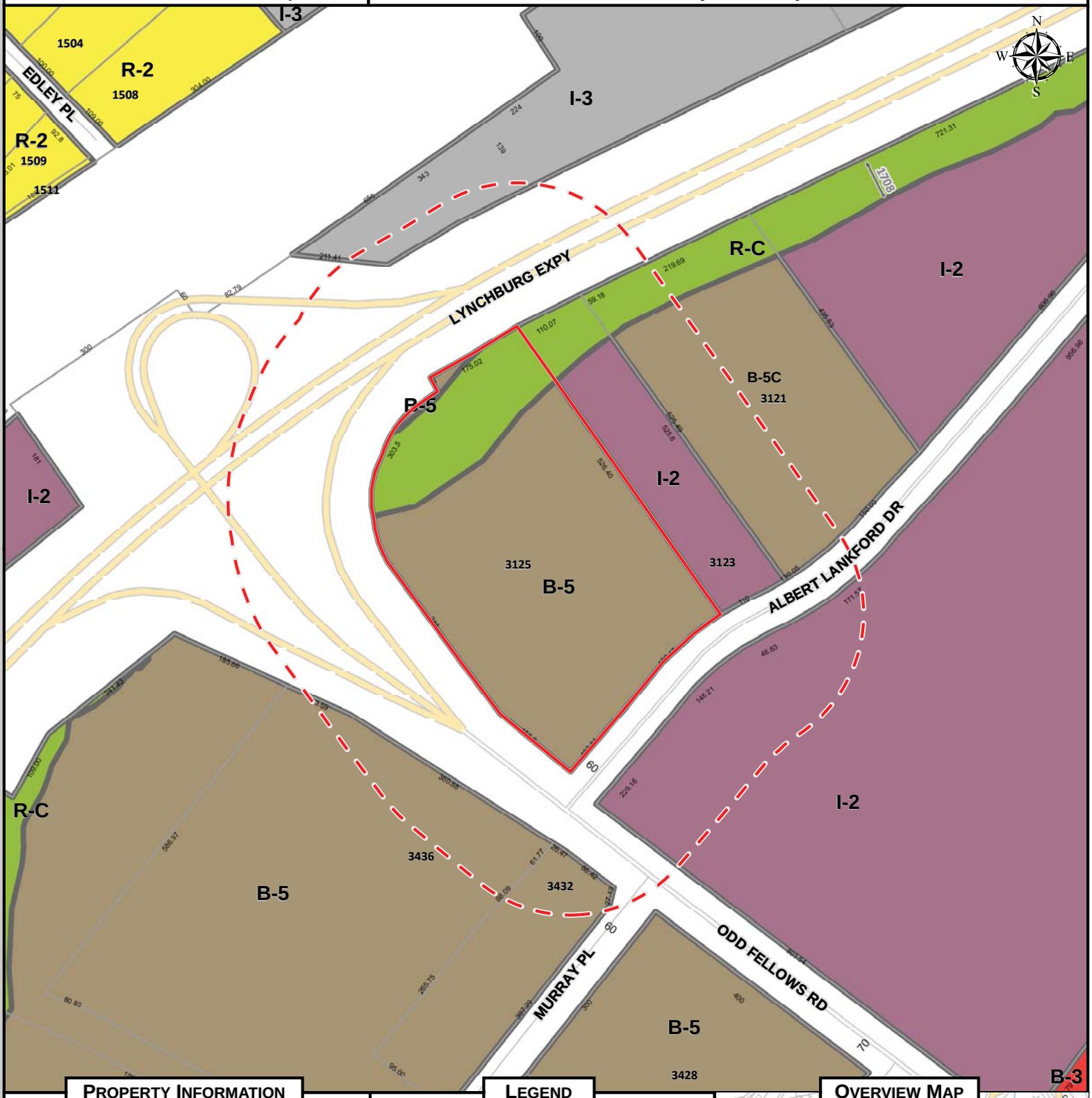
3. **All exterior lighting shall be controlled so that no direct illumination will occur beyond any property line.**

4. **The existing stairs leading to Odd Fellows Road shall be removed. These stairs may be replaced upon completion of pedestrian and bicycle improvements by the City of Lynchburg /VDOT as recommended by the Campbell Avenue/Odd Fellows Road Land Use Master Plan Study."**

The motion passed by the following vote:

AYES:	Light, Lowe, Marion, Mays, Perault and Swienton	6
NOES:		0
ABSTENTIONS:		0
ABSENT:		0
VACANCIES:		1

