

MEMORANDUM

To: City Council
From: Donna Witt, Director of Financial Services 
CC: L. Kimball Payne, City Manager
Bonnie Svrcek, Deputy City Manager
Date: December 9, 2010
Re: FY 2010 Comprehensive Annual Financial Report and Related Reports

In preparation for the upcoming presentation by Brown Edwards, LLC the following documents are enclosed for your review:

- FY 2010 Comprehensive Annual Financial Report (CAFR).
- Comments on Internal Control and Other Suggestions for Your Consideration
- Audit Committee Letter – Required Communication with those Charged with Governance
- Independent Auditor's Report on Comments and Suggestions – City of Lynchburg's Sheriff's Office
- Comments on Internal Control and Other Suggestions for Your Consideration – Lynchburg City Schools
- Audit Committee Letter – Required Communication with those Charged with Governance – Lynchburg City Schools

Representatives from Brown Edwards, LLC will be presenting this information in the December 14th work session. The Audit Committee presentation by Brown Edwards, LLC is scheduled for December 14, 2010.

Full Audit Reports are available for review in the Financial Services Budget office.

LYNCHBURG CITY COUNCIL

Agenda Item Summary

MEETING DATE: **December 14, 2010**

AGENDA ITEM NO.: 2

CONSENT:

REGULAR:

WORK SESSION: **X**

CLOSED SESSION:
(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: Town and Gown Initiative Goals, Structure, and Staff Support

RECOMMENDATION: Provide guidance to staff regarding the goals, structure and staff support needed to continue City Council's *Town & Gown* initiative.

SUMMARY:

On Friday, November 12, Lynchburg City Council hosted an informal *Town & Gown* breakfast meeting with the presidents or their representatives from Central Virginia Community College, Virginia University of Lynchburg, Lynchburg College, Liberty University, Randolph College and Sweet Briar. The purpose of the meeting was to start a conversation about building stronger relationships between the institutions and the City. During the meeting, each institution enthusiastically welcomed the idea of a town and gown initiative and agreed to continue meeting on a quarterly basis, rotating meetings amongst the different campuses. The next *Town & Gown* meeting is tentatively scheduled to take place in January at Lynchburg College. See the attached Town & Gown Highlights document for additional information on the meeting.

During a previous work session, Council agreed to clarify the *Town & Gown* goals, structure and staff support needed for this initiative after the initial *Town & Gown* breakfast meeting. Below is a list of questions to help facilitate Council's discussion:

1. What are the goals of the *Town & Gown* initiative?
2. What should be the roles of individual Council members or the whole Council? Will Council form a Town and Gown Committee, will it interact as a committee of the whole, or is there some other role for Council?
3. Will the *Town & Gown* meetings continue to be public? Please note: if a standing Town and Gown Committee is formed, it becomes a public body subject to the FOIA including notice of meetings and being open to the public and press.
4. What staff support will be needed for this initiative?
5. What additional resources (funds?) will be needed?

PRIOR ACTION(S): November 12, 2010 meeting.

FISCAL IMPACT: N/A

CONTACT(S): Leslie King, Assistant to the City Manager, 455-4212

ATTACHMENT(S): November 12, 2010 Town & Gown Meeting Highlights

REVIEWED BY: lkp

Meeting Highlights

Town and Gown Friday, November 12, 2010

On behalf of City Council, thank you for attending the Town and Gown Breakfast on Friday. The energy and enthusiastic responses from the meeting illustrates the great appetite for strengthening on-going relationships and partnerships between the City and the institutions of higher learning you represent. For your review, here are some of the ideas generated from the round table discussion:

- Hold Town and Gown meetings on a quarterly basis. Each institution will host a meeting on a rotating basis.
- Pursue the development of a leadership program for college students potentially utilizing the Greater Lynchburg Chamber of Commerce's Leadership Lynchburg model and the City's Citizens Academy.
- Identify service learning opportunities for students to engage them more in the community.
- Each president is invited to submit a list of ideas to consider for collaborative efforts.
- City could participate in first year orientation on each campus to provide more information about the City and its services
- The website www.visitlynchburg.org was noted as a current resource for students to learn more about events and other activities in the City.
- Each college president was encouraged to write a letter to Delta Airlines to request that they not leave the City. The possibility of a joint letter with signatures from all of the institutions was presented.
- **The site for the next Town and Gown meeting will be at Lynchburg College in January 2011.**

If you have any questions or concerns, please contact Leslie King, Assistant to the City Manager at 434-455-4212 or leslie.king@lynchburgva.gov.

LYNCHBURG CITY COUNCIL

Agenda Item Summary

MEETING DATE: **December 14, 2010**

AGENDA ITEM NO.: 3

CONSENT:

REGULAR:

WORK SESSION: **X**

CLOSED SESSION:

(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: **Public Safety Compensation Presentation**

RECOMMENDATION: Determine the appropriate course of action to address public safety compensation, recruitment and turnover issues.

SUMMARY: The attached slides form the basis of a presentation to Council during work session on December 14th. It has been prepared as directed by Council during its retreat in September. The presentation is the result of meetings with police officers, research, and ongoing discussions between the City Manager, Human Resources and the Police Department. While the presentation strives to provide context for the situation regarding Police Department compensation, recruitment and retention, its "nut" is a proposal consisting of three parts:

- A January 1, 2011 pay adjustment
- The implementation of a bonus program
- The procurement of third party assistance

The presentation also mentions concerns that would arise if the proposal is accepted.

PRIOR ACTION(S): September 10, 2010, City Council Retreat

FISCAL IMPACT: \$250,000 impact in FY 2011; \$500,000, minimally, in FY 2012, and as much as \$2-4 million ongoing.

CONTACT(S): Kimball Payne, 455-3990

ATTACHMENT(S): Presentation slides.

REVIEWED BY: lkp

Public Safety Compensation Presentation

December 14, 2010

Presentation Outline

1. Background
2. Assignment
3. Proposal
4. Looking Ahead

1. Background

- Review of information provided at City Council's Retreat, September 10, 2010
- Historic overview of past actions

The Compensation Philosophy

Adopted by City Council, November 25, 2003

... the mission of the employees of the City of Lynchburg is to deliver services to City residents, workers and visitors in an efficient, effective and equitable manner and to build a stronger community.

The goal of the City of Lynchburg's compensation program is to attract, reward and retain employees that are representative of the community and fully able to deliver services at acceptable levels.

Principles

- Employees who have dedicated themselves to the service of the City's residents are to be valued.
- City employees shall be compensated in ways that reflect market competitiveness and recognize performance in alignment with organizational goals.
- The intent is to have a program that reasonably provides choices and the flexibility to assist employees in achieving their goals, while encouraging individual responsibility and reflecting the prevailing market environment.
- The Pay Plan must be fiscally responsible and affordable; it will always be constrained by resource availability.
- No Pay Plan is perfect; every variable cannot be addressed equally and to the satisfaction of all. Choices and trade-offs based on the organization's values, goals and priorities must be made.

“Market” Competitiveness

- The “market” is defined as other employers considered being in competition for personnel similar to those employed by the City. Ideally, market analysis compares pay and benefits in other organizations of similar size, cost of living, service delivery requirements and organizational structure. Generally, this will include Virginia’s First Cities, local governments in the region, and private sector employers as appropriate and available.

Market Comparison Trend

Salaries as of 7/1/10

	Pay Range Min to Mkt Min	Employee Avg Pay to Mkt Avg Pay
2004	97.57%	92.22%
2005	94.30%	90.09%
2006	94.97%	93.38%
2007	91.91%	92.17%
2008	90.72%	92.18%
2009	91.96%	92.86%
2010 (mid-year)	91.96%	93.48%

City-Wide Turnover Trend

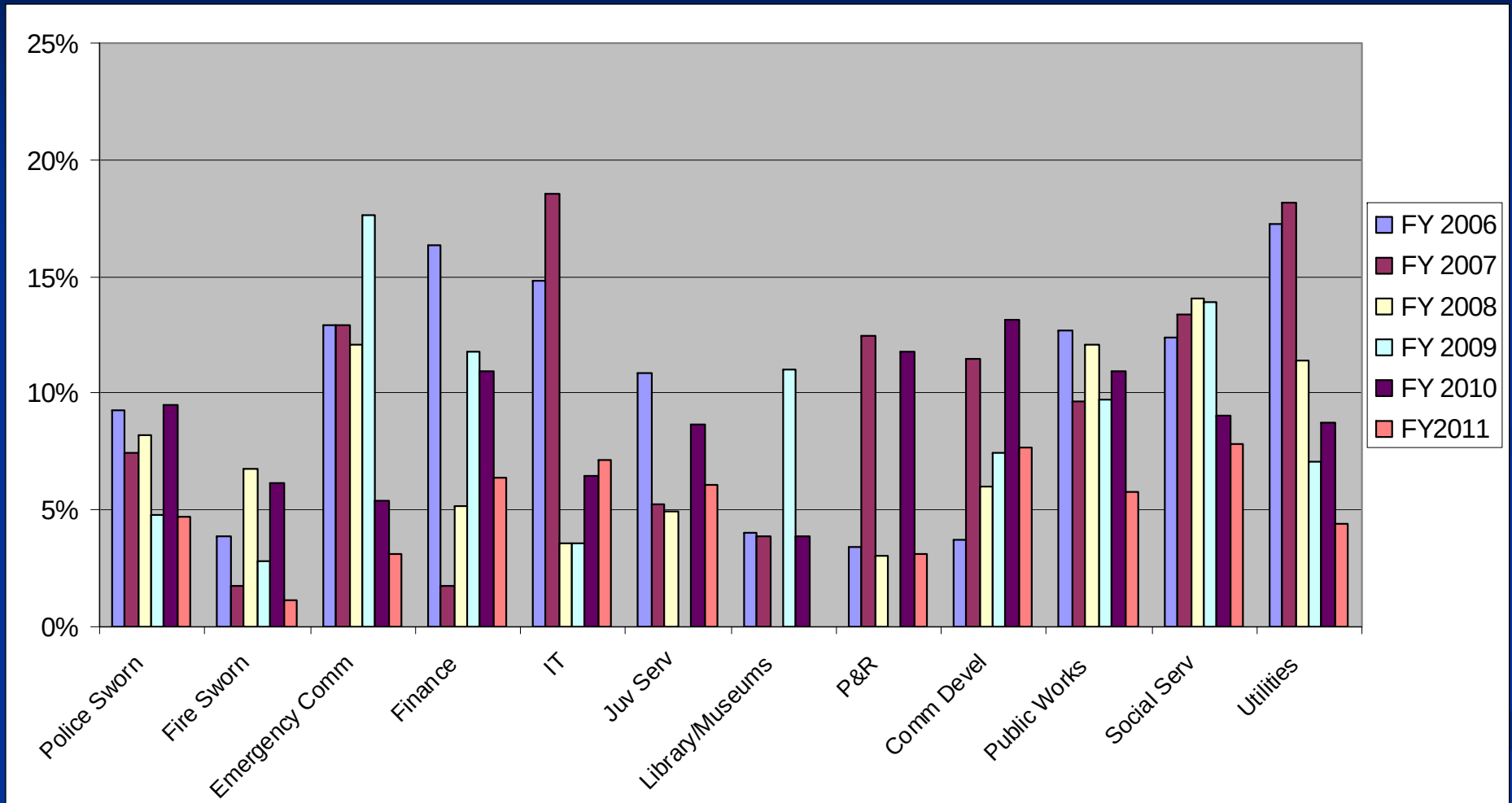
Fiscal Year Turnover

Year	Voluntary (Resignations)	Total (All Reasons)
2007	4.88%	8.75%
2008	4.38%	8.34%
2009	3.84%	7.6%
2010	3.41%	8.94%
2011	2.03%	4.33%

Note: 2011 turnover through 11/30/10

Total Turnover FY06 – FY11

Turnover for All Reasons in Departments with >20 Employees



FY11 Turnover Through November 30, 2010

Concerns

- On-going turnover in departments with positions having with multiple incumbents
 - Social Services
 - Juvenile Services
 - Police
 - Public Works
 - Utilities
- Recent turnover spikes
- Last employee base pay increases 7/1/08

Public Safety

- Police Department
- Fire Department
- Emergency Services

Police Market Comparisons

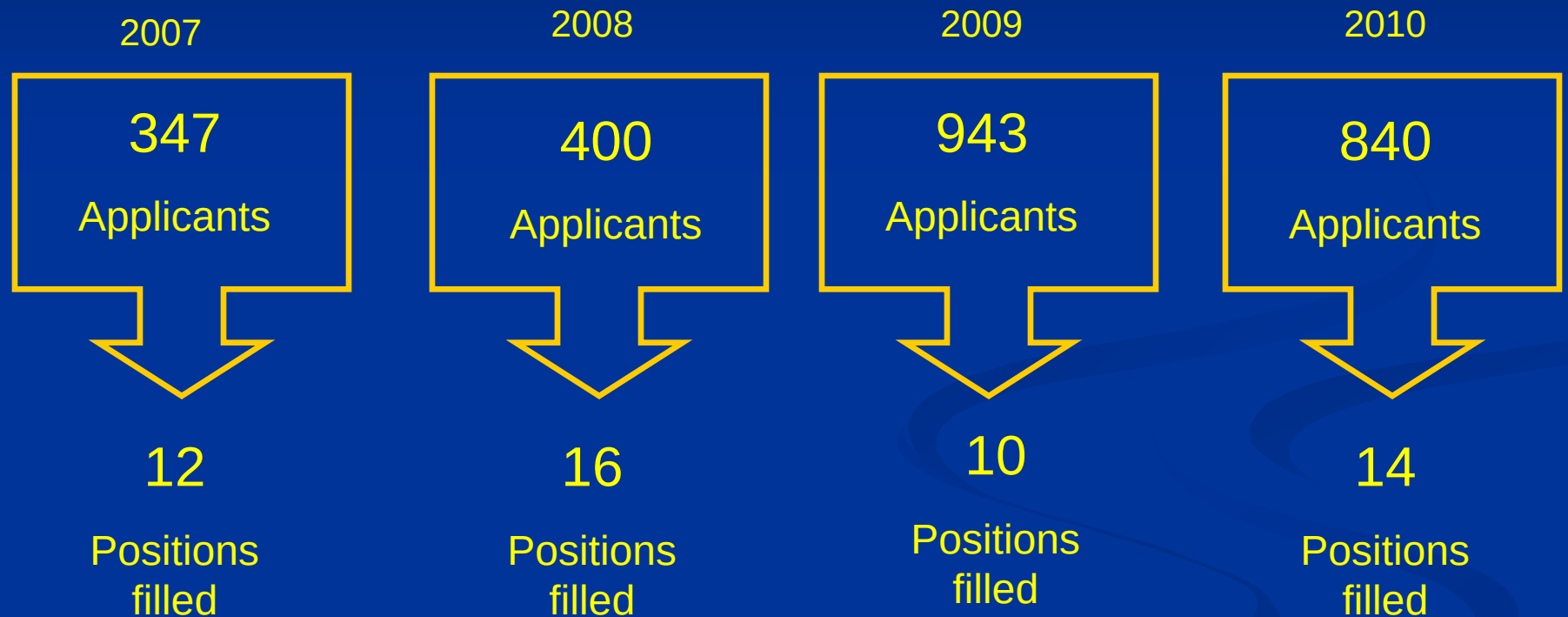
Salaries as of 7/1/10

	Pay Range Min to Mkt Min	Employee Avg Pay to Mkt Avg Pay
2007	88.02%	85.81%
2008	88.86%	93.8 %
2009	86.77%	87.82 %
2010 (mid-year)	86.77%	87.84%

Police

■ Police Recruit	90.61% City Min. to Market Min. 90.61% City Avg. to Market Avg.
■ Police Officer II	95.14% City Min. to Market Min. 84.46% City Avg. to Market Avg.
■ Police Officer III	89.55% City Min. to Market Min. 91.13% City Avg. to Market Avg.
■ Police LT	81.54% City Min. to Market Min. 84.83% City Avg. to Market Avg.
■ Police CAPT	85.41% City Min. to Market Min. 83.07% City Avg. to Market Avg.
■ Police Major	vacant