Zoning Map	LU ANNEX
Conditional Use Permit Request	Liberty University



Property Information

Parcel ID	Address
05103006	3125 ALBERT LANKFORD DR

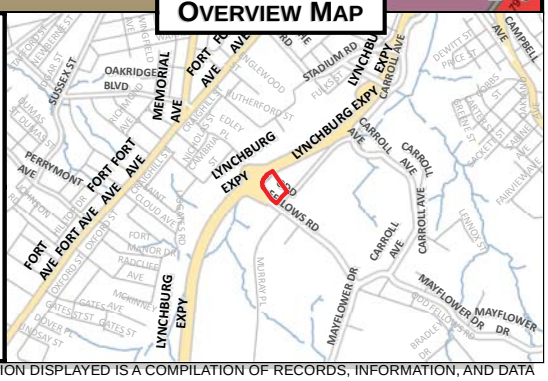
Legend

- Subject Property
- 215' Buffer

B-1	B-6	R-2
B-2	I-1	R-3
B-3	I-2	R-4
B-4	I-3	R-5
B-5	R-1	R-C

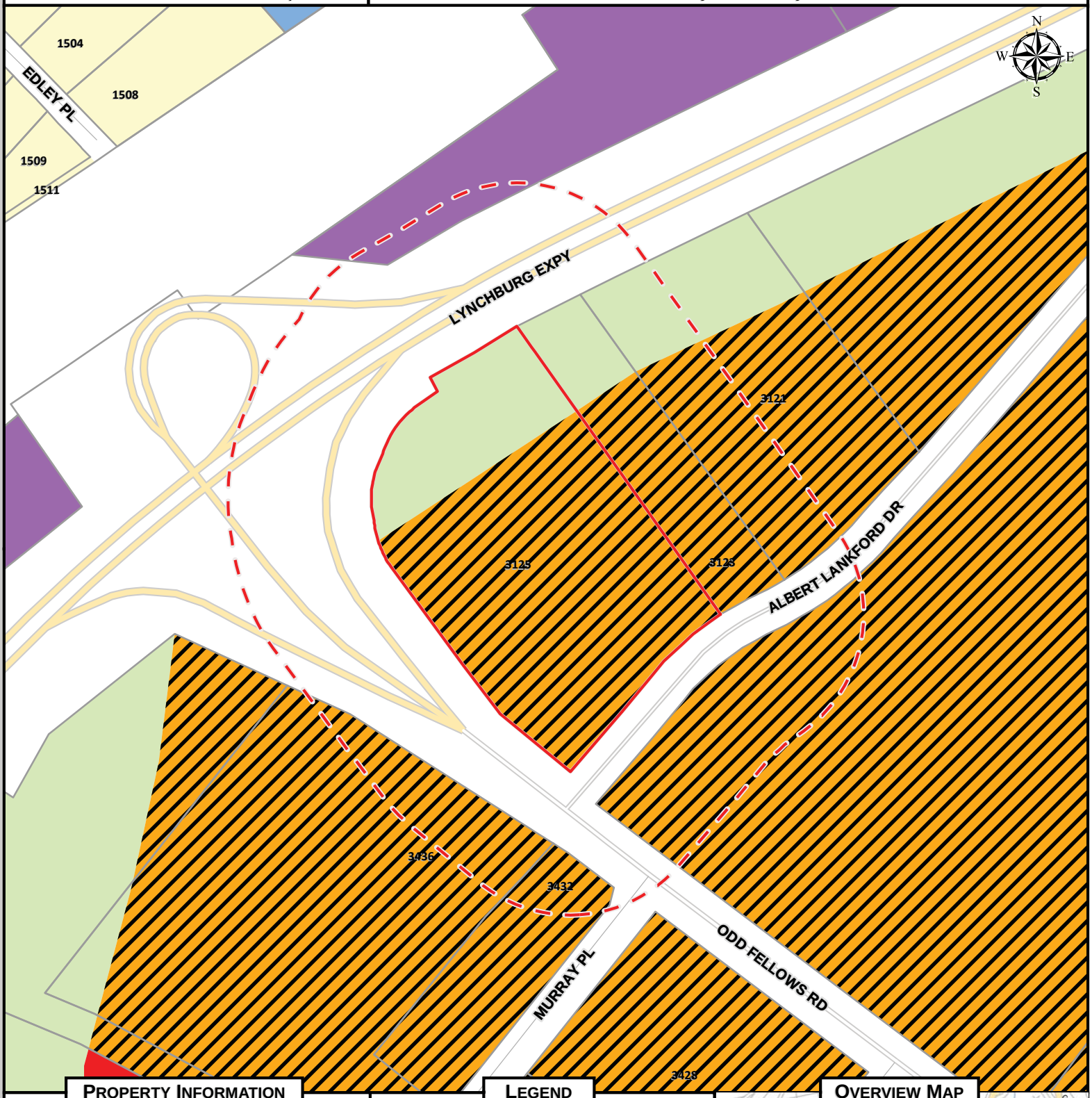
Map Scale: 1 " to 4,000 '**Date Printed:** 9/4/2015

Overview Map



DISCLAIMER: THIS MAP IS NEITHER A LEGALLY RECORDED MAP NOR A SURVEY AND IS NOT INTENDED TO BE USED AS SUCH. THE INFORMATION DISPLAYED IS A COMPILATION OF RECORDS, INFORMATION, AND DATA OBTAINED FROM VARIOUS SOURCES. THE CITY OF LYNCHBURG IS NOT RESPONSIBLE FOR ITS ACCURACY OR HOW CURRENT IT MAY BE.

FLUM Map	LU ANNEX
Conditional Use Permit Request	Liberty University



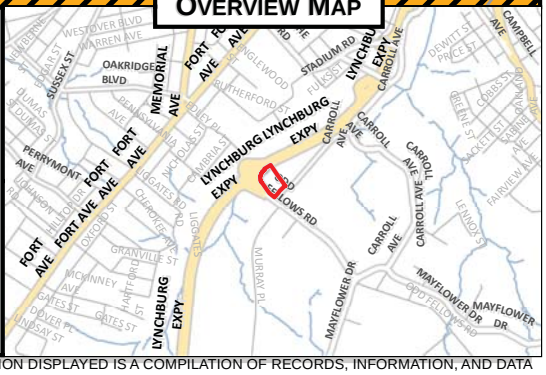
Property Information

Parcel ID	Address
05103006	3125 ALBERT LANKFORD DR

Legend

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

Overview Map



Map Scale: 1 " to 4,000 '**Date Printed:** 9/4/2015

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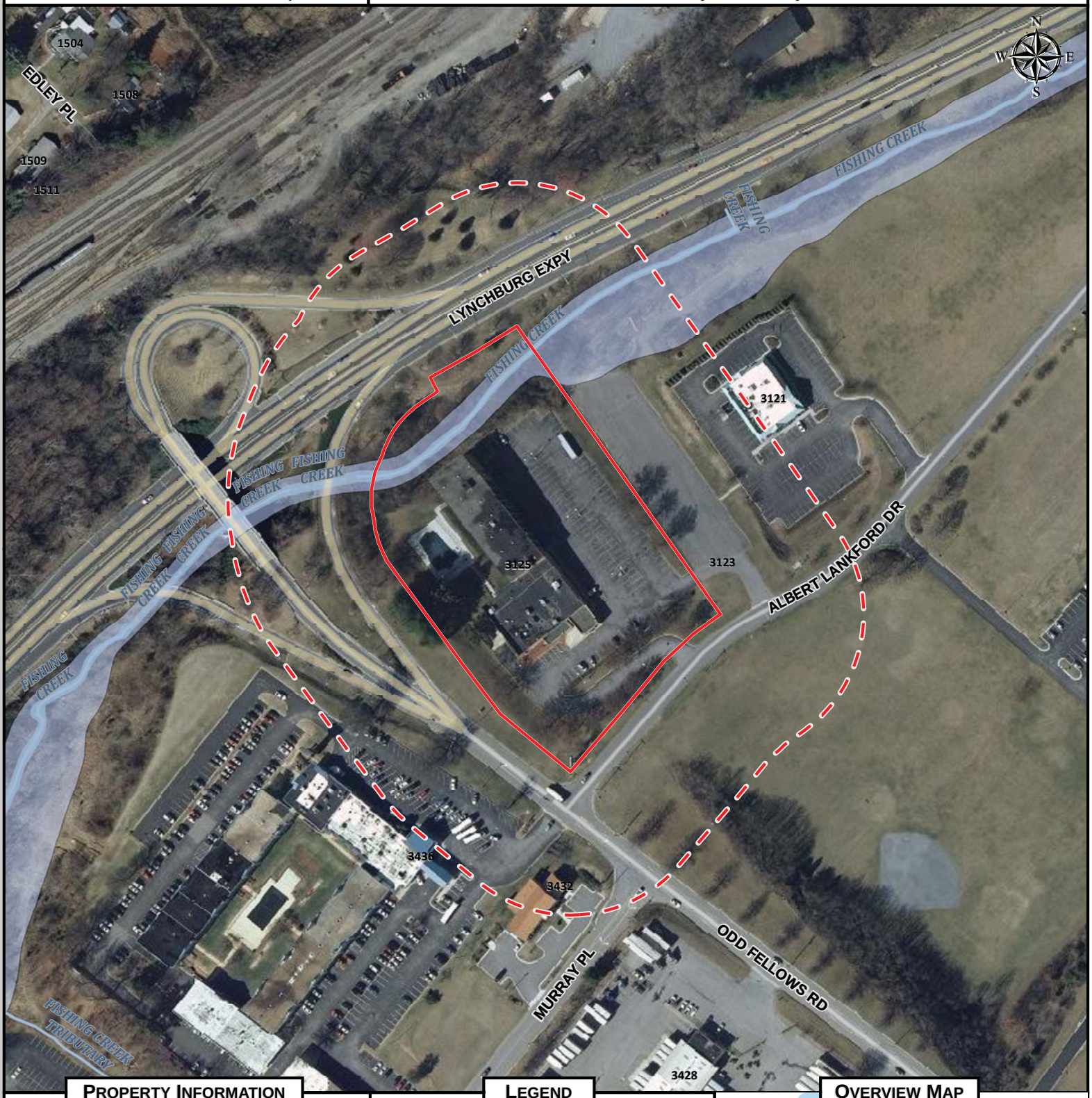
Watershed Map	LU ANNEX
Conditional Use Permit Request	Liberty University



Property Information

Parcel ID	Address
05103006	3125 ALBERT LANKFORD DR

Legend

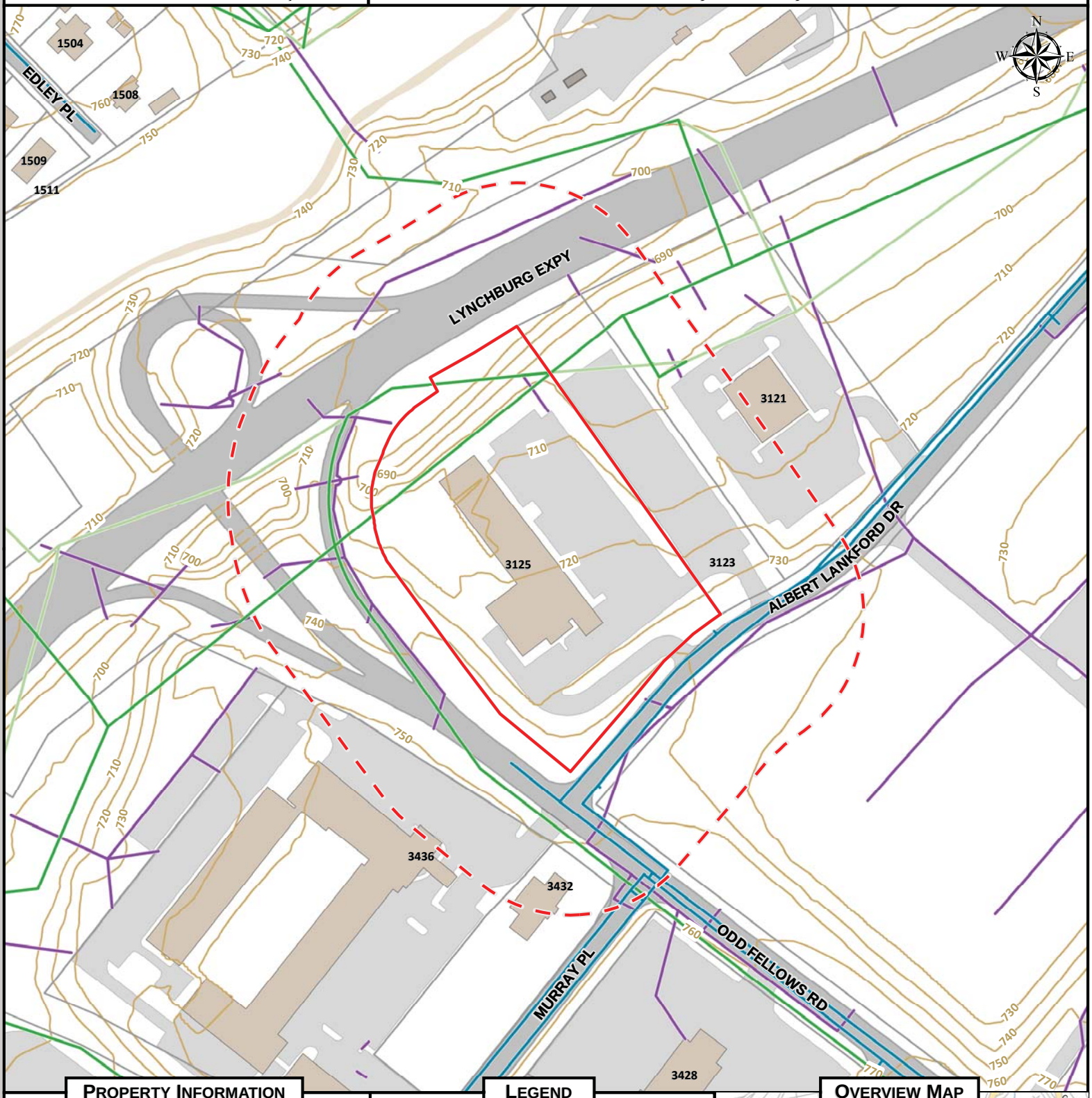
- Subject Property
- Base Flood Elevation
- Floodway
- Floodzone
- River / Lake / Stream