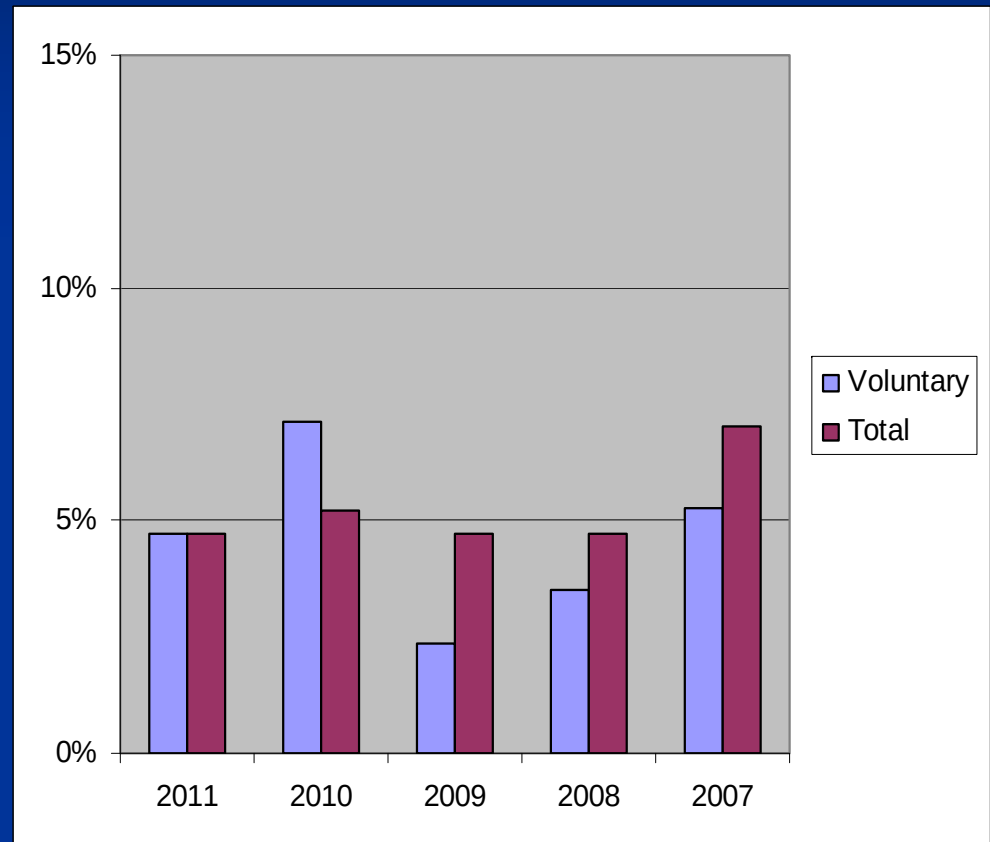
Police Attraction & Recruitment



Police Turnover Trend

	% Voluntary	% Total
2007	5.26	7.02
2008	3.53	8.24
2009	2.35	4.71
2010	7.14	9.52
2011	4.73%	4.73%

Note: 2011 turnover through 11/30/10



Fire/EMS Market Comparisons

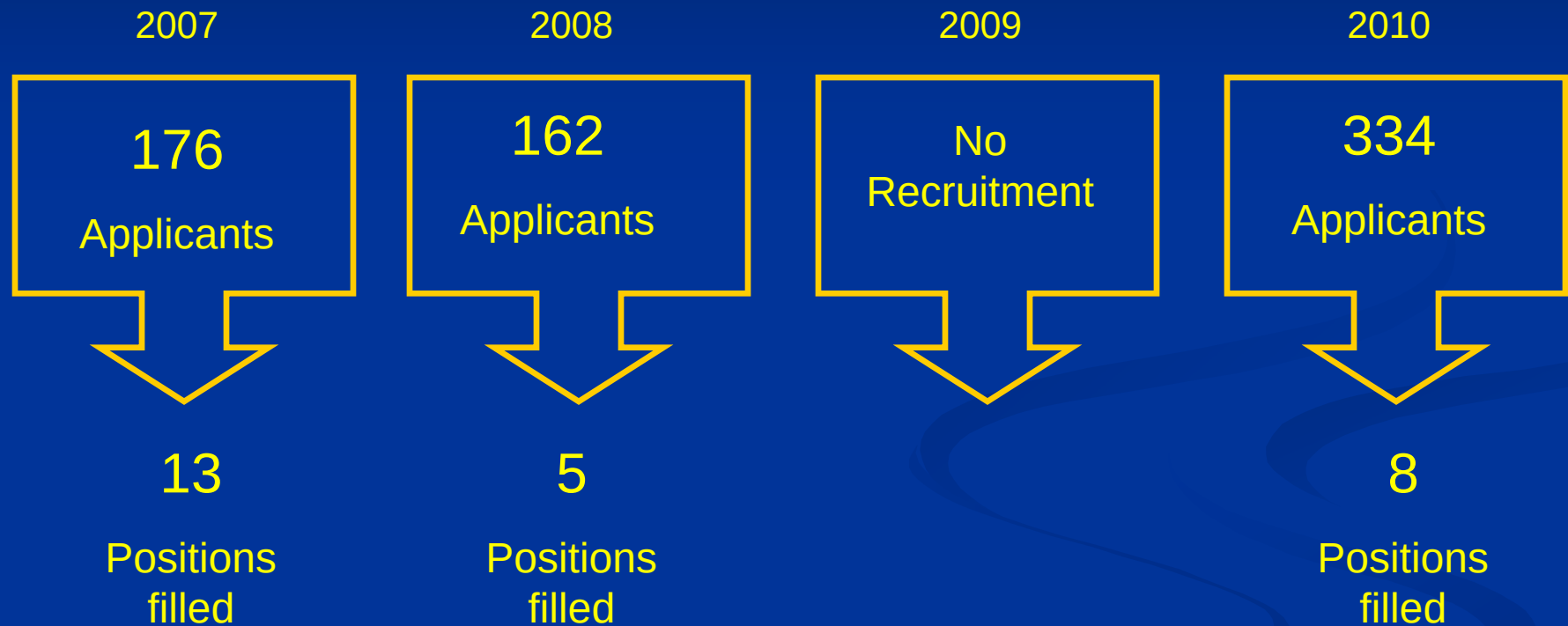
Salaries as of 7/1/10

	Pay Range Min to Mkt Min	Employee Avg Pay to Mkt Avg Pay
2007	90.04%	99.71%
2008	89.16%	101.73%
2009	87.23%	102.93%
2010 (mid-year)	87.23%	103.83%

Fire/EMS

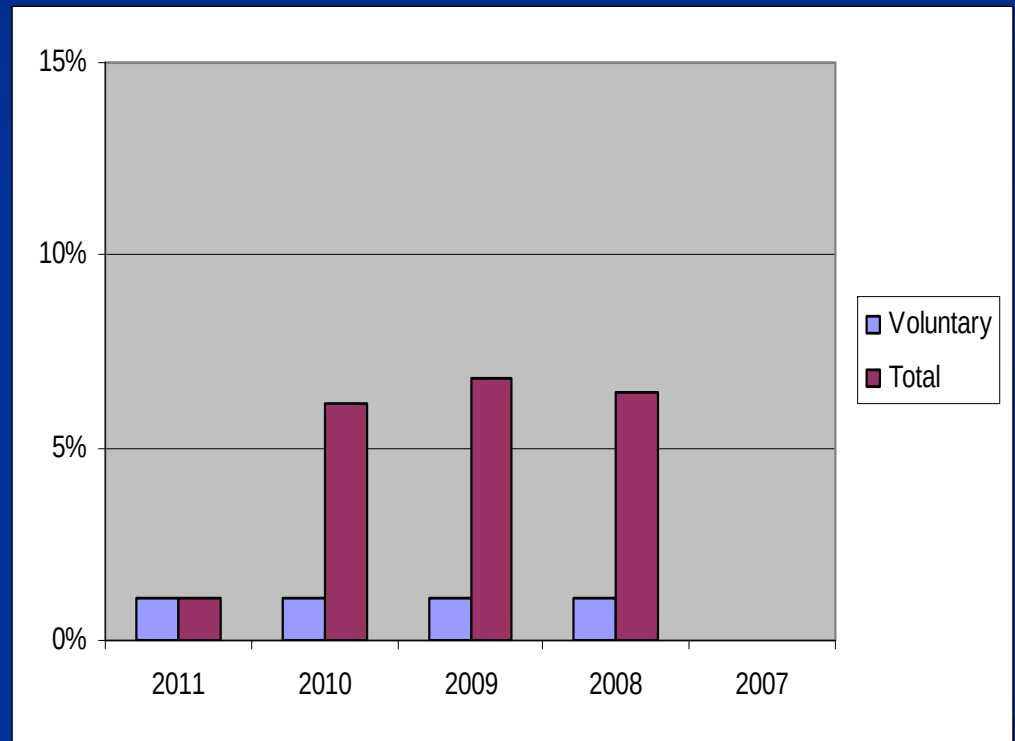
- **Fire Recruit**
86.95% City Min. to Market Min.
86.91% City Avg. to Market Avg.
- **Firefighter**
91.30% City Min. to Market Min.
100.06% City Avg. to Market Avg.
- **Master Firefighter**
87.86% City Min. to Market Min.
102.44% City Avg. to Market Avg.
- **Fire Captain**
84.97% City Min. to Market Min.
96.13% City Avg. to Market Avg.
- **Battalion Chief**
89.16% City Min. to Market Min.
98.500% City Avg. to Market Avg.
- **Deputy Fire Chief**
94.58% City Avg. to Market Avg.

Fire Attraction & Selection



Fire/EMS Turnover Trend

	% Voluntary	% Total
2007	0	0
2008	1.12%	6.74%
2009	1.13%	6.78%
2010	1.12%	6.18%
2011	1.13%	1.13%



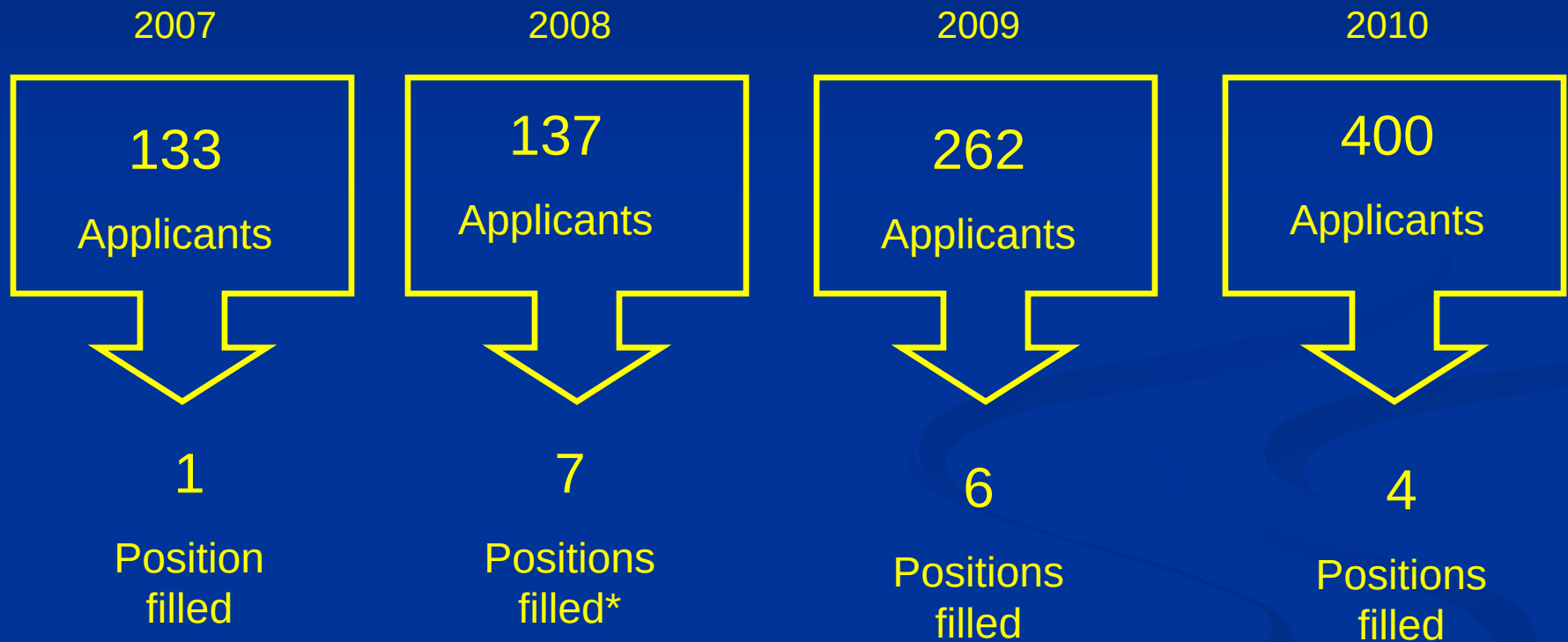
Note: 2011 turnover through 11/30/10

Emergency Services

- **PS Communications Specialist** 93.04% City Min. to Market Min.
87.73% City Avg. to Market Avg.
- **PS Communications Asst Sup** 85.90% City Min. to Market Min.
79.08% City Avg. to Market Avg.
- **PS Communications Sup** 90.18% City Min. to Market Min.
87.48% City Avg. to Market Avg.
- **Deputy Director of Emer. Svc.** 76.40% City Avg. to Market Avg.

LynCom reports problems recruiting qualified applicants

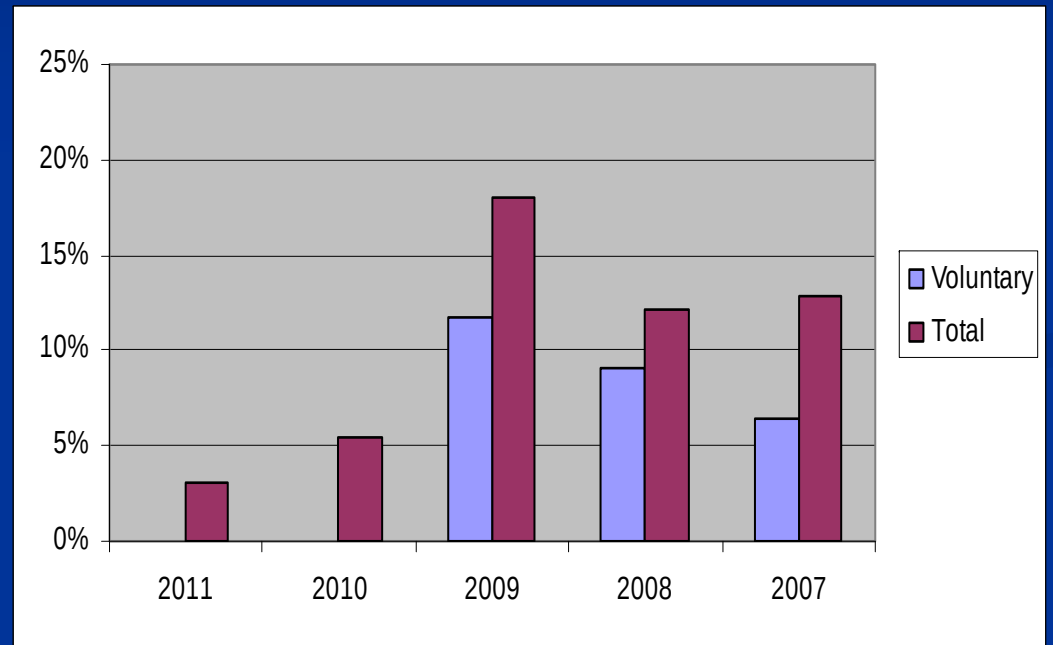
Emergency Communications Attraction & Selection



* Included 2 over-hires

Emergency Communications Turnover Trend

	% Voluntary	% Total
2007	6.45%	12.9%
2008	9.09%	12.12%
2009	11.76%	17.95%
2010	0	5.41%
2011	0	3.13%



Note: 2011 turnover through 11/30/10

Past Pay Adjustments

FY 04 2% GWI for FT, PT, NSW
January 2004 – Increase to Police
based on \$30 per year in position
(Average increase 12.17%)

Past Pay Adjustments, cont.

FY 05 Increase to base of \$60 per year of service for FT (average 2%) except PTC, Police sworn got 2% to base

January 2005 – Increase to Fire based on \$30 per year in position (Average increase 10.43%)

Past Pay Adjustments, cont.

FY 06 No July increases
January 2006 – 3% salary budget
increase

Police, Fire, Public Works – 3% for all
with acceptable performance and hired
prior to July 1, 2004. 2% for those
hired July 1, 2004 to Jun 30, 2005

Past Pay Adjustments, cont.

FY07 3% salary budget increase

Police, Fire— 3% for all with acceptable performance and hired prior to July 1, 2005. 2% for those hired July 1, 2005 to Jun 30, 2006

Past Pay Adjustments, cont.

FY08 3% salary budget increase

- Police, Fire – 5% for PO II and FF II based on market need, 2% for all other sworn (moved range last year without corresponding increase)
- LynCom moved to Public Safety pay schedule; 2% or Adjustment to Minimum, whichever greater
- Public Safety ranges increased to accommodate the 2% and 5% increases, but not the annual increase

Past Pay Adjustments, conc.

FY 09 3% salary budget increase

FY10 No wage increase other than moving
anyone to new minimum wage (\$7.25)

FY11 No wage increase

2. Assignment

- Look at LPD pay; do something now and do something sustainable
- Also heard the same thing from the Police Officers--some immediate action to demonstrate an intent to address the issue and the development of some longer term, sustainable strategy
- Consider the costs of similar actions for LFD and LynCom

Investigation

- Gathered information from exit interviews
- Met with concerned officers
- Researched other localities
- Considered several approaches
- Ongoing biweekly meetings with Chief of Police and Admin. Capt.

Issues listed on LPD exit interviews

- pay
- 12-hour shifts
- leadership (disconnect with command staff)
- feeling unappreciated and undervalued
- opportunity elsewhere
- family issues

LPD Compensation Issues

- market competitive pay
- compression
- employees paying a share of VRS benefits
- certification pay
- step pay progression (experience, measured in longevity, more important than performance or value-added)
- a desire for predictability regarding compensation
- VRS multiplier
- non-supervisor career progression
- 1996 action eliminating paid health insurance for retirees
- on-call pay

Conclusions

- Pay issues can be a de-motivator.
- Turnover and the retention of police officers is a serious concern in the Police Department.
- The Police Department has a relatively young workforce with limited experience. This is a concern regarding the delivery of services.

Conclusions, cont.

- Today's recruits and young officers may have different philosophies, motivations and goals regarding their careers.
- The environment in which public services, including public safety, are being delivered is changing and becoming more challenging for all localities. Lynchburg is not unique.

Conclusions, cont.

- We should try to be true to our Compensation Philosophy; market based, recognizes performance more than longevity.
- Everything starts with keeping the market minimums competitive.

Conclusions, cont.

- First 5-7 years is important—it's the period during which PO's are becoming fully functional; also seems to be an important time frame in which individuals decide to leave or stay (70 officers with 7 years or less; 53 at 5 years or less)
- One goal is to have some predictability in pay for the first 5-7 years—afterwards, pay increases and differentials should be based on value-added, performance, and market

Conclusions, cont.

- “Parity” can be defined by focusing on two components:
 - (1) equivalent pay ranges for similar positions (e.g. recruits, POII/FF, POIII/FFIII, PD LTs/FD CAPTs, PD CAPTs/BC);
 - (2) receiving equivalent pay adjustments at the same time.

Conclusions, cont.

- It would cost approximately \$3.7 million (LPD, LFD, ES) to fix it the way we would prefer.
 - new minimums based on 95% of a 3-yr average market minimum
 - float the percentage increase between current minimum and new minimum to all employees in the appropriate range
 - bring all employees to a relevant target based on current performance rating and market average (95%, 105% or 115%)
 - include benefits' costs
 - Cost = \$2m/PD; \$1.4m/FD; \$0.28m/ES

Conclusions, cont.

- Any compensation plan needs to be resourced
(In 2005 a reasonable plan for public safety pay was put into place, however, it was only financed for one year—if fully financed, it would have probably cost about \$2 -3 million; about what it would take today to address the situation.)

3. Proposal

Three components:

1. Pay adjustments
2. Bonus program
3. Third party assistance

Pay Adjustments

- Adjustment to the LPD recruit starting salary of 5% to increase market competitiveness with the percentage of the adjustment applied throughout the department.

Effective January 1, 2011

- Cost is approximately \$470,000 on an annual basis—to be funded by utilizing the FY 2010 carry forward from the LPD (\$191,000) along with other funds from the LPD Budget.

Increase Police Pay Range Minimums and Maximums by 5%

Position	Current Minimum	Current Mkt Ratio		New Minimum	New Mkt Ratio
Recruit	30,617.60	90.61%		32,148.48	95.14%
PO II	32,156.80	95.14%		33,764.64	99.92%
PO III	35,713.60	89.55%		37,499.28	94.03%
LT	43,368.00	81.54%		45,536.40	85.62%
Capt	52,020.80	85.41%		54,621.84	89.68%
Major	Sr Mgr Band – no range				

“Float” the 5% Increase to All Police Officers

Position	Current Avg Salary	Current Mkt Ratio	New Avg Salary	New Mkt Ratio
Recruit	30,618	90.61%	32,148	95.14%
PO II	34,879	84.46%	36,623	88.68%
PO III	41,121	91.13%	47,377	96.75%
LT	58,654	84.83%	61,587	88.28%
Capt	66,052	83.07%	69,354	87.23%
Major	Vacant			

Cost with benefits: \$471,000

Pay Adjustments, cont.

- Consistent with the \$500,000 that was indicated during the retreat as an initial amount.
- An alternative would be to use the available funds for a bonus with the plan to implement a more sustainable adjustment through the budget process.
- A similar increase in the Fire Department and LynCom would cost \$536,000 and \$68,000 respectively. (\$2m for the rest of the workforce)

Bonus Program

- Trying to promote a “culture of commitment” and provide an incentive for LPD officers to complete commitments of two and five years
- Propose: \$1000 “signing bonus” with a two year commitment after being sworn in at the end of recruit training; recover the \$1000 if the PO leaves voluntarily within the two years

Bonus Program, cont.

- Second bonus opportunity for a commitment to stay from year 2 through year five--\$1000 a year at the end of each year
- Alternative bonus plan could go up to 7 years with splits of 3/4 or 2/3/2
- Need to determine how to roll this out
- Costs are undetermined but would be absorbed within the LPD budget in the first year.

Third Party Assistance

Consultant to look at:

1. sustainable pay plan
2. non-supervisor career progression
3. staffing, shift structure and service delivery
4. police officer concerns (other issues less related to pay)

Third Party Assistance, cont.

- Anticipated cost of around \$50,000 (planning estimate)
- Funds would have to come from the Reserve for Contingencies
- Need to issue an RFP
- Several potential offerers have been identified

4. Looking Ahead

- Concerns
- Resources
- Next Steps

Concerns

- There is some sentiment in the Police Department that if anything is done in January it will only be a one-time shot (“throwing money at us to make us go away”) and that it will not be a long-term, sustainable and predictable approach.

Concerns, cont.

- Concern about worsening the anticipated deficit in the FY 2012 Budget and other ramifications of taking action on LPD pay in January
- \$500,000 projected impact on the deficit—need a sustainable source of funding
- The sustainable increase may require as much as \$3-4 million
- Also concerned about reaction from other departments which have not received a salary increase since July 1, 2008

Resources

- Any proposal for July 1, 2011 implementation will need to be in the context of a balanced budget.
- It appears that there will not be significant new revenues to fund significant pay increases.
- Cuts in other expenditures? Would need Council direction.
- Tax increase?

Next Steps

- Council approval of all or part of the proposal
- Two dates for potential action: January 1 and July 1, 2011

Questions?

// A regular meeting of the Council of the City of Lynchburg was held on the 23rd day of November, 2010, at 5:00 P.M. in the Council Chamber, City Hall, Joan F. Foster, President, presiding. The following Members were present:

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

7

Absent:

0

// Linda McMinimy, Legislative Liaison for the City of Lynchburg, gave a brief presentation regarding the meeting that she, Mayor Joan Foster, and City Manager Kimball Payne had with the area legislators, Senator Steve Newman and Delegate Scott Garrett to present the City's Legislative Agenda. Ms. McMinimy stated that it had been a good discussion and that the Agenda was well received. Ms. McMinimy went on to say that she attends many meetings on the City's behalf and has been covering several of Governor McDonnell's commission meetings. She gave City Council a briefing on the recommendations that the commissions were making that would possibly affect Lynchburg. Ms.

McMinimy also gave a brief summary on the State's budget outlook and General Assembly redistricting.

// City Manager Kimball Payne and Human Resources Director, Margaret Schmitt, gave a brief overview on the City's four civic engagement budget meetings and shared their impressions of the meetings. Ms. Schmitt stated that 30 people attended the Linkhorne Middle School meeting, 26 attended the meeting at Heritage High School, 28 people at Bedford Hills Elementary School, and 26 at R. S. Payne Elementary School for a total attendance of 110. Ms. Schmitt further stated that these meetings were open to all citizens and that a few individuals had attended multiple meetings. Ms. Schmitt stated that the exercise showed that the trend was for groups to maintain their highest priorities even when they had less resource. Ms. Schmitt went on to say that the consistent themes throughout the groups were excellent public schools, safe community and a well-maintained infrastructure.

// During Roll Call Council Member Cary thanked the City staff for the bollards that had been installed at Polk and 5th Streets. Council Member Cary also referenced a column in the News and Advance written by Charlie Pryor concerning regional economic development. Council Member Cary praised the article and stated that he believed that the City should not think that just because we have good education, a safe community and well maintained infrastructure, that economic development is going to follow. Council Member Cary stated that it might, but he would much rather be proactive in the regional economic development effort. Council Member Helgeson had several items, (1) Regarding the zoning laws concerning R-1 development and wanted to have discussion in the future about the subject and easing the regulations so the developers do not have to push for greater density to make it palatable; (2) concerning City Council meeting schedule, he suggested that Council could have one meeting out of the month at 5:00 p.m. and come back at 7:30 p.m. and the other meeting start at 5:00 p.m. and go straight through to the end rather than having a break in between the work session and the regular meeting. Council Member Helgeson went on to say that maybe one of the closed session items could be moved to the end of the work session; and (3) he stated that Council received a report from the Schools regarding the number of personnel that the City is paying 100% for. It took a long time to receive the report and that he

was now formally asking for the upcoming budget year an update of the report. Vice Mayor Johnson wanted to acknowledge that Kyle Thornhill, a civic leader in our community, had passed away in the past week. He also acknowledged and congratulated the new Director of Community Development Kent White.

// After roll call Council Member Perrow made a motion to adjust the agenda to move closed session item No. 12, from the regular meeting agenda to follow after the work session agenda, seconded by Council Member Helgeson, and Council passed the motion by the following recorded vote:

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

Noes: 0

// City Council recessed the meeting at 6:29 p.m.

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

The following Members were present:

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

Absent: 0

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

// Copies of the minutes of the November 9, 2010 meeting, having been previously furnished Council, reading was dispensed with, and Council Member Perrow moved the consent agenda, seconded by Vice Mayor Johnson. Council Member Helgeson called for a correction to the minutes, stating that on page 282 of the minutes, he had been incorrectly attributed to saying that according to Roberts Rules of Order, neither the person making a motion nor the person seconding the motion could speak against the motion. Council Member Helgeson stated that what he had actually said was that only the person making the motion cannot speak against it and that is what I stated and that's Robert's Rules of Order. Council Member Helgeson asked that the minutes be corrected to reflect this.

Mayor Foster stated that the minutes would be corrected to read that only the person who made the motion could not speak against the said motion. Council Member Perrow stated that he would accept that as a friendly amendment. Council Member Gillette stated that since he was absent from that meeting on November 9, he would like to abstain from voting on the minutes. Council by the following recorded vote approved the minutes as amended:

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

Noes: 0

Abstention: Gillette 1

// In the matter of Housing Authority, a public hearing was held regarding City Council Report #4 regarding a request from the Lynchburg Redevelopment and Housing Authority for authorization to pursue acquisition of blighted property at 234 Stoneridge Street under Section 36-19.5 of the Code of Virginia. Mr. Robert Vincent, Manager of Community Development with Lynchburg Redevelopment and Housing Authority gave a summary of the request stating that during the acquisition phase of the process the Authority was notified in April, 2010 that the property had been conveyed to new owners. Mr. Vincent stated that the Authority at that time put a hold on the acquisition process and afforded the new owner the same options and timeframe as granted to the previous owner to complete the repairs and address

violations. The new owner responded on May 24, 2010 stating that there was a subcontractor hired and that they planned to repair the building and correct the violations. Mr. Vincent further stated that from May 24, 2010 to the present, the property has been monitored on a weekly basis and no work or corrections to the violations had been observed nor has the new owner contacted the Authority. There was no one else present who wished to speak to this item, and the public hearing was closed. On motion of Council Member Perrow, seconded by Council Member Cary, Council by the following recorded vote adopted Resolution #R-10-135, as presented:

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

7

Noes:

0

// In the matter of Community Development – General, a public hearing was held regarding City Council Report #5 regarding the adoption of a Resolution to approve a lease agreement between the City of Lynchburg and John and Evangeline Anderson for city-owned property located at 3813 Old Forest Road. Steve Lawson, Real Estate/Property Manager for the City gave a brief summary of the request. Mr. John Anderson, Owner of Anderson Country Market stated he liked the building and is looking forward to a good relationship with the City and asked for Council's approval of the lease. There was no one else present who wished to speak to this item, and the public hearing was closed. Council Member Perrow, Physical Development Committee (PDC) Chair stated that this item came before the PDC recommending that the City move forward with the lease. This motion required no second, and Council by the following recorded vote adopted Resolution #R-10-136, approving the lease agreement:

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

7

Noes:

0

// In the matter of Community Development – CDBG, a public hearing was held regarding City Council Report #6 regarding receiving public input regarding the reallocation of Community Development Block Grant (CDBG) Funds; and approve the request from the Lynchburg Redevelopment and Housing Authority to reprogram funds from CDBG Program Years 2005-2006 and 2007-2008 for the Property Repair and Maintenance Program. Grants Manager Melva Walker gave a brief summary of the request. There was no one else present who wished to speak to this item, and the public hearing was closed. Council Member Nelson stated that in the past he has served as legal counsel pro bono for the Lynchburg Redevelopment and Housing Authority and would abstain from voting on this item. On motion of Council Member Helgeson, seconded by Council Member Cary, Council by the following recorded vote adopted Resolution #R-10-137, as presented:

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

6

Noes:

0

Abstention: Nelson

1

// In the matter of Economic Development – General, a public hearing was held regarding City Council Report #7 regarding a proposal to amend the boundaries of Enterprise Zones #2 and #46. Brian Gleason, the City's Economic Development Coordinator, gave a summary of the request stating that property

owners have all been notified individually by letter and that an Enterprise Zone designation does not impact on land use regulations or value of the land. There was no one else present who wished to speak to this item, and the public hearing was closed. On motion of Council Member Helgeson, seconded by Council Member Perrow, Council by the following recorded vote adopted Resolution #R-10-138, as presented:

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

Noes: 0

// In the matter of City Code, City Council Report #8 was considered. Acting Building Official Doug Saunders gave a brief summary of the request. On motion of Council Member Gillette, seconded by Council Member Nelson, Council by the following recorded vote adopted Ordinance #0-10-139, as presented, amending the City Code relating to the repair of existing buildings:

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

Noes: 0

// In the matter of City Code, City Council Report #9 was considered. City Attorney Walter Erwin gave a brief summary of the request. On motion of Vice Mayor Johnson, seconded by Council Member Cary, Council by the following recorded vote adopted Ordinance #0-10-140, as presented, amending the City Code relating to relocation of equipment that private companies have installed in the City's rights-of-way:

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

Noes: 0

// In the matter of Finance – General, City Council Report # 10 was considered. Director of Financial Services Donna Witt gave a brief summary of the request. Council Member Helgeson Finance Committee (FC) Chair stated that this item came before the Committee and the Committee recommended approval of the financial management policies. A second was not required, and Council by the following recorded vote adopted Resolution #R-10-141, as presented, to reaffirm the City's Financial Management Policies:

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

Noes: 0

// In the matter of Airport – General, City Council Report # 11 was considered. City Manager Kimball Payne gave a brief summary of the request. On motion of Vice Mayor Johnson, seconded by Council Member Cary, Council by the following recorded vote adopted Resolution #R-10-142, as presented, regarding Delta Airlines Service to Lynchburg Regional Airport:

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

Noes: 0

// On motion of Council Member Perrow, seconded by Council Member Helgeson, Council by the following recorded vote elected to hold a closed meeting to consider appointments to Council-appointed Boards and Commissions, i.e., Lynchburg Community Action Board and various committees that require Council membership, and for discussion and consideration of candidates for the position of the Clerk of Council, pursuant to Section 2.2-3711(A.)(1) of the Code of Virginia, 1950, as amended:

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

Noes: 0

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

// Council Member Helgeson 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 Cary, and Council by the following recorded vote adopted the motion:

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

Noes: 0

// In the matter of Appointments, and on nomination of Council Member Gillette, seconded by Vice Mayor Johnson, Council by the following recorded vote re-appointed J. Randolph Nelson, to serve on the Lynchburg Community Action Board for a term to expire December 31, 2010:

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

Noes: 0

// On nomination of Council Member Gillette, seconded by Vice Mayor Johnson, Council by the following recorded vote appointed Hunsdon Cary, III to serve on the Audit Committee to fill an unexpired term ending October 30, 2013:

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

Noes: 0

// The meeting was adjourned at 8:28 P.M.

Interim Clerk of Council

LYNCHBURG CITY COUNCIL

Agenda Item Summary

MEETING DATE: **December 14, 2010**

AGENDA ITEM NO.: 6

CONSENT: **X**

REGULAR:

WORK SESSION:

CLOSED SESSION:

(Confidential)

ACTION:

INFORMATION: **X**

ITEM TITLE: **Disclosure of Persons Interested in Appointment to the Community Services Board**

RECOMMENDATION:

Receive list of candidates interested in serving on the Central Virginia Community Services Board.