Overview Map

Map Scale: 1 " to 33,333 **Date Printed:** 9/4/2015

DISCLAIMER: THIS MAP IS NEITHER A LEGALLY RECORDED MAP NOR A SURVEY AND IS NOT INTENDED TO BE USED AS SUCH. THE INFORMATION DISPLAYED IS A COMPILATION OF RECORDS, INFORMATION, AND DATA OBTAINED FROM VARIOUS SOURCES. THE CITY OF LYNCHBURG IS NOT RESPONSIBLE FOR ITS ACCURACY OR HOW CURRENT IT MAY BE.

Planimetric and Topographic Map	LU ANNEX
Conditional Use Permit Request	Liberty University



Property Information

Parcel ID	Address
05103006	3125 ALBERT LANKFORD DR

Legend

		Active	Proposed	Abandoned
Utilities	Water			
	Sanitary			
	Storm			

		Paved	Unpaved	Other
Planimetrics	Structure	-	-	
	Roadway			-
	Parking			-
	Sidewalk		-	-
	Driveway	-	-	

		10'	10' Obs
Topography	Contour		

Map Scale: 1 " to 4,000 '**Date Printed:** 9/4/2015

Overview Map

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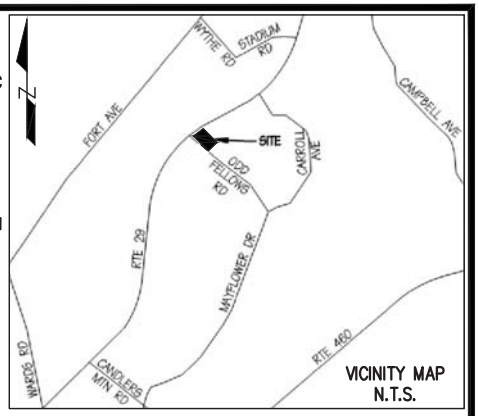
SITE INFORMATION:
OWNER: LIBERTY UNIVERSITY, INC.
ADDRESS: 3125 ALBERT LANKFORD DR
TM#: 51-03-006 ZONE: B-5 & R-C
PROPOSED USE: COLLEGE DORMITORY
SETBACKS: FRONT=0, SIDE=0, REAR=0
ROUTE 29 – 50' SETBACK
PROJECT NUMBER: CUP1508-0002 ⚠

NOTES:
1. PLAN CONSISTS OF CONVERTING 124 EX HOTEL UNITS FOR LU DORMITORY USE. 48 WILL BE CONVERTED TO 1 BEDROOM SUITES, 6 TO 2 BEDROOM SUITES, AND REMAINING 10 WILL BE CONVERTED TO STUDIO SUITES. ALL SUITES WILL HAVE FULL KITCHENS.
2. SITE IS SERVED BY PUBLIC WATER AND SANITARY SEWER. NO NEW WATER OR SEWER CONNECTIONS WILL BE REQUIRED. BACKFLOW PROTECTION WILL BE ADDED TO ALL EXISTING WATER SERVICES. ⚠
3. NO NEW IMPERVIOUS AREA IS PROPOSED. NO STORMWATER MANAGEMENT FACILITIES ARE PROPOSED.



LANDSCAPING REQUIREMENTS:
SEC. 35.1-25.1.7. PARKING AREA LANDSCAPING (140 EX SPACES):
1 SHADE TREE/8 SPACES & 1 SHRUB/SPACE
18 TREES & 140 SHRUBS REQUIRED
18 TREES & 122 SHRUBS PROP + 18 EX SHRUBS PROVIDED
PARKING AREA SCREENING (170'):
SCREENING PROVIDED BY EX ROW OF SHRUBS
SEC. 35.1-25.1.8. STREET TREES (TOTAL FRONTAGE ALONG RT 29, ODD FELLOWS RD. & ALBERT LANKFORD DR=1,208'):
1 SHADE TREE/40' OF STREET FRONTAGE
31 TREES REQUIRED
2 TREES PROPOSED + EXISTING TREES ALONG STREETS
SEC. 35.1-25.1.9. FOUNDATION PLANTINGS (412' BUILDING FRONTAGE)
1 ORNAMENTAL TREE/50' OF BUILDING FRONTING ROAD
9 TREES REQUIRED
9 EX TREES PROVIDED
1 MEDIUM SHRUB + 1 SMALL SHRUB/10' OF BUILDING
42 SHRUBS REQUIRED
7 LARGE + 16 MEDIUM + 19 SMALL=42 EX SHRUBS PROVIDED
SEC. 35.1-15.1.12. TREE CANOPY REQUIREMENTS: ⚠
R-C – 20% OF ENTIRE DEVELOPMENT SITE
R-C AREA =28,397 SF
25,964 SF (EX CANOPY) =91% CANOPY COVERAGE
B-5 – 10% OF ENTIRE DEVELOPMENT SITE
B-5 AREA =166,316 SF
22,827 SF (EX. CANOPY)+4,900 (PROP CANOPY)= 27,727 SF
=17% CANOPY COVERAGE

PARKING REQUIREMENTS:
64 SPACES REQUIRED = (1 SPACE/UNIT) 64 UNITS
+1 SPACE REQUIRED = (1 SPACE/3 EMPLOYEES) 2 EMPLOYEES
65 SPACES REQUIRED
138 SPACES PROVIDED
INCLUDING 5 ADA SPACES

COMMONWEALTH OF VIRGINIA
MARGARET H. COSSMAN
Lic. No. 036400
09/11/15
PROFESSIONAL ENGINEER

LIBERTY UNIVERSITY
PLANNING AND CONSTRUCTION
1971 UNIVERSITY BLVD
LYNCHBURG, VA 24515
PHONE: 434-592-4131
EMAIL: MHCOSSMAN@LIBERTY.EDU

REV.	DATE	COMMENTS
⚠	9/11/15	PER TRC COMMENTS

LIBERTY UNIVERSITY
CUP DORMITORY REQUEST
CONCEPT PLAN
LYNCHBURG, VIRGINIA

Date: 08/04/15 Sheet: 2 of 2

SCALE: 1"=60'

0 60 120

GRAPHIC SCALE

LIBERTY
UNIVERSITY

Planning and Construction

Liberty University Annex II
College Dormitory Conditional Use Permit Request Narrative
3125 Albert Lankford Drive
Lynchburg, VA
Current Zoning: B-5 & R-C

Liberty University requests a conditional use permit for the property located at 3125 Albert Lankford Drive in Lynchburg, VA to allow college dormitory use in the B-5 zone. LU would like to convert the former 124 unit hotel into 48 one bedroom suites, 6 two bedroom suites, and 10 studio suites for a total of 64 units. All of the units will have full kitchens. No work is proposed outside of the building, with the exception of additional landscaping.

The majority of the site is zoned B-5. All of the developed portions of the site are located within the B-5 zoning. A tributary to Fishing creek traverses the site from west to east at the north side of the site. This area is zoned R-C and is the flood zone. No work is proposed in the R-C zoning or flood zone area. It will remain in its natural state.

The former hotel is served by public water and sanitary sewer which are adequate for the proposed renovation. No new water or sanitary sewer connections are proposed. Existing landscaping will be supplemented with proposed landscaping as noted on the plan. The existing parking lot also has adequate capacity for the proposed use, even with additional landscaping, because the college dormitory use is less intensive than a hotel use. No new impervious area is proposed with the project (impervious area would be lessened, in fact). The tributary to Fishing Creek adequately conveys the site runoff. The existing dumpster is screened by a fence enclosure.

The proposed dormitory use is similar in nature to the previous hotel use, less intensive, and will not adversely impact the surrounding properties or future development. Liberty University respectfully requests your support of this request.

RECEIVED
AUG 04 2015
COMMUNITY
DEVELOPMENT

address 1971 University Boulevard
Lynchburg, VA 24502-2269
phone 434-592-4131
fax 434-522-0473
email cpspence@liberty.edu
web www.liberty.edu

3125 Albert Lankford Circle
Conditional Use Permit

PLEASE PRINT

NAME	ADDRESS	PHONE	IN FAVOR	IN OPPOSITION	NEUTRAL
Maggie Cossman	1971 University Blvd	434 546 0460	✓		

LYNCHBURG CITY COUNCIL
Agenda Item Summary

MEETING DATE: **September 22, 2015** AGENDA ITEM NO.: 10

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

ACTION: **X** INFORMATION:

ITEM TITLE: **Kirkley Apartments; Request for Extension of Conditional Use Permit**

RECOMMENDATION: Adopt the attached resolution providing for a last twelve month extension of the conditional use permit (CUP) originally granted for the Kirkley Apartments on May 13, 2014; such extension to expire on November 13, 2016.

SUMMARY: The Kirkley Apartments project, located at 5212 Woodall Road and 2900 Candlers Mountain Road, was originally granted a CUP on May 13, 2014. Subsequently, the developer has asked for two six month extensions of the CUP and they have been granted by the City Manager. The developer is now asking for a final twelve month extension. Such extension must be approved by City Council, as required by the following section of City Code:

Sec. 35.1-15. - Conditional use permits issued by city council.

(i)

Time limitations on the validity of a conditional use permit.

(1)

If a building permit for construction authorized by a conditional use permit granted under these regulations shall not have been applied for within six months of the granting of such conditional use permit, the conditional use permit so granted shall become void, unless the following appeal procedures are applied for and secured. Prior to the aforestated six-month expiration, a six-month extension may be applied for through the city manager's office.

(2)

Two such six-month extensions may be obtained. A third and final 12-month extension may be requested from city council prior to the expiration of the second six-month administrative extension

Staff has been advised that the project has been delayed due to other projects that the developer has had going on in other areas. The developer works around the school schedule and plans on starting construction in the spring of 2016 to have the apartments opened for the 2017-2018 school year.

PRIOR ACTION(S): April, 9, 2013, City Council approved a CUP for the project; the original CUP expired and was re-approved on May 13, 2014.

FISCAL IMPACT: None

CONTACT(S): Kimball Payne, City Manager, 455-3990

ATTACHMENT(S): Letter requesting the extension; Resolution.