SUMMARY:

Section 37.2-501 of the Virginia State Code states that prior to making any appointments to a community services board, the local government must disclose and make available to the public the names of those persons being considered for an appointment. Also, the local government must make any information on the candidates available to the public if such information is available to the local government.

PRIOR ACTION(S):

None

FISCAL IMPACT:

None

CONTACT(S):

Valeria P. Chambers 455 -3990

ATTACHMENT(S):

List of candidates

REVIEWED BY: lkp

158L

INDIVIDUALS BEING CONSIDERED FOR
APPOINTMENT TO THE
COMMUNITY SERVICES BOARD

Currently serving on Board

William F. Schneider

Volunteers

Mary Alex

LYNCHBURG CITY COUNCIL

Agenda Item Summary

MEETING DATE: **December 14, 2010**

AGENDA ITEM NO.: 7

CONSENT:

REGULAR: **X**

WORK SESSION:

CLOSED SESSION:

(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: **Conditional Use Permit (CUP): Heritage Baptist Church Comprehensive Sign Plan, 219 Breezewood Drive**

RECOMMENDATION: Approval of the CUP petition.

SUMMARY: Heritage Baptist Church is petitioning to allow the implementation of a comprehensive sign package for a church campus in an R-3, Medium Density Two-Family Residential District and an R-4, Medium-High Density Multi-Family Residential District. The petition would allow the installation of various wayfinding and building identification signs throughout the church campus, as well as a monument sign with a digital readerboard. The petition would also include the removal of the existing church sign.

Planning Commission originally held a public hearing regarding the petition on September 8, 2010. The Planning Commission closed the public hearing and tabled the request until the representatives of Heritage Baptist Church could finalize the size and location of the proposed monument sign. At the October 27, 2010 Planning Commission meeting, the church submitted a revised sign design that would reduce the size of the sign, including the digital display, and the architectural surround of the proposed monument sign.

The Planning Commission recommended approval of the CUP petition because:

- The petition is similar in size and style to signs approved for other institutional uses within the City.
- The petition incorporates evergreen vegetative screening along the sight lines between the new sign and the two (2) residences closest to the church's property.

PRIOR ACTION(S):

September 8, 2010: The Planning Division recommended denial of the CUP petition.

The Planning Commission tabled the original petition until the petitioner could finalize the size and location of the proposed monument sign.

October 27, 2010: The Planning Commission recommended approval of the CUP petition (6-0, with one member absent - Barnes) subject to the following condition:

1. The signs shall be constructed in substantial compliance with the signage plan submitted by Heritage Baptist Church and the revisions to the monument sign rendering received by the Department of Community Development on October 11, 2010 and the revised layout plan received by the Department of Community Development on October 27, 2010.

FISCAL IMPACT: None

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

ATTACHMENT(S):

- Resolution
- Revised Layout Plan – October 27, 2010
- Planning Commission Memo – October 27, 2010
- Monument Sign Revision – October 11, 2010

- Planning Commission Report
- Planning Commission Minutes – October 27, 2010
- Planning Commission Minutes – September 8, 2010
- Vicinity Map
- Vicinity Proposed Land Use Map
- Watershed Location Map
- Heritage Baptist Church Comprehensive Sign Plan and Narrative
- Speaker Sign Up Sheet

REVIEWED BY: lkp

RESOLUTION:

A RESOLUTION GRANTING A CONDITIONAL USE PERMIT TO HERITAGE BAPTIST CHURCH TO ALLOW THE IMPLEMENTATION OF A COMPREHENSIVE SIGN PLAN AT 219 BREEZEWOOD DRIVE.

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF LYNCHBURG that the petition of Heritage Baptist Church to allow the implementation of a comprehensive sign plan that would replace an existing monument sign with a monument sign and digital reader board, the installation of six (6) pole-mounted directional signs and three (3) wall-mounted building identification signs in an R-3, Medium Density Two-Family Residential District and an R-4, Medium-High Density Multi-Family Residential District be, and the same is hereby approved subject to the following condition:

1. The signs shall be constructed in substantial compliance with the signage plan submitted by Heritage Baptist Church and the revisions to the monument sign rendering received by the Department of Community Development on October 11, 2010 and the revised layout plan received by the Department of Community Development on October 27, 2010.

Adopted:

Certified:

Interim Clerk of Council

162L

The Department of Community Development

City Hall, Lynchburg, VA 24504

434-455-3900

To: Planning Commission
From: Planning Division
Date: September 8, 2010
Re: **CONDITIONAL USE PERMIT [CUP]: Heritage Baptist Church Comprehensive Sign Plan, 219 Breezewood Drive**

I. PETITIONER

Heritage Baptist Church, 219 Breezewood Drive, Lynchburg, Virginia 24502

Representative: Jim Vernon, Craddock Cunningham Architectural Partners, 10 Ninth Street, Lynchburg, Virginia 24504

II. LOCATION

The subject property includes fifty-seven and thirty-six hundredths (57.36) of an acre at 219 Breezewood Drive.

Property Owner: Heritage Baptist Church, 219 Breezewood Drive, Lynchburg, Virginia 24502

III. PURPOSE

The purpose of this petition is to allow the implementation of a comprehensive sign package for a church campus in an R-3, Medium Density Two-Family Residential District and an R-4, Medium-High Density Multi-Family Residential District.

IV. SUMMARY

- Petition agrees with the *Comprehensive Plan 2002-2020* which recommends Institutional and Community Commercial uses in this area.
- Petition agrees with Section 35.1-26.16 of the *Zoning Ordinance* which allows a comprehensive signage plan in all zoning districts, except historic districts, with approval of a CUP from City Council.
- The petition would provide for a monument sign that exceeds the size permitted by the *Zoning Ordinance* within any residential, business or industrial district within the City.
- The proposed monument sign would include a digital reader-board that is close to existing homes without the provision to mitigate potential light pollution.

The Planning Division recommends denial of the CUP petition.

V. FINDINGS OF FACT

1. **Comprehensive Plan.** The Lynchburg *Comprehensive Plan 2002-2020* recommends both Institutional and Community Commercial uses for the subject property. Institutions **(page 5.3)** “are the religious, educational, and other nonprofit entities in the City. Examples include churches, cemeteries, private schools and universities, private nonprofit hospitals, service clubs and organizations, and other nonprofit institutions.” Community Commercial **(page 5.5)** “areas contain retail, personal service, entertainment and restaurant uses that draw customers from at least several neighborhoods up to the entire City. [These] ... areas contain clusters of businesses, often at major intersections, and shopping centers ... rang[ing] from one hundred thousand

(100,000) to two hundred thousand (200,000) square feet and serv[ing] forty thousand (40,000) to seventy thousand (70,000) people.”

Chapter 6 (**page 6.1**) of the Lynchburg *Comprehensive Plan 2002-2020* references how “the design, character and quality of Lynchburg’s built environment strongly influences its livability and economic vitality.” The plan (**pages 6.4 and 6.11**) provides that “over 175 residents participated in the Community Character Survey” during public workshops ... in July 2001” and noted that “survey participants responded more favorably to smaller scale monument signs.” The petitioner proposes to install a one hundred and sixty-eight (168)-square foot monument sign with eighty-three (83) square feet of copy (including a digital reader board), six (6) pole-mounted directional signs and three (3) wall-mounted building identification signs.

2. **Zoning.** The subject property was annexed into the City in 1976. The existing R-3, Medium Density Two Family Residential District and R-4, Medium-High Density Multi-Family Residential District zoning were both established on October 13, 1992 with the approval of the Graves Mill Road Land Use Study by City Council.
3. **Board of Zoning Appeals (BZA).** The Zoning Official has determined that no variances will be needed for the development of the property as proposed.
4. **Surrounding Area.** There have been several items requiring City Council approval in the immediate area:
 - On May 27, 2009, Thomas Bell withdrew his petition to rezone two and four hundredths (2.04) acres from an R-2, Low-Medium Density Single-Family Residential District to a B-5C, General Business District (Conditional) to allow the use of an existing building as a contractor’s office and shop with associated parking at 224 Lake Crest Lane.
 - On August 14, 2007, City Council approved EE, LLC’s petition to rezone seventy-two and eleven hundredths (72.11) acres from R-C, Conservation District, R-1, Low-Medium Density Single-Family Residential District, R-3, Medium Density Two-Family Residential District, I-1, Restricted Industrial District and I-2, Light Industrial District to B-5C, General Business District (Conditional) to allow for the development of a commercial shopping center, offices, a fuel station, a restaurant, parking and road improvements at 512, 522, 526, 530, 534, 538, 610, 630, 1002 McConville Road, 110 Miles Road and 120 Millstone Road.
 - On October 3, 2006 City Council approved EE, LLC’s petition to rezone one hundred six and seventy-one hundredths (106.71) acres from R-C, Conservation District, R-3, Medium Density Two-Family Residential District and R-4, Medium-High Density Multi-Family Residential District to B-5C, General Business District (Conditional) to allow the development of a commercial shopping center, parking and road improvements at 129, 305, 317, 415, 509 and 607 McConville Road.
 - On September 13, 2005, City Council approved Clarion Investments’ petition to rezone five and three tenths (5.3) acres from B-3, Community Business District and R-4, Medium-High Density Multi-Family Residential District to B-5C, General Business District (Conditional) to allow for the construction of an automobile dealership, service department, parking and vehicle display area at 2639 Lakeside Drive.
 - On September 14, 2004, City Council approved Heritage Baptist Church’s petition for to expand an existing parking lot at 239 and 329 Breezewood Drive.
 - On April 13, 1999, City Council approved Heritage Baptist Church’s CUP petition to amend their master development plan and allow an addition to their multi-purpose building at 219 Breezewood Drive.
 - On February 9, 1999, City Council approved Richlyn LLC’s petition to rezone twelve (12) acres off Breezewood Drive from R-1, Low Density Single-Family Residential District to R-3(C), Medium Density Two-Family Residential District (Conditional) and three (3) acres from R-1, Low Density Single-Family Residential District to R-4(C), Medium-High Density Multi-Family Residential District (Conditional). City Council subsequently approved Richlyn LLC’s CUP petition to develop forty-three (43) acres at the

terminus of Breezewood Drive for about seventy-four (74) single-family attached units (townhouses), two hundred and sixty-two (262) apartments and eighty (80) housing units for the elderly as a Planned Unit Development in an R-C, Resource Conservation District, an R-1, Low Density Single-Family Residential District, an R-3(C), Medium Density Two-Family Residential District (Conditional) and an R-4(C), Medium-High Density Multi-Family Residential District (Conditional).

- On October 13, 1998, City Council approved Pavilion Development's petition for a CUP to allow the construction of a single-bay car wash next to the existing food court building at 2625 Lakeside Drive.
 - On June 9, 1998, City Council approved Southern Air's petition to rezone seven (7) acres at 2655 Lakeside Drive from R-4, Medium-High Density Multi-Family Residential District to B-5C, General Business District (Conditional) to allow expansion of an outdoor storage area.
 - On May 12, 1998, City Council approved Heritage Baptist Church's petition for a CUP to amend their master development plan and allow additional buildings, as well as a revised layout at 219 Breezewood Drive.
 - On April 12, 1994, City Council approved Heritage Baptist Church's petition for a CUP to amend their master development plan and allow additional classroom space, as well as an enclosed hall at 219 Breezewood Drive.
 - On October 12, 1993, City Council approved Heritage Baptist Church's petition for a CUP to amend their master development plan and allow two additional classroom trailers at 219 Breezewood Drive.
 - On February 9, 1993, City Council approved Heritage Baptist Church's petition for a CUP to allow expansion of the existing church complex at 219 Breezewood Drive.
 - On October 13, 1992, City Council rezoned properties along Graves Mill Road and Lakeside Drive as part of the Graves Mill Road/U.S. 221 Area Land Use Study - Growth Management Program – May 11, 1992 to promote economic vitality, convenience, general welfare and good zoning practice.
 - On January 14, 1992, City Council approved Heritage Baptist Church's petition for a CUP to allow for the use of a modular classroom and expansion of a parking area at 219 Breezewood Drive.
 - On May 14, 1991, City Council approved Southern Air's petition to rezone one and eight-tenths (1.8) acres from I-3, Heavy Industrial District to B-3, Community Business District to allow it to be used as a contractor supply facility at 2650 Lakeside Drive.
 - On July 10, 1990, City Council approved Heritage Baptist Church's petition for a CUP to allow for the construction of a classroom building at 219 Breezewood Drive.
 - On December 8, 1987, City Council approved Heritage Baptist Church's petition for a CUP to allow for the construction of a multi-purpose building and additional parking at 219 Breezewood Drive.
 - On May 14, 1985, City Council approved Heritage Baptist Church's petition for a CUP to allow for an educational wing and offices at 219 Breezewood Drive.
 - On May 10, 1983, City Council approved Heritage Baptist Church's Temporary petition for a CUP for a tent revival at 219 Breezewood Drive.
5. **Site Description.** The subject property includes an existing church, multi-purpose building and associated parking. It is bound to the north by commercial businesses; to the east by single-family homes and a commercial business; to the south by single-family detached and attached homes and multi-family apartments; and to the west by vacant forestal land and single-family homes.

6. **Proposed Use of Property.** The purpose of the CUP petition is to allow a one hundred and sixty-eight (168)-square foot monument sign with eighty-three (83) square feet of copy (including a digital reader board) adjacent to the recently completed Breezewood Drive extension and the installation of various wayfinding and building identification signs throughout the church campus; the petition would also include the removal of the existing church sign. The church's property and the majority of the surrounding area is zoned residential with the exception of the business across the street from the church, which is zoned B-1C, Limited Business District (Conditional). Section 35.1-26.8 of the *Zoning Ordinance* permits one (1), sign with eighteen (18)-square foot of copy for the property and would not allow changeable copy (in the form of a digital reader-board). The B-1, Limited Business District zoning would allow up to twenty-four (24) square feet of copy on a monument sign and also would not allow a digital reader-board. The ordinance also requires "any architectural or decorative surrounds to support or enhance the sign face ... not exceed twenty-five percent (25%) of the maximum allowable sign face surface area."

Section 35.1-26.16 of the *Zoning Ordinance* provides that "modified signs are permitted in all zoning districts, except historic districts, by CUP approving a comprehensive signage plan." "City Council may grant a conditional use permit upon a determination that (1) There is good cause for deviating from a strict application of the requirements of the *Zoning Ordinance*; (2) The modification(s), as proposed, will serve the public purposes and objectives set forth in the *Zoning Ordinance* at least as well, or better, than the signage that would otherwise be required under the zoning standards and requirements; (3) ... the number, characteristics, and/or location(s) of one (1) or more signs referenced in the plan do not comply with the requirements of the *Zoning Ordinance*." The ordinance also specifically references that "City Council will not grant a modification of any standard or requirement for a sign if "the requested modification would create a special privilege or convenience for the applicant."

The petitioner is requesting a modified sign based on the size, scale and location of the church campus. The narrative description for the request provides that "the completion of the Breezewood Drive extension has created several new front doors as well as a new approach to the campus", noting that "while regular members and frequent users of the church are familiar with the assigned names of the various entrances ... the church ... recognize[s] that rescue and emergency personnel ... are faced with a confusing number of doors, entrances and functions." The narrative also indicates that the building letters on the façade of the building "are well set back from street frontage" and that "none of ... [the proposed] signs are located directly across from any residentially used property."

7. **Traffic, Parking and Public Transit.** The City's Transportation Engineer had no comments of concern regarding the petition.
8. **Stormwater Management.** The City's Environmental Reviewer had no comments of concern regarding the petition.
9. **Emergency Services.** The City's Fire Marshal had no comments of concern regarding the petition.

The City Police Department had no comments of concern regarding the petition.

10. **Impact.** The petition would allow for the installation of ten (10) signs throughout the church campus. Although the majority of the signs are considered wayfinding and building identification signs, the proposed monument sign would include (83) square feet of copy and a digital reader-board; the church's current sign has nine (9) square feet of copy. The church cites the completion of the Breezewood Drive extension and the construction of a recent building addition as justification for the signage. City staff evaluated the alignment of Breezewood Drive relative to the church and noted that additional directional and identification signs would benefit visitors and emergency personnel in navigating the campus. Staff also noted the majority of uses along Breezewood Drive as residential, with two residences in proximity of the proposed monument sign.

The size of the proposed monument sign is just over four and a half (4½) times larger than the signage permitted within a residential district and the copy of the proposed monument sign exceeds the size permitted

in the City's most intensive business district by seventeen (17) square feet. In addition the ordinance requires that the size of the architectural and decorative surround of the sign not exceed the maximum allowable sign face by twenty-five (25%); the proposed surround would exceed that requirement by sixty-four (64) square feet. Staff is also concerned about the potential for light pollution attributed to the digital reader-board which would potentially illuminate changeable copy twenty-four (24) hours per day within view of the adjacent residence. Staff recommends that the petitioner consider a reduction in the size of the monument sign and the elimination, relocation or screening (from the adjacent residence) of the digital reader-board.