REVIEWED BY: lkp

RESOLUTION

WHEREAS, The Kirkley Apartments project was originally granted a Conditional Use Permit (CUP) by the Lynchburg City Council on May 13, 2014, and

WHEREAS, in accordance with the City Code the City Manager has granted two six month extensions to the CUP with the most recent extension due to expire on November 13, 2015, and

WHEREAS, the developer of the Kirkley Apartments project has petitioned City Council for a third and final extension of the CUP, for twelve months,

NOW, THEREFORE, BE IT RESOLVED THAT The Lynchburg City Council does hereby grant a final twelve month extension of the CUP for the Kirkley Apartments project; such extension to expire on November 13, 2016.

Adopted:

Certified: _____
Clerk of Council

093K

BALZER
AND ASSOCIATES INC
REFLECTING TOMORROW

August 28, 2015

Mr. L. Kimball Payne, III
Lynchburg City Manager
900 Church Street
Lynchburg, VA 24504

Re: CUP Extension
Kirkley Apartments
5212 Woodall Road & 2900 Candlers Mountain Road

Dear Mr. Payne:

On behalf of WVS Lynchburg, LLC and GDG Lynchburg Apartments, LLC, we are requesting an additional twelve (12) month extension to the CUP granted for the subject property on May 13, 2014.

It is our understanding that the current six (6) month extension is valid until November 13, 2015 and if this request is granted, the CUP will be valid until November 13, 2016.

Thank you for your consideration of this request and please feel free to contact me with any questions.

Respecfully,
Balzer and Associates, Inc.

Christopher Burns, P.E.
Associate

Enclosure

cc: Jason Vickers-Smith, WVS Lynchburg, LLC
Peter Greenberg, GDG Lynchburg Apartments, LLC

THE CITY OF LYNCHBURG, VIRGINIA

900 Church Street, Lynchburg, VA 24504
www.lynchburgva.gov
TEL: 434-455-3990
FAX: 434-847-1536

OFFICE OF THE
CITY MANAGER

May 4, 2015

Mr. Sean Horne
Vice President
Balzer and Associates
1208 Corporate Circle
Roanoke, VA 24018

Re: CUP Extension, Kirkley Apartments
5212 Woodall Road & 2900 Candlers Mountain Road

Dear Mr. Horne:

I have received your letter dated April 20, 2015 requesting a second six month extension of the Conditional Use Permit (CUP) granted to GDG Lynchburg Hotel, LLC by the City Council on May 13, 2014.

The CUP was granted to allow the construction of a one hundred fifty-six (156) unit apartment complex with associated clubhouse, pool and parking at 5212 Woodall Road & 2900 Candlers Mountain Road. The first extension was granted on September 29, 2014 and kept the CUP valid until May 13, 2015. A copy of Resolution #R-14-043 and the letter approving the first extension are enclosed for your information.

Pursuant to your request, the Planning Division and the Technical Review Committee (TRC) have carefully reviewed the matter. As a result of this review, I am hereby granting a six (6) month extension of the CUP, which will be valid until November 13, 2015.

In the event that another extension proves necessary, a twelve (12) month extension may be requested from City Council prior to the expiration of this six (6) month extension.

Please let me know if you have any questions regarding this matter.

Sincerely,

L. Kimball Payne, III
City Manager

Enclosures

pc: Walter Erwin, City Attorney
Kevin Henry, Zoning Administrator
Tom Martin, City Planner
Lee Newland, City Engineer
Doug Saunders, Building Official
Kent White, Community Development Director

RESOLUTION: #R-14-043

A RESOLUTION GRANTING A CONDITIONAL USE PERMIT TO GDG LYNCHBURG HOTEL, LLC TO ALLOW THE CONSTRUCTION OF A ONE HUNDRED FIFTY-SIX (156) APARTMENT UNIT COMPLEX WITHIN THREE (3) FOUR (4) STORY BUILDINGS WITH ASSOCIATED POOL, CLUB HOUSE AND PARKING AT 5212 WOODALL ROAD AND 2900 CANDLERS MOUNTAIN ROAD IN A B-3C, COMMUNITY BUSINESS DISTRICT (CONDITIONAL).

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF LYNCHBURG that the petition of GDG Lynchburg Hotel, LLC for a conditional use permit to allow the construction of a one hundred fifty-six (156) unit apartment unit complex within three (3) four (4) story buildings with associated pool, club house and parking at 5212 Woodall Road and 2900 Candlers Mountain Road is hereby approved subject to the following conditions:

1. The property shall be developed in substantial compliance with the site plan titled "CUP Plan for Kirkley Apartment Community" as prepared by Hurt & Proffitt, Inc. dated March 19, 2014.
2. A sidewalk shall be installed on Woodall Road as indicated on the submitted site plan.
3. The petitioner shall relocated the bus shelter to the western side of the intersection of Woodall Road and Candlers Mountain Road as shown on the submitted site plan.
4. All lighting shall be glare shielded and non-directional to prevent direct illumination beyond the property line.
5. Building elevations and materials shall be as indicated in the building elevations submitted by the petitioner and received by Community Development on October 9, 2012.

As provided by Section 35.1-15(i) of the zoning ordinance, if a building permit for any construction authorized by this conditional use permit is not applied for within six months of the granting of the conditional use permit, the conditional use permit shall become void, unless prior to the expiration of the six month period, the holder of the permit has applied for a six month extension of the conditional use permit from the City Manager's Office. Two six month extensions of the conditional use permit may be obtained from the City Manager's Office. A third and final twelve month extension of the conditional use permit may be requested from City Council prior to the expiration of the second six month extension that was issued by the City Manager's Office.

Adopted: May 13, 2014

Certified: Valerie P. Clark

Clerk of Council

061K

THE CITY OF LYNCHBURG, VIRGINIA

900 Church Street, Lynchburg, VA 24504
www.lynchburgva.gov
TEL: 434-455-3990
FAX: 434-847-1536

OFFICE OF THE
CITY MANAGER

September 29, 2014

Mr. Peter Greenberg
GDG Lynchburg Hotel, LLC
2900 Candlers Mountain Road
Lynchburg, VA 24502

Subject: CUP Extension – Kirkley Apartments, 5212 Woodall Road & 2900 Candlers Mountain Road

Dear Mr. Greenberg:

I have received your letter dated September 14, 2014 requesting a six-month extension of the Conditional Use Permit (CUP) granted to GDG Lynchburg Hotel, LLC by the City Council on May 13, 2014.

The CUP was granted to allow the construction of a one hundred fifty-six (156) unit apartment complex with associated clubhouse, pool and parking at 5212 Woodall Road & 2900 Candlers Mountain Road. A copy of Resolution #R-14-043 is enclosed for your information.

Pursuant to your request, the Planning Division and the Technical Review Committee (TRC) have carefully reviewed this matter. As a result of this review, I am hereby granting a six (6) month extension of the CUP, which will be valid until May 13, 2015.

In the event that another extension proves necessary, a second six (6) month extension may be requested.

Please let me know if you have any questions regarding this matter.

Sincerely,

L. Kimball Payne, III
City Manager

Enclosure

pc: Walter Erwin, City Attorney
Rob Fowler, Zoning Administrator
Tom Martin, City Planner
Lee Newland, City Engineer
Doug Saunders, Building Official
Kent White, Community Development Director

International City Management Association

LYNCHBURG CITY COUNCIL
Agenda Item Summary

MEETING DATE: **September 22, 2015** AGENDA ITEM NO.: 11

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

ACTION: **X** INFORMATION:

ITEM TITLE: **Amend Sections 26-55 and 26-57 of the City's Noise Ordinance**

RECOMMENDATION: Adopt the attached ordinance amending Sections 26-55 and 26-57 of the City Code to make it clear that Lynchburg does not use vague standards when determining if the noise ordinance is being violated.

SUMMARY: When Lynchburg adopted a decibel based noise ordinance in 1991 it realized there would be certain situations in which it would be difficult to get accurate decibel readings. For example: situations where the noise was of a temporary nature, situations where sound meters might not be readily available to police officers, situations in which officers might not be able to get accurate decibel readings because of background noise, etc. In order to try and deal with these situations, the City left language in the noise ordinance making it an offense to make certain types of sounds "which unduly disturb or unduly annoy" others or would "disturb or annoy the quiet, comfort or repose of reasonable persons."

In 2009 the Virginia Supreme Court struck down Virginia Beach's noise ordinance on the grounds that a noise ordinance that prohibited "unreasonably loud" sounds was too vague and did not provide objective standards by which sounds could be evaluated. Since Lynchburg's noise ordinance was primarily based on decibel levels, the City continued to enforce its ordinance, but at the suggestion of the Commonwealth Attorney's Office, adding the following language to the ordinance to try and make it clear that noise violations only occurred when sounds exceeded the designated decibel levels--"The enumerated acts listed in this section are examples of acts that may constitute loud, disturbing and unnecessary noise in violation of the section. However, in order for any of the acts listed in this section to be a violation of the section the noise generated by such acts must exceed the maximum sound pressure levels set forth in section 26-56 of the city code."

A citizen recently advised the City Attorney's Office that he found the references in the ordinance to sounds "which unduly disturb or unduly annoy" and sounds that "disturb or annoy the quiet, comfort or repose of reasonable persons" to be confusing. To eliminate any citizen confusion, the noise ordinance has been revised to remove the language referring to sounds that "disturb or annoy the quiet, comfort or repose of reasonable persons." Also, the section of the ordinance that deals with exceptions has been revised in an effort to clarify some of the exemptions.

PRIOR ACTION(S): The City's noise ordinance was adopted on July 9, 1991 and amended on March 8 ,2011.

FISCAL IMPACT: None

CONTACT(S): Walter C. Erwin, 455-3973

ATTACHMENT(S): An ordinance amending Sections 26-55 and 26-57 of the City Code.

REVIEWED BY: lkp

ORDINANCE

AN ORDINANCE TO AMEND AND REENACT SECTIONS 26-55 AND 26-57 OF THE CODE OF THE CITY OF LYNCHBURG, 1981, THE AMENDED SECTIONS RELATING TO THE CITY'S NOISE ORDINANCE.
BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LYNCHBURG:

1. That Sections 26-55 and 26-57 of the Code of the City of Lynchburg, 1981, be and the same is hereby amended and reenacted as follows:

Sec. 26-55. - Prohibited noise, generally.

(a) Prohibited noise. ~~No person shall create or cause the creation of any noise so as to disturb or disrupt the peace and quiet of reasonable persons in the City of Lynchburg.~~ It shall be a violation of this article for any person to cause or permit to be caused any of the following prohibited sounds or noises. However, no person shall be charged with a violation of the provisions of this article unless (i) a complainant appears before a magistrate and requests a summons to be issued, or (ii) a violation is committed in the presence of a police officer.

(b) Maximum sound pressure levels. No person shall operate or permit to be operated any noise source which generates a sound pressure level exceeding the limits set forth in the table entitled "Maximum Sound Pressure Levels" when measured at or outside the property boundary of the noise source or at any point within any other property affected by the noise. When a noise source can be identified and its noise measured in more than one district classification, the limits of the most restrictive classification shall apply.

(c) Noise sensitive zones. No person shall operate or permit to be operated any noise source on any street or on any property adjacent to any school, institution of learning or court, while the same is in session, or adjacent to any building used as a place of public worship while being so used, or adjacent to any hospital which ~~unreasonably interferes with the workings~~ is audible inside the confines of such school, institution of learning, ~~or~~ court, ~~or the services being conducted in such~~ place of worship, or ~~which disturbs or unduly annoys patients in such~~ hospital.