11. **Technical Review Committee.** The Technical Review Committee (TRC) reviewed the preliminary site plan on July 26, 2010. Comments related to the proposed use were minor in nature and have or will be addressed by the developer prior to application for the sign permit.

VI. PLANNING DIVISION RECOMMENDATION

Based on the preceding Findings of Fact, the Planning Commission recommends to City Council denial of Heritage Baptist Church's petition for a conditional use permit to allow the implementation of a comprehensive sign plan at 219 Breezewood Drive that would allow the installation of a one hundred and sixty-eight (168)-square foot monument sign with eighty-three (83) square feet of copy (including a digital reader board), six (6) pole-mounted directional signs and three (3) wall-mounted building identification signs.

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/Acting Director of Community Development
Mr. Walter C. Erwin, City Attorney
Mr. J. Lee Newland, City Engineer
Ms. Cynthia Kozerow, Lynchburg Police Department
Battalion Chief Greg Wormser, Fire Marshal
Mr. Gerry Harter, Transportation Engineer
Mr. Doug Saunders, Acting Building Official
Mr. Robert Fowler, Zoning Administrator
Mr. Kent White, Senior Planner
Ms. Erin Hawkins, Environmental Reviewer
Mr. Keith Manuel, Applicant, Heritage Baptist Church
Mr. Jim Vernon, Representative, Craddock Cunningham Architectural Partners

VII. ATTACHMENTS

- 1. Vicinity Zoning Pattern**
- 2. Vicinity Proposed Land Use**
- 3. Watershed Location Map**
- 4. Heritage Baptist Church Comprehensive Sign Plan and Narrative**

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

a. Petition of Heritage Baptist Church for a conditional use permit to allow the implementation of a comprehensive modified sign plan in an R-3, Medium Density Two-Family Residential District and an R-4, Medium-High Density Multi-Family Residential District at 219 Breezewood Drive.

Mr. White explained that the petitioner proposes to install six pole-mounted directional signs, three wall-mounted business identification signs and a 168 square foot monument sign (83 square feet of copy and includes a digital reader board). The only deviation to what is permitted by ordinance is the monument sign. The ordinance provides for about 18 feet of copy and does not allow digital reader boards. There is one business zoned property in close proximity to the location of the sign (the funeral home across the street zoned B-1). B-1 zoning allows for 24 feet of copy.

The ordinance provides that City Council can grant a modified sign plan provided that 1) there is good cause for deviating from the strict applications and provisions of the *Zoning Ordinance*; 2) that the modifications as proposed will serve the public purposes and objectives set forth in the *Zoning Ordinance* at least as well or better than the signage that is permitted by right; 3) that the number, characteristics and location of one or more of the signs referenced in the plan does not comply with the requirements of the *Zoning Ordinance*. Mr. White further explained that the *Zoning Ordinance* specifically references that City Council will not grant a modification of any standard or requirement of the sign if the request in modification would create a special privilege or convenience for the applicant.

The petitioner's justification for the sign is based on the size, scale and location of the church. The church has spent a great deal of time working on the expansion. The campus has had considerable improvements over the years. Mr. White had a slide show of various points on the property to better illustrate the petition. Mr. White pointed out that the ordinance permits architectural features along the sides of a monument sign to comprise about 25 percent of the total sign. That is permitted only in business districts. The proposed surround is 64 square feet. The size of the proposed sign is about nine times larger than the existing sign and four and a half times larger than what is permitted in a residential district. The copy exceeds the size permitted in the most intensive business district by about 17 square feet.

The majority of the uses along Breezewood Drive are residential. There are two residences in proximity to the church. Staff has a side concern about light pollution because the proposed location of the sign is fairly close to those residences. Staff recommends that the petitioner reconsider the size of the monument sign and eliminate, relocate or screen the digital reader board from those residences. The remainder of the identification and wayfinding signs are appropriate and could be permitted under the *Zoning Ordinance*. If the commission approves the plan as presented, staff recommends a condition be added for substantial compliance, specifying any size changes and conditions regarding the reader board in the commission's recommendation.

Dr. Jerry Kroll, senior pastor, was present to represent the petition. Jim Vernon and Keith Manuel have been working on this petition with Mr. White but were both unable to attend the meeting. He expressed appreciation to the City for working with the church on the expansion of Breezewood Drive. The reason for the size of the proposed sign is because the property is approximately 60 acres. The church owns both sides of Breezewood Drive as well. Dr. Kroll is proposing to reduce the size of the reader board to 41 inches by 76 inches. There would be seven inch letters on the top. That should come close to the City specifications. The church is willing to turn off the lighting at 10:00 p.m and is willing to move the sign as well, somewhere between number one and number two shown on the site plan.

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

Commissioner Coleman expressed that Heritage Baptist Church has been a great neighbor to the community and hopes they can come to a resolution. Commissioner Coleman asked if they had talked to the closest neighbor, the Mayberrys. Dr. Kroll said he did not know but normally Mr. Manuel goes personally to each neighbor and speaks to them.

Commissioner Sale asked how far the sign is from 501 and 221. Dr. Kroll said there is a direct line of sight from anywhere between number one and number two on the site plan to 221, but not 501. Commissioner Sale asked if their intended audience for the sign is the congregation or the public. Dr. Kroll said it is both but the public will be able to see it predominantly from 221. Commissioner Sale asked about moving the sign to the other side of the street. Dr. Kroll said

they do not know what will develop there in the future. There are two access roads for future development. The church never really considered the other side of the road. The church's preference is to have the sign at its main entrance.

Commissioner Sale asked what their time frame is for completing this project. Dr. Kroll said there was no strict time frame. Chair Hamilton commented that the proposed change works out to approximately 25 square feet, which is certainly more amenable than the 83 square feet originally proposed. Mr. White commented that it appears that the surround may still be a little larger than allowed.

Commissioner Sale suggested they talk about this matter again when the commissioners are able to look at site plans and renderings of the changes the church is proposing. Mr. White explained that the church needs to discuss this again with its committee. Mr. White commented that there has been nothing adversarial about its discussions with the church; the church has been very cooperative. Mr. White said the numbers proposed are a lot closer than what was originally proposed. Chair Hamilton asked if it would be amenable to the church to come back to another meeting and Dr. Kroll said it would.

Commissioner Swienton asked if the other signs in the comprehensive sign plan are acceptable to everyone and there was consensus that they are acceptable. Commissioner Swienton asked how often there are EMS calls. The answer was about two a month. Commissioner Swienton asked if there was any concern if the wayfinding signs are not approved today. There did not seem to be any concern from the church; they are used to directing the EMS personnel. Chair Hamilton suggested that the church could amend its sign package so that they could begin placing the signs on the buildings and the wayfinding signs. Mr. White explained that the commissioners could approve the entire package today. He could safely say that the new dimensions are well within the range of all the other comprehensive sign plans that have been approved. He does not see any objection coming from staff with the new dimensions.

Commissioner Coleman made a motion that they approve the sign package with the proposed new dimensions and that the plan be worked out with staff from this point. Commissioner Swienton seconded the motion. Commissioner Hooper pointed out that it is not just the dimension of the sign; it is also the illumination of the sign that is an issue. Mr. White said staff had recommended either screening it or relocating it. Commissioner Coleman asked Dr. Kroll if the church was hoping to have the sign package completed by the end of the year. Dr. Kroll said that was the time frame the church was hoping for the placement of the signs. Commissioner Coleman said he recognizes the importance of signage and hopes they can resolve the matter as quickly as possible.

Commissioner Sale said he is in favor of the package in spirit and faith but would like to see the proposal again, especially since it sounds like it will not hamper the church's plans. Chair Hamilton asked Commissioner Coleman if he would like to withdraw his motion and he said he would withdraw his motion and would like to maintain the spirit of what Commissioner Sale suggested.

Commissioner Sale made a motion to refer the matter back to staff for further work and bring it back to the Planning Commission at a later date. Commissioner Swienton seconded the motion and thought it would be a positive process if it was discussed by the church's committee again before coming back to the commission. The motion passed by the following vote:

AYES:	Coleman, Hamilton, Hannon, Hooper and Sale	5
NOES:		0
ABSTENTIONS:		0
ABSENT:	Barnes and Hannon	2

MINUTES FROM THE OCTOBER 27, 2010 PLANNING COMMISSION MEETING (MINUTES HAVE BEEN APPROVED):

3. Old/New Business: Heritage Baptist Church Comprehensive Sign Plan:

This petition was originally heard on September 8, 2010. Planning Commission closed the public hearing and postponed the request until the representatives could meet with City staff to finalize the size and location. The petition has revised the sign and reduced the size of the sign copy, the digital reader board and the architectural surround. The digital display area of the revised sign will be about 21½ square feet with an additional five feet of copy for the six-inch lettering that runs along the top for a total of 26½ feet.

The proposed sign will be located in the same location but the church proposes to plant additional evergreen vegetated screenage along the sight lines of the adjacent residences. Pastor Keith Manuel also met with the neighbor at the corner of Breezewood Drive and the neighbor had no concerns about the digital sign or the design.

Mr. Jim Vernon, a member of the church, was present. The site plan has been revised to show the additional evergreen screening and Mr. Vernon had copies to distribute to the commissioners.

Commissioner Coleman commented that he is very grateful for the neighborly way that the petitioner has worked with the commission. He is satisfied with has been presented.

Commissioner Swienton asked Mr. White if staff has changed their recommendation from denial to approval. Mr. White said staff reviewed two recent comprehensive sign plan petitions (Church of the Nazarene and Holy Cross Regional School). Both were larger than what would be permitted in a residential district. Staff's recommendation was for approval with the caveat that the signs were larger than permitted. The petitions then went through the public hearing process for Planning Commission and City Council to determine if they were in keeping with the character of the neighborhood. Staff's general recommendation for this revised petition would be that staff is supportive of it with the caveat that this sign is still considerably larger than what would be permitted in a residential district.

Commissioner Swienton asked how much the petitioner has scaled this sign back from its original proposal. Mr. White said it looks like it is about one and a half times what is permitted in a residential district. The original proposal was for a sign four and a half times the size permitted. It is two and a half times smaller than what would be permitted in the most intensive business district.

Commissioner Hannon asked if there is a graphic showing the size of a permitted sign. Mr. White said he did not think he had a graphic, but he could give them some numbers. Eighteen square feet would be permitted and this sign is about 8½ feet larger than what would be permitted in a residential district. On that street, there is a business, Tharp Funeral Home, which is permitted a 24 square foot sign. Heritage's proposed sign is certainly within keeping with permitted signs in the area. Probably the biggest difference is that the proposed architectural surround is about 75 square feet, three times the size of the copy. The permitted surround is not supposed to exceed 25 percent of the sign copy. Mr. White compared the proposed surround to signs that have been approved before (38 square feet of copy for Church of the Nazarene versus a 66 square foot sign; 39 square feet of copy for Holy Cross Regional School with a 96 square foot sign.)

Commissioner Swienton commented that the underlying zoning of the church is R-4; there is B-5 zoning across the street and B-3 zoning in the immediate area.

Commissioner Swienton made the following motion, which was seconded by Commissioner Hannon, and passed by the following vote:

"That the Planning Commission recommends to City Council approval of Heritage Baptist Church's petition for a conditional use permit to allow the implementation of a comprehensive sign plan at 219 Breezewood Drive that would allow the installation of a seventy-five (75)-square foot monument sign with twenty-six and half eighty-three (26.5) square feet of copy (including a digital reader board), six (6) pole-mounted directional signs and three (3) wall-mounted building identification signs. The

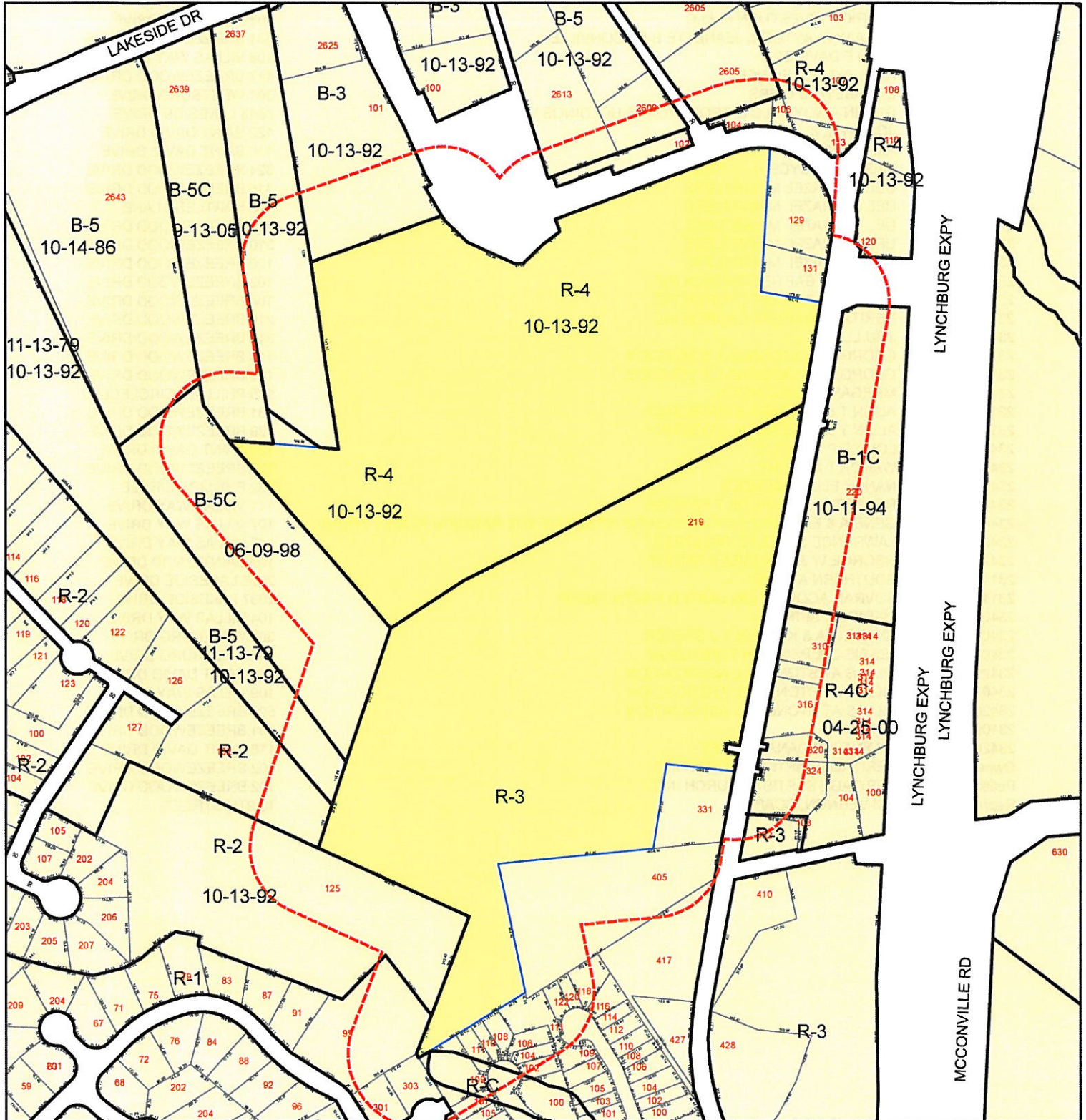
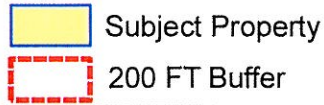
comprehensive sign plan package will be in substantial compliance with the site plan submitted at the October 27, 2010 Planning Commission meeting.”

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

Chair Hamilton said they all appreciate their willingness to work with the City. Mr. Manuel said they enjoy the relationship and working with the City as well.

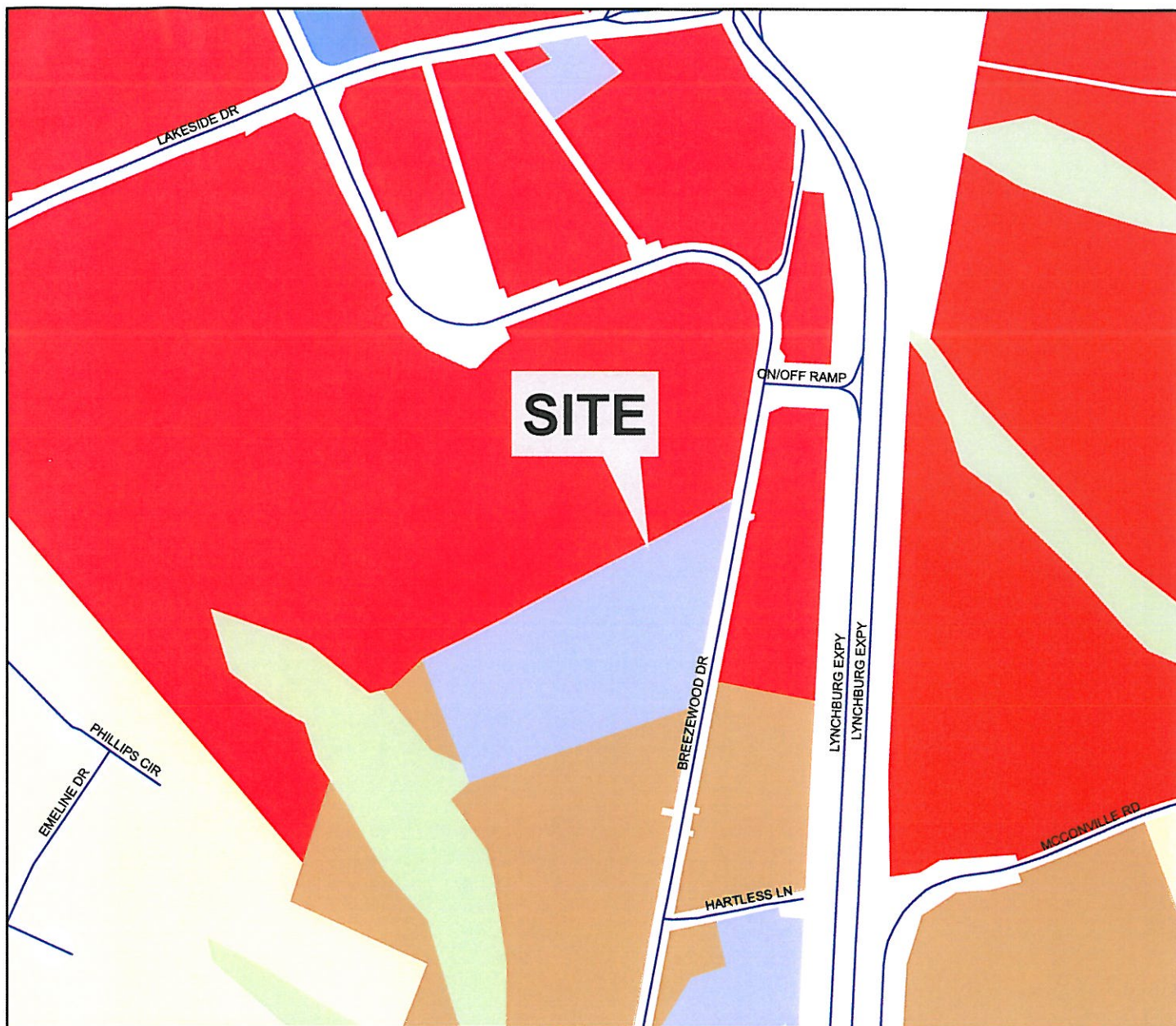
HERITAGE BAPTIST CHURCH

219 Breezewood Drive
Conditional Use Permit Request
Petitioner-Heritage Baptist Church



Heritage Baptist Church Adjoining Owners

PIN	Owner	Local Address
23404009	FREDERICK A ALVIS	108 VILLAS WAY DRIVE
23416001	DORIS F ANDRUS	405 BREEZEWOOD DRIVE
23106010	B R C CO INC	2605 A LAKESIDE DRIVE
23106009	B R C CO INC	2609 A LAKESIDE DRIVE
23106007	B R C CO INC	2613 LAKESIDE DRIVE
23409001	GERARDO A JR & EMMA B BIANCO	95 VIKING DRIVE
23105003	BLUE RIDGE DEVELOPMENT CORPORATION	220 BREEZEWOOD DRIVE
23404010	ANTHONY L & PAMELA J BRUNO REV TRUST	110 VILLAS WAY DRIVE
23106021	CITY OF LYNCHBURG C/O STEVE LAWSON	106 BREEZEWOOD DRIVE
23110002	CLARION INVESTMENTS LLC	2639 LAKESIDE DRIVE
23415001	VERA W CLAYTOR & JEANETTE B MCCONVILLE	331 BREEZEWOOD DRIVE
23404008	JEAN F DAVIDSON	106 VILLAS WAY DRIVE
23416002	R F & ALMA M FISHER	417 BREEZEWOOD DRIVE
23409003	ELIZABETH C GIBBS	301 WESTBURG DRIVE
23110003	GLENN A BOYD LLC & CROSSROADS HOLDINGS VA LLC	2643 LAKESIDE DRIVE
23420012	JOSEPH L & JANET L GRAY	122 SAINT DAVID DRIVE
23420009	AMY B HALBERT	116 SAINT DAVID DRIVE
23418008	MARK C & JOYCE H HARTLESS	324 BREEZEWOOD DRIVE
23418003	UEL C & HAZEL M HARTLESS	316 BREEZEWOOD DRIVE
23418011	UEL C & HAZEL M HARTLESS	108 HARTLESS LANE
23418005	UEL C & HAZEL M HARTLESS	320 BREEZEWOOD DRIVE
23418004	UEL C & HAZEL M HARTLESS	310 BREEZEWOOD DRIVE
23106018	UEL C & HAZEL M HARTLESS	120 BREEZEWOOD DRIVE
23105004	HERITAGE BAPTIST CHURCH INC	102 BREEZEWOOD DRIVE
23105005	HERITAGE BAPTIST CHURCH INC	104 BREEZEWOOD DRIVE
23105001	HERITAGE BAPTIST CHURCH INC	219 BREEZEWOOD DRIVE
23418009	JMU LLC	314 BREEZEWOOD DRIVE
23106015	GEORGE L & LADONNA L S LOVEJOY	113 BREEZEWOOD DRIVE
23106014	GEORGE L & LADONNA L S LOVEJOY	107 BREEZEWOOD DRIVE
23412001	MARGARET ANN MASON	125 PHILLIPS CIRCLE
23106019	ALVIN T & BARBARA B MAYBERRY	131 BREEZEWOOD DRIVE
23106023	ALVIN T & BARBARA B MAYBERRY	129 BREEZEWOOD DRIVE
23420011	LOUISE P MUNCUS	120 SAINT DAVID DRIVE
23418002	WANDA T MURPHY	332 BREEZEWOOD DRIVE
23414003	NANCY ELLEN NICHOLS	132 PHILLIPS CIRCLE
23404011	ROBERT M & BLANCHE T PAINTER	111 VILLAS WAY DRIVE
23404013	GENE A & ELIZABETH C PATZSCH TRUSTEES OF THE PATZSCH FAMILY TRUST	107 VILLAS WAY DRIVE
23404006	LAWRENCE SCHULTZ TRUSTEES	102 VILLAS WAY DRIVE
23420013	GEORGE W & BARBARA S SMOOT	109 SAINT DAVID DRIVE
23110006	SOUTHERN AIR INC	2655 LAKESIDE DRIVE
23110001	SOVRAN ACQUISITION LIMITED PARTNERSHIP	2637 LAKESIDE DRIVE
23404007	MARION L SPIRON	104 VILLAS WAY DRIVE
23409002	ANDREW A & KIMBERLY J STEGER	303 WESTBURG DRIVE
23408001	JESSIE O & PEGGY H TOMLINSON	302 WESTBURG DRIVE
23420019	VILLAS AT STONEMILL ASSOCIATION	111 SAINT DAVID DRIVE
23404012	VILLAS AT STONEMILL ASSOCIATION	109 VILLAS WAY DRIVE
23420018	VILLAS AT STONEMILL ASSOCIATION	501 BREEZEWOOD DRIVE
23109009	WCI LC	101 BREEZEWOOD DRIVE
23420010	WAYNE H & DANA M WILEY	118 SAINT DAVID DRIVE
Owner	HERITAGE BAPTIST CHURCH INC	102 BREEZEWOOD DRIVE
Petitioner	HERITAGE BAPTIST CHURCH INC	102 BREEZEWOOD DRIVE
Representative	JIM VERNON, CCAP	10 9TH STREET



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

HERITAGE BAPTIST CHURCH

219 BREEZEWOOD DRIVE

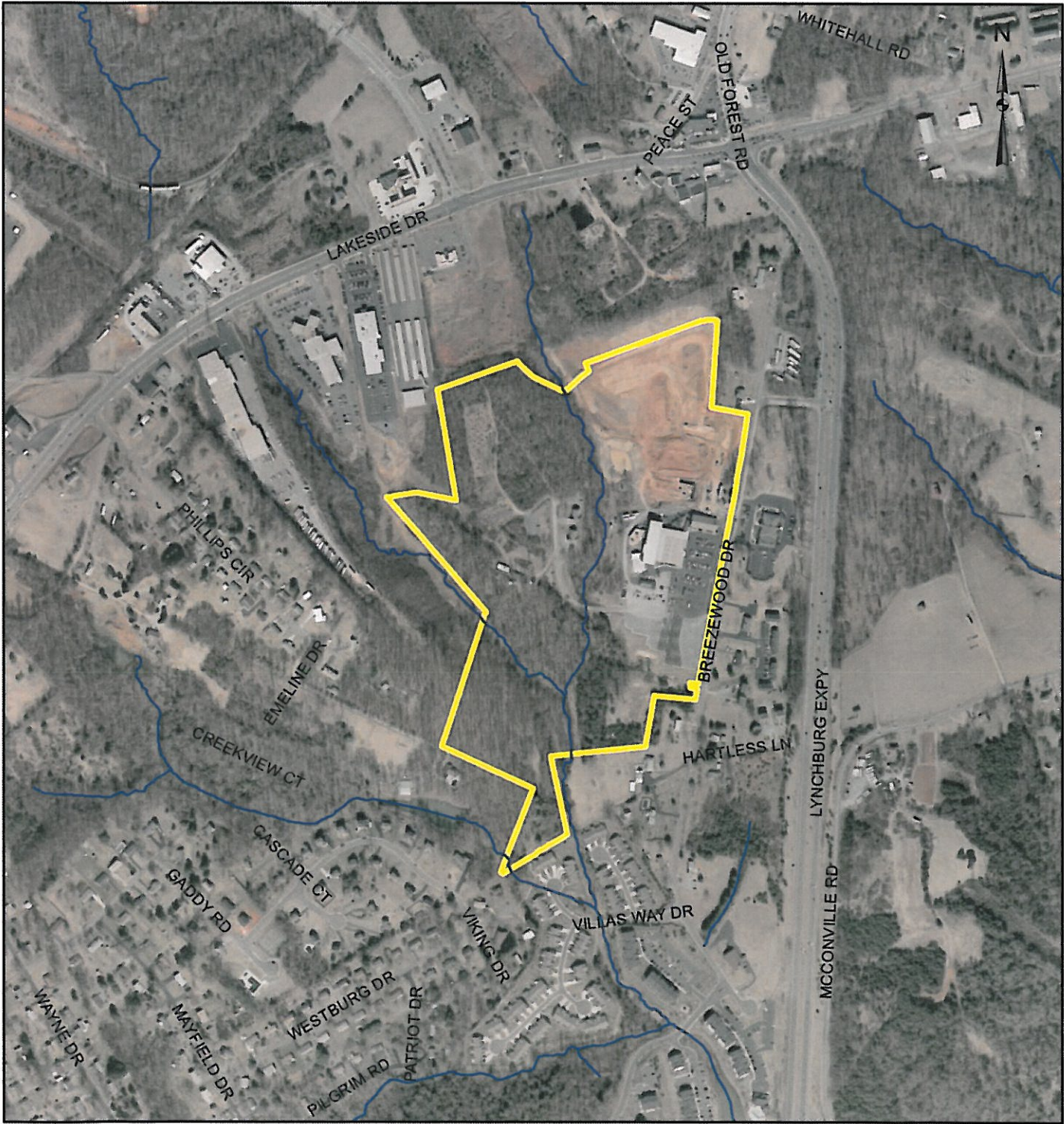
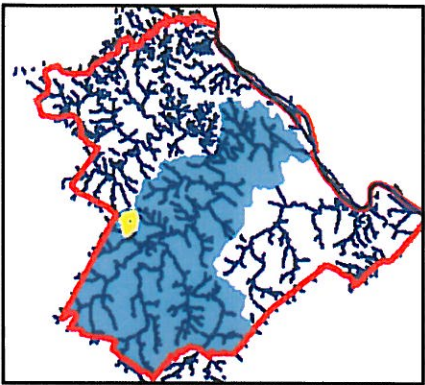
LAND USE PLAN



Heritage Baptist Church

Watershed Location Map

-  Project Site
-  Blackwater Creek
-  Corporate Limit



Heritage Baptist Church Comprehensive Signage Plan

#CUP 1007-0001

Narrative Description:

The church is proposing the following for exterior signage at various locations on the buildings and grounds (See attached site plan for sign types and locations.):

- (1) two-sided monument sign with a 48" x 113" display adjacent to Breezewood Drive (sign #3 on the corresponding site plan and signage elevations)
- (2) 2'-0" x 2'-0" directional signs adjacent to Breezewood Drive (signs #2 and 6)
- A 2'-0" x 2'-6" directions sign adjacent to Breezewood Drive (sign #4)
- (3) 2'-0" x 1'-0" directions signs adjacent to Breezewood Drive (signs #1, 5, and 8)
- Building Attached letters at the North Entrance to the Worship Center (location #9)
- Building Attached letters at the East Entrance to the Worship Center (location #10)
- Building Attached letters at the south drive-under canopy (location # 7)

With the completion of the new Breezewood Drive extension and the recent building addition, Heritage Baptist Church now has several new "front doors" as well as a new major approach to the campus. The existing Church sign, on the original Breezewood Drive is no longer in a useful place. The majority of the traffic approaching the church campus now comes from the Breezewood Drive connector and passes two sides of the church building, and all of the new parking lot area, before the existing sign is in sight. For this reason, the church is proposing a new monument sign adjacent to the recently completed connector as a way to identify the building for both visitors and emergency personnel.

Although regular members and frequent users of the church are familiar with the assigned names of the various entrances and the location of the various interior spaces, the church has recognized that rescue and emergency personnel, when called to the facility, are faced with a confusing number of doors, entrances, and functions. The same is true for first-time visitors who may be using church facilities which are available for general public use and community events.

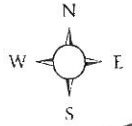
Consequently, the church wants to provide directional and building signage to direct emergency personnel and first-time users to the correct entrances and spaces. Signs by the road will indicate which entrance to use for a particular function, and building letters will identify and distinguish the entrances from one another. Directional signs have been sized to be read by passing traffic, and building letters have been sized to enable quick identification of the various entrances and uses.



HERITAGE
Baptist Church

(434) 237-6505

237 Breezewood Drive
Lynchburg, VA 24502



#3.



HERITAGE
BAPTIST
CHURCH

MONUMENT
SIGN



5493 South Amherst Hwy
Madison Hts., Va. 24572
(434) 847-4151 phone
(434) 845-6980 fax

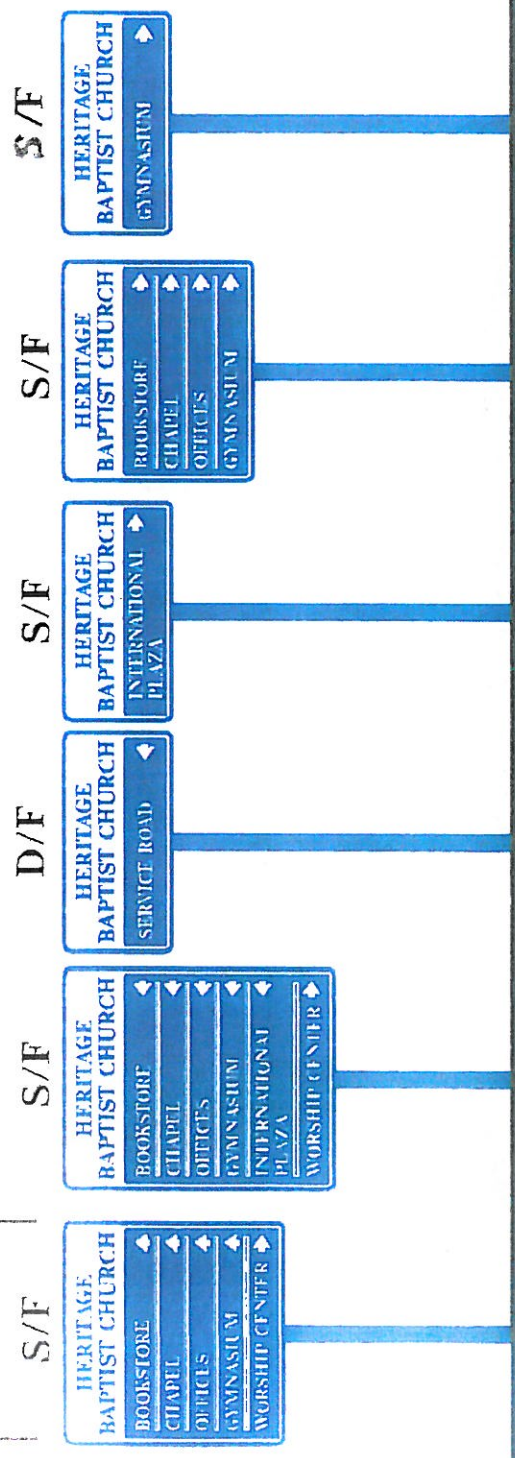
8" Letter ht.