(d) ~~Enumerated acts~~ Specific prohibitions. No person shall engage in any of the following acts, among others, which are declared to be loud disturbing and unnecessary noise in violation of this section, but such enumeration shall not be deemed to be exclusive:

(1) Sound producing and sound reproducing devices. No person shall operate or permit the playing of any radio, phonograph, television set, music sound system, audio player, radio receiving set, music playing device, sound producing device, record, compact disc, tape, digital music, MP3 or DVD player, musical instrument or any similar device which produces, reproduces, or amplifies sound or any loudspeaker, sound amplifier or other machine or device capable of producing or reproducing sound, regardless of whether such sound-producing or sound-reproducing machine or device is located inside of a structure or outside of or on a structure, in such a manner or with such volume as to exceed the maximum sound pressure levels set forth in Section 26-56. ~~on any public sidewalk or right-of-way or on any other publicly owned property or on any privately owned property in such a manner or with such volume to disturb or annoy the quiet, comfort or repose of reasonable persons~~. (Prohibitions against excessive noise from radios and music systems in motor vehicles are found in section 26-58 of this article and prohibitions against excessive noise from radios and music systems in the public parks are found in subsection 28-7(b) of the City Code.)

(2) Yelling, shouting, etc. No person on or in any public sidewalk, street or right-of-way or on any other publicly owned property or on any privately owned property shall engage in yelling, shouting, hooting, whistling or singing ~~in such a manner or with such volume as to disturb or annoy the quiet, comfort or repose of reasonable persons~~ between the hours of 9:00 p.m. and 7:00 a.m., except to summon aid in an emergency.

(3) Loudspeakers, amplifiers, etc. for advertising. No person shall use or permit the use of any musical instrument, radio, phonograph, sound amplifier, public address system, or any similar device which produces, reproduces, or amplifies sound or any loudspeaker, sound amplifier or other machine or device capable of producing or reproducing sound of any kind whereby sound is cast on any highway, street or across property boundaries for the purpose of advertising or attracting the attention of the public to any performance, show, sale or display or merchandise or to any building or structure between the hours of 9:00 p.m. and 7:00 a.m. The use of such devices shall be permitted at other times provided they are not operated in such a manner or with such volume as to ~~disturb or annoy the quiet, peace or repose of reasonable persons~~ exceed the maximum sound pressure levels set forth in Section 26-56.

(4) Shouting and crying of peddlers, etc. The shouting, yelling, whistling, screaming or ~~and~~ crying of peddlers, hawkers and vendors ~~which disturbs the peace and quiet of the neighborhood is prohibited~~ for the purpose of attracting attention to a performance, show, sale or display of merchandise between the hours of 9:00 p.m. and 7:00 a.m. is prohibited.

(5) Animals. ~~No person shall keep or permit the keeping of any animal which, by causing frequent or long-continued noise, shall disturb the quiet, comfort or repose of the neighborhood to such an extent as to constitute a nuisance.~~ Prohibitions against excessive noise from animals and fowl are found in Section 7-6 of the City Code.

~~(e) Exceeding maximum sound pressure levels. The enumerated acts listed in this section are examples of acts that may constitute loud, disturbing and unnecessary noise in violation of the section. However, in order for any of the acts listed in this section to be a violation of the section the noise generated by such acts must exceed the maximum sound pressure levels set forth in section 26-56 of the City Code.~~

Sec. 26-57. - Exemptions.

The following specific activities are exempt from the provisions of sections 26-55 and 26-56 herein:

(a) Sound created by the operation of domestic power tools such as power lawn mowers, chain saws, weed eaters, etc. used in connection with lawn care, leaf removal, gardening, tree maintenance or removal or other landscaping, lawn or timbering activities, provided the operation of said equipment is limited between the hours of 7:00 a.m. and 9:00 p.m. and such equipment is operated with a standard muffler or sound dissipating devices.

(b) Sound generated by the construction, repair, maintenance, remodeling, demolition, alteration, grading or other improvement of real property, streets, sewers or utility lines, provided such sound is limited between the hours of 7:00 a.m. and 9:00 p.m.

(c) Sound generated by the city in the ~~operation~~ performance of any governmental function.

(d) Radios, sirens, horns and bells on police, fire or other emergency response vehicles.

(e) Parades, fireworks or other special events or activities for which a permit has been issued by the city, within such hours as may be imposed as a condition for the issuance of the permit.

(f) Religious services, religious events or religious activities, including, but not limited to music, bells, chimes and organs which are a part of such religious activity.

(g) Sound amplifying equipment used at public parks or recreation fields provided the operation of such equipment has been approved by the department of parks and recreation.

(h) Non-commercial public speaking and public assembly activities conducted on any public right-of-way or public property for which a permit has been issued by the city, within such conditions as may be imposed as a condition for the issuance of the permit.

(i) Band performances or practices, athletic contests or practices and other school-sponsored activities on the grounds of public or private schools, provided that such activities have been authorized by school officials.

(j) Fire alarms and burglar alarms, prior to the giving of notice and a reasonable opportunity for the owner or tenant in possession of the premises served by any such alarm to turn off the alarm.

(k) Sound generated for the purpose of alerting persons to the existence of an emergency, or the emission of sound in the performance of emergency work.

(l) Activities for which the regulation of noise has been preempted by federal law.

(m) Religious or political gatherings and other activities protected by the First Amendment to the United States Constitution.

(n) The movement of aircraft or trains which is conducted in accordance with or pursuant to applicable federal laws and regulations.

(o) Music or jingles by an ice cream truck or similar mobile food service vehicle, provided such vehicle may emit sounds otherwise prohibited by this subsection only between the hours of 7:00 a.m. and 9:00 p.m.

(p) Sound or noise which is necessary for the protection or preservation of property or the health, safety, life or limb of any person, including sound or noise caused by restoration of utility service after an interruption.

(q) Military activities of the state or of the United States of America.

(r) Activities for which the regulation of noise has been preempted by federal law.

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

Adopted:

Certified: _____
Clerk of Council

092K