Dark Grey Letters

48" x 113" Watchfire Digital Message Board

DIRECTIONAL SIGNS

2'-0"
TYP.

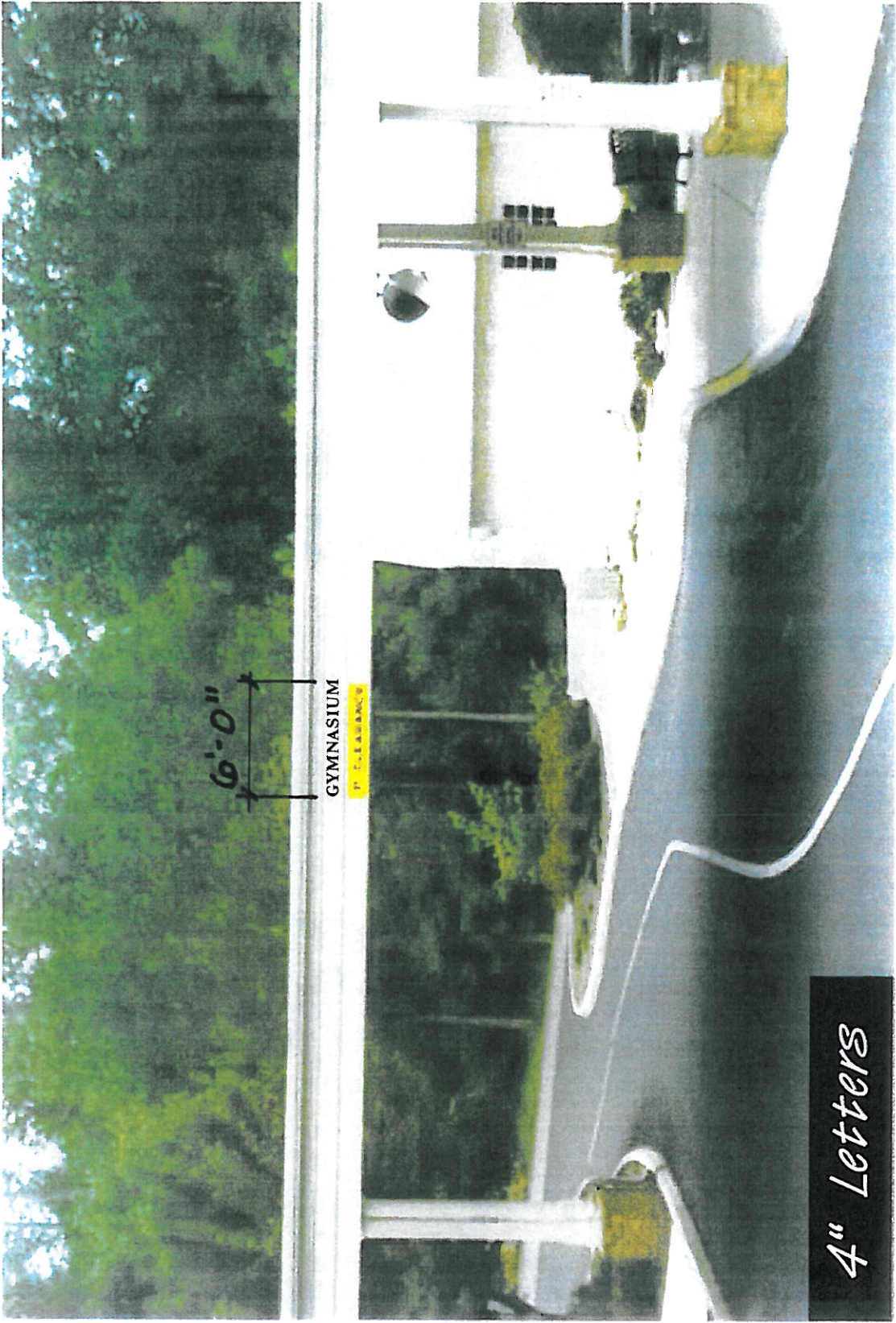


6 ft

2 2'-0" h. 2'-6" h. 1'-0" h. 1'-0" h. 1'-0" h. 1'-0" h. 1'-0" h.

2 4 1 5 6 8

sign #s as indicated on site plan



HERITAGE
BAPTIST
CHURCH

SIGN
SYSTEM

GYMNASIUM
LETTERS



5493 South Amherst Hwy,
Madison Hts., Va. 24572
(434) 847-4151 phone
(434) 845-6980 fax

4" Letters

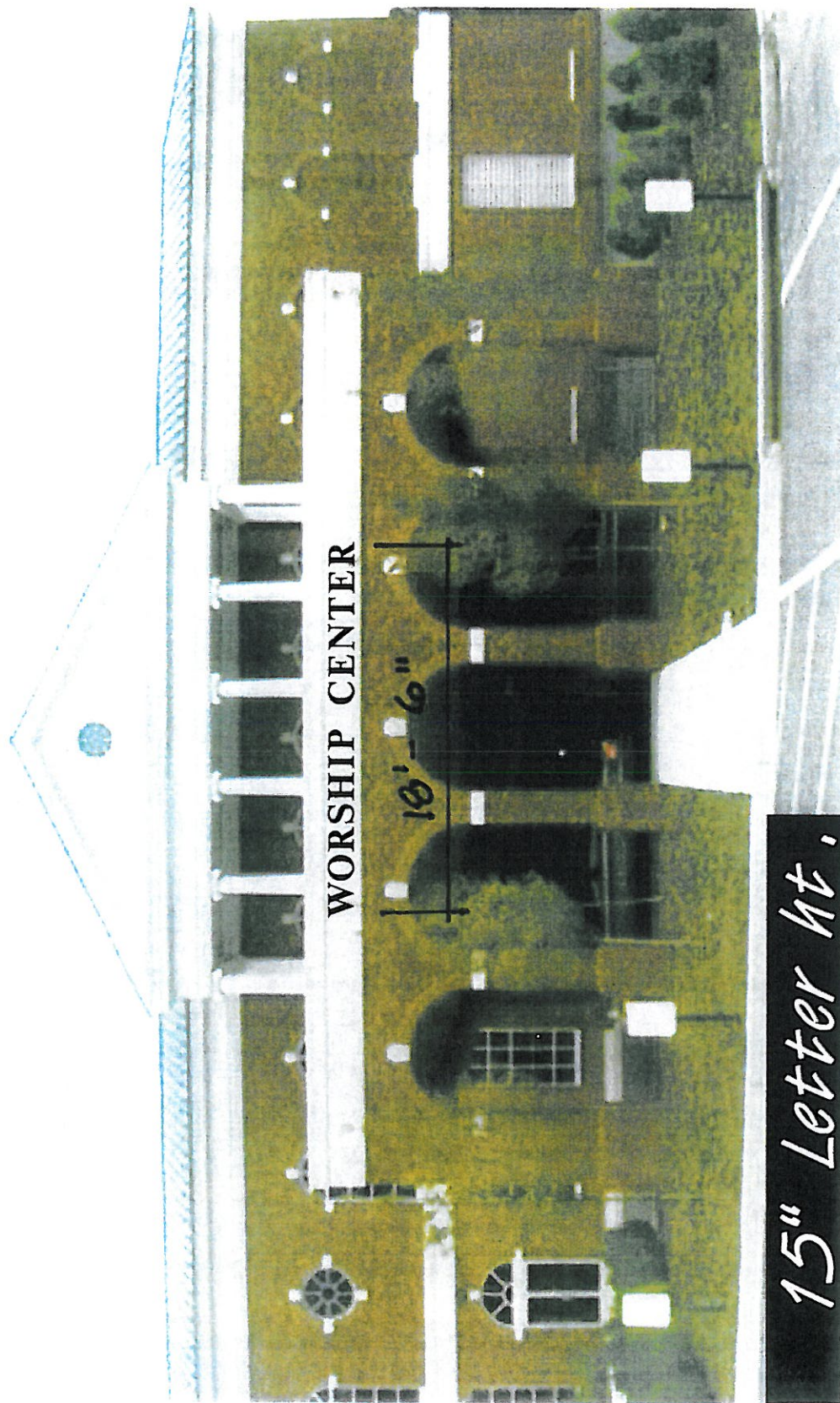
#7.

HERITAGE
BAPTIST
CHURCH

SIGN
SYSTEM
INTERNATIONAL
PLAZA
BUILDING
LETTERS



5493 South Amherst Hwy
Madison Hts., Va. 24572
(434) 847-4151 phone
(434) 845-9980 fax



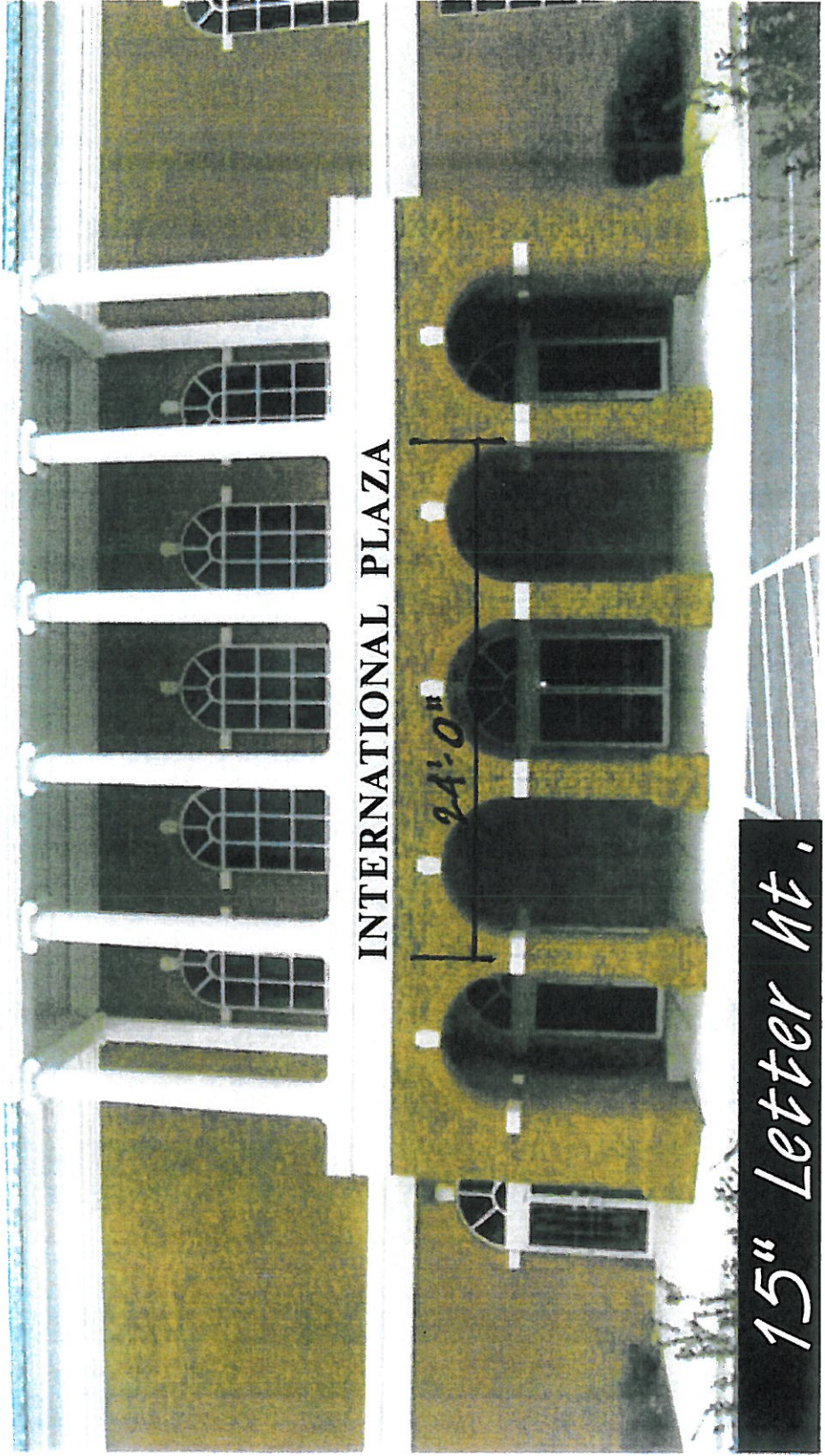
#9.

HERITAGE
BAPTIST
CHURCH

SIGN
SYSTEM
WORSHIP
CENTER
BUILDING
LETTERS



5493 South Amherst Hwy.
Madison Hts., Va. 24572
(434) 847-4151 phone
(434) 845-6980 fax



#10.

September 8, 2010

[illegible]



MEMORANDUM

The Department of Community Development

Planning Division

455-3900

To: Planning Commission
From: Tom Martin, AICP, City Planner 
Subject: Heritage Baptist Church Comprehensive Sign Plan
Date: October 27, 2010

On September 8, 2010, the Planning Commission held a public hearing on Heritage Baptist Church's request to allow the implementation of a comprehensive sign package for a church campus in an R-3, Medium Density Two-Family Residential District and an R-4, Medium-High Density Multi-Family Residential District. At the meeting, the Planning Commission closed the public hearing and tabled the request until such time that representatives of Heritage Baptist Church could meet with City staff to finalize the size and location of the proposed monument sign.

Representatives from Heritage Baptist Church and the city met Thursday, September 23, 2010 on site and reviewed the proposed location of the monument sign, as well as the relationship of the sign to the adjacent homes. The church has since revised their sign design, by reducing the size of both the digital display and the architectural surround from the original proposal. The display area of the revised monument sign would be forty-one (41) by seventy-six (76) inches, or just over twenty-one and a half (21½) square feet. The height of the sign would be decreased by two and a half (2 ½) feet, the length reduced by four (4) feet and the letters cut from eight (8) inches to six (6) inches. The sign would be located in its originally proposed location; however, the church would plant additional evergreen vegetative screening along the sight lines between the new sign and the two (2) residences closest to the church's property. Pastor Keith Manuel also met with the neighbor at the corner of Breezewood Drive who had no concerns about the digital sign or its design.

City staff originally had concerns about the size of the sign, which was four and a half (4½) times larger than the signage permitted within a residential district, and the potential for light pollution attributed to the digital reader-board which would potentially illuminate changeable copy twenty-four (24) hours per day within view of the adjacent residence. The proposed revision is in keeping with the existing signage in the neighborhood, namely Tharp Funeral Home and provides protection from potential light trespass and is similar to other signs implemented for church uses.

Attachments:

Revised Monument Sign Design – October 11, 2010

Heritage Baptist Church Comprehensive Sign Planning Commission Report – September 8, 2010



MEMORANDUM

The Department of Community Development

Planning Division

455-3900

To: Planning Commission
From: Tom Martin, AICP, City Planner *TM*
Subject: LTD Properties, LLC. Concept Plan and Proffer Revisions
Date: November 10, 2010

On October 13, 2010, the Planning Commission held a public hearing on LTD Properties, LLC's request to amend the *Future Land Use Map* designation from Medium Density Residential to Neighborhood Commercial and rezone four (4) properties from R-1, Low Density Single-Family Residential District and R-4C, Medium-High Density Multi-Family Residential District (Conditional) to B-3C, Community Business District (Conditional). At the meeting, the petitioner requested additional time to review their proposed zoning designation request and the voluntarily submitted proffers to determine if the petition could be revised to address some of the concerns voiced during the public hearing. Planning Commission tabled the request until such time that the representative could finalize their petition.

The petitioner has submitted an amended request to rezone the four (4) properties from R-1, Low Density Single-Family Residential District and R-4C, Medium-High Density Multi-Family Residential District (Conditional) to B-2C, Neighborhood Business District (Conditional). Examples of permitted uses within a B-2, Neighborhood Business District include offices and limited retail and service uses that do not require outdoor displays such as bakeries, delicatessens, florists, hardware stores, barber or beauty salons, banks, care centers and computer centers for 752 and 756 Leesville Road. In addition, the petitioner has proffered to limit the uses on either end of the development at 750 and 760 Leesville Road, respectively, to those allowed only in a B-1, Limited Business District (examples include offices, barber or beauty salons, banks, care centers and computer centers).

Although Planning Commission originally closed the public hearing portion of the meeting, the proposed rezoning was re-advertised and notices were mailed to all property owners located within two hundred (200) feet of the properties to provide notification of the proposed changes to the zoning request.

Attachments:

Revised Concept Plan – October 20, 2010

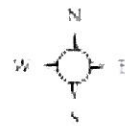
Revised Proffers – October 20, 2010

LTD Properties, LLC Planning Commission Report – October 13, 2010



HERITAGE
Baptist Church

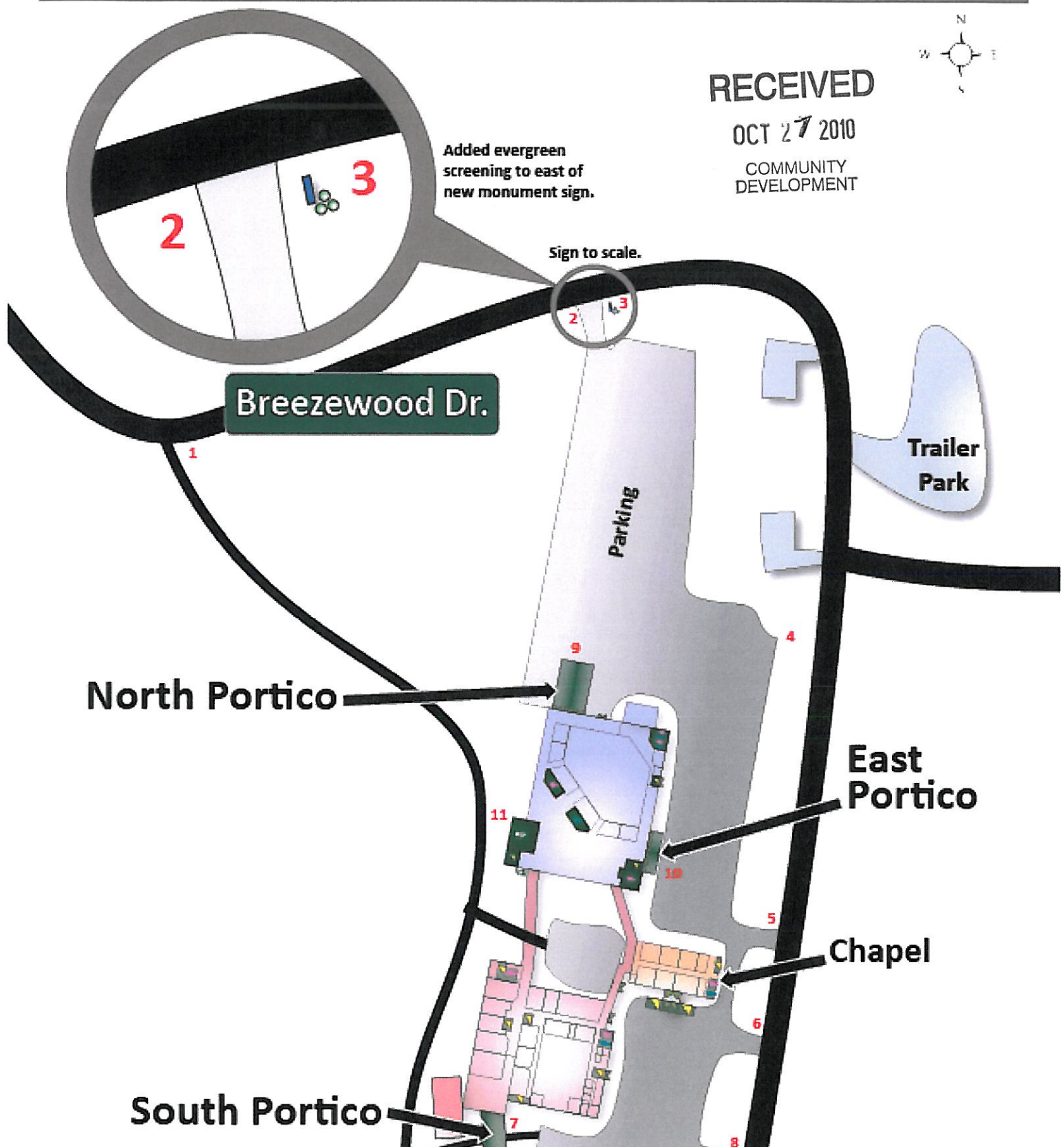
(434) 237-6505
245 Breezewood Drive
Lynchburg, VA 24502



RECEIVED

OCT 27 2010

COMMUNITY
DEVELOPMENT



#3



HERITAGE
BAPTIST
CHURCH

MONUMENT
SIGN

McBRIDE
SIGN COMPANY

5493 South Amherst Hwy
Madison Hts., Va. 24572
(434) 847-4151 phone
(434) 845-6860 fax

WatchFire Digital Display Board

41" x 76"

HERITAGE BAPTIST CHURCH - Letter ht. 6"

RECEIVED

OCT 11 2010

COMMUNITY
DEVELOPMENT

LYNCHBURG CITY COUNCIL

Agenda Item Summary

MEETING DATE: **December 14, 2010**

AGENDA ITEM NO.: 8

CONSENT:

REGULAR: **X**

WORK SESSION:

CLOSED SESSION:

(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: Conditional Use Permit (CUP): Peakland Baptist Church Parking Addition, 4006 and 4018 Peakland Place

RECOMMENDATION: Approval of the CUP petition.

SUMMARY: Peakland Baptist Church is petitioning to allow the construction of a church parking area addition in an R-1, Low Density Single-Family Residential District. Peakland Baptist Church currently has seating for approximately three hundred forty-five (345) persons and would require eighty-seven (87) parking spaces in accordance with the *Zoning Ordinance*. The existing church parking lot has eighty (80) spaces and the project would provide an additional sixty-three (63) spaces for a total of one hundred forty-three (143) parking spaces to accommodate overflow parking for the church.

The Planning Commission recommended approval of the CUP petition because:

- The petition agrees with the *Comprehensive Plan 2002-2020's Future Land Use Map [FLUM]* designation which recommends an Institutional use for the subject property.
- The petition incorporates significant landscaping, adequate setbacks and water quality measures to address zoning and stormwater management requirements.

PRIOR ACTION(S):

November 10, 2010: The Planning Division recommended approval of the CUP petition.

The Planning Commission recommended approval of the CUP petition (4-0, with one abstention - Hamilton and two members absent - Barnes and Coleman) subject to the following conditions:

1. The property shall be developed in substantial compliance with the concept plan for the Additional Parking Lot for Peakland Baptist Church revised October 8, 2010, and received by the Department of Community Development on October 8, 2010.
2. All lighting shall be glare-shielded and directed to prevent illumination across the property line.

FISCAL IMPACT: None

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

ATTACHMENT(S):

- Resolution
- Planning Commission Report
- Planning Commission Minutes
- Vicinity Map
- Vicinity Proposed Land Use Map
- Watershed Location Map
- Concept Plan
- Speaker Sign Up Sheet

REVIEWED BY: lkp

RESOLUTION:

A RESOLUTION GRANTING A CONDITIONAL USE PERMIT TO PEAKLAND BAPTIST CHURCH TO ALLOW THE CONSTRUCTION OF A SIXTY-THREE (63)-SPACE PARKING AREA WITHIN AN R-1, LOW DENSITY SINGLE-FAMILY RESIDENTIAL DISTRICT AT 4006 AND 4018 PEAKLAND PLACE.

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF LYNCHBURG that the petition of the Peakland Baptist Church to allow the construction of a sixty-three (63)-space parking area at 4006 and 4018 Peakland Place be, and the same is hereby approved subject to the following conditions:

1. The property shall be developed in substantial compliance with the concept plan for the Additional Parking Lot for Peakland Baptist Church revised October 8, 2010, and received by the Department of Community Development on October 8, 2010.
2. All lighting shall be glare-shielded and directed to prevent illumination across the property line.

Adopted:

Certified:

Interim Clerk of Council

161L

The Department of Community Development

City Hall, Lynchburg, VA 24504

434-455-3900

To: Planning Commission
From: Planning Division
Date: November 10, 2010
Re: **Conditional Use Permit (CUP): Peakland Baptist Church, 4006 and 4018 Peakland Place**

I. PETITIONER

Peakland Baptist Church Trustees, 4018 Peakland Place, Lynchburg, VA 24503

Representative: Charlie Hurt, Headforemost Engineering, 408 St. Andrews Circle, Lynchburg, VA 24503

II. LOCATION

The subject property includes two (2) tracts totaling six and one hundredths (6.01) acres at 4006 and 4018 Peakland Place.

Property Owners: Peakland Baptist Church Trustees, 4018 Peakland Place, Lynchburg, VA 24503

III. PURPOSE

The purpose of this petition is to allow the construction of a sixty-three (63)-space church parking area in an R-1, Low Density Single-Family Residential District.

IV. SUMMARY

- The petition agrees with the *Comprehensive Plan 2002-2020's Future Land Use Map [FLUM]* designation which recommends an Institutional use for the subject property.
- Petition agrees with the *Zoning Ordinance* which permits churches and church uses in a R-1, Low Density Single-Family Residential District with approval of a CUP by City Council.

The Planning Division recommends approval of the CUP petition.

V. FINDINGS OF FACT

1. **Comprehensive Plan.** The *Comprehensive Plan 2002-2020 FLUM* recommends Institutional uses in this area. Institutions (**page 5.3**) are the religious, educational and other nonprofit entities in the City. Examples include churches, cemeteries, private schools and universities, private nonprofit hospitals, service clubs and organizations, and other nonprofit institutions.

The proposed CUP would permit the expansion of the existing parking area for Peakland Baptist Church. Adjacent land uses are designated for Institution and Low Density Residential uses by the *FLUM* and the adjacent zoning primarily includes R-1, Low Density Single-Family Residential zoning.
2. **Zoning.** Portions of the subject property were annexed into the City in 1926 and 1958 respectively. The existing R-1, Low Density Single-Family Residential was established in 1978 with the adoption of the current *Zoning Ordinance*.

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 March 9, 2010, City Council approved Cole Brothers Circus's CUP petition to allow the operation of a temporary circus at Linden Avenue on April 26th and April 27th, 2010 in an R-1, Low Density Single-Family Residential District at 150 Linden Avenue.
 - On January 14, 2003, City Council approved John Paul and Alice Jones's CUP petition to allow the use of an existing structure as a guest home in an R-1, Low Density Single-Family Residential District at 711 Old Trents Ferry Road.
 - On January 9, 2001, City Council approved Westminster Canterbury's CUP petition to allow the construction of building and parking additions in an R-4, Medium-High Density Multi-Family Residential District at 501 VES Road.
 - On October 10, 2000, City Council approved Peakland Baptist Church's CUP petition to allow the construction of a columbarium in an R-1, Low Density Single-Family Residential District at 4018 Peakland Place.
 - On July 13, 1999, City Council approved Westminster Canterbury's CUP petition to allow the construction of an addition to the wellness center and a swimming pool in an R-4, Medium-High Density Multi-Family Residential District at 501 VES Road.
 - On August 11, 1998, City Council approved Presbyterian Homes and Family Services' CUP petition to allow the construction of a student activity center and associated parking area in an R-1, Low Density Single-Family Residential District at 150 Linden Avenue.
 - On June 10, 1997, City Council approved First Presbyterian Church's CUP petition to allow the construction of an office addition, columbarium and parking addition in an R-1, Low Density Single-Family Residential District at 400 VES Road.
 - On October 9, 1990, City Council approved Virginia Episcopal School's CUP petition for a revision to the school's master plan in an R-1, Low Density Single-Family Residential District at 1215 VES Road.
 - On September 25, 1990, City Council approved Presbyterian Homes and Family Services' CUP petition to allow the construction of the "Genesis House" project in an R-1, Low Density Single-Family Residential District at 150 Linden Avenue.
 - On June 12, 1990, City Council approved Westminster Canterbury's CUP petition to allow the construction of a building and parking addition in an R-4, Medium-High Density Multi-Family Residential District at 501 VES Road.
 - On April 10, 1990, City Council approved Virginia Episcopal School's CUP petition to allow the construction of a maintenance building and for driveway repairs in an R-1, Low Density Single-Family Residential District at 400 VES Road.
 - On June 14, 1988, City Council approved Peakland Baptist Church's CUP petition to allow the construction of an education and administration building in an R-1, Low Density Single-Family Residential District at 4018 Peakland Place.
 - On May 13, 1986, City Council approved Virginia Episcopal School's CUP petition to allow the construction of a new dormitory with two entrance drives in an R-1, Low Density Single-Family Residential District at 400 VES Road.

- On December 10, 1985, City Council approved Virginia Episcopal School's CUP petition to allow the construction of an athletic field in an R-1, Low Density Single-Family Residential District at 340 and 500 VES Road.
 - On October 8, 1985, City Council approved Virginia Episcopal School's CUP petition to allow the construction of a gymnasium addition in an R-1, Low Density Single-Family Residential District at 400 VES Road.
 - On June 10, 1980, City Council approved Virginia Episcopal School's CUP petition to allow the approval of the school's master plan in an R-1, Low Density Single-Family Residential District at 400 VES Road.
 - On November 13, 1979, City Council approved Bear Run's CUP petition to allow the construction of apartments in an R-3, Medium Density Two-Family Residential District at 600 Reusens Road.
5. **Site Description.** The two properties include an existing church, parking area, columbarium and playground; the balance of the property is undeveloped forestal land. The parcel is bound to the north by the Presbyterian Home campus and to the east, south and west by single-family homes.
6. **Proposed Use of Property.** The purpose of this petition is to allow the construction of a sixty-three (63)-space parking area to serve the existing church. Landscaping for the parking lot will comply with the requirements of the City's *Zoning Ordinance* which includes parking area landscaping, parking area screening and vegetative buffer plantings. The grading plan has been adjusted to provide for tree well protection and the relocation of the proposed drainage channel outside of the drip-line of the existing thirty inch (30") cherry tree and thirty-six inch (36") oak tree on the adjacent property along the eastern property line. Although City water and sewer are available to the site, no utility connections are proposed for this project.
- The petitioner hosted a neighborhood meeting on September 1, 2010. In addition, the church has also met with an adjacent property owner to define the property line and an existing spring.
7. **Traffic, Parking and Public Transit.** The vehicle trip threshold for the proposed parking addition is less than the five hundred (500) daily trips and the fifty (50) peak hour trips that would warrant a traffic study. The City's Transportation Engineer had no comments of concern regarding the proposed parking addition.
- Peakland Baptist Church has seating for approximately three hundred forty-five (345) persons and would require eighty-seven (87) parking spaces in accordance with the *Zoning Ordinance*. The existing church parking lot has eighty (80) spaces. The project would provide an additional sixty-three (63) spaces for a total of one hundred forty-three (143) parking spaces to accommodate overflow parking for the church.
- The Peakland Baptist Church property is served by public transit. Greater Lynchburg Transit Company's Route 3D runs along Peakland Place, with a bus stop located approximately three hundred (300) feet from the church.
8. **Stormwater Management.** The construction of the proposed parking would exceed the one thousand (1,000) square foot threshold for stormwater management; as such, a plan to address water quantity and quality of the surface water runoff would be required for the construction. The increase in post-development runoff conditions due to the new impervious area would be managed through the use of above-ground stormwater detention and bioretention facilities located along the northern property line. The pond would be designed in accordance with the City's stormwater requirements to meet quantity standards for the two (2)-year and ten (10)-year storm event and the water quality standard based on the amount of new pavement. The facility would discharge into an existing natural channel and preliminary review of the site indicates that the channel is adequate to receive stormwater from the site once it meets the City's quantity and quality standards.
9. **Emergency Services.** The City's Fire Marshal had no concerns regarding the CUP petition.
- The City Police Department had no concerns about the CUP petition.

10. **Impact.** The proposed parking area would incorporate significant landscaping, adequate setbacks and water quality measures to help address planning and stormwater management concerns. The City's Transportation Engineer, Fire Marshal and Crime Prevention Specialist had no comments of concern regarding the proposed CUP petition and the result is a project that would have minimal impact on the surrounding neighborhood.
 11. **Technical Review Committee.** The Technical Review Committee (TRC) originally reviewed the preliminary site plan on March 18, 2008. Following the release of TRC comments, the representative altered the design of the lot. The petitioner resubmitted the plan for TRC review on August 23, 2010. 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 of Peakland Baptist Church's petition for a conditional use permit (CUP) to allow the construction of a sixty-three (63) space parking addition at 4006 and 4018 Peakland Place, subject to the following condition:

- 1. The property shall be developed in substantial compliance with the concept plan for the Additional Parking Lot for Peakland Baptist Church revised October 8, 2010, and received by the Department of Community Development on October 8, 2010.**
- 2. All lighting shall be glare-shielded and directed to prevent illumination across the property line.**

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/Acting Director of Community Development
Mr. Walter C. Erwin, City Attorney
Mr. J. Lee Newland, City Engineer
Ms. Cynthia Kozerow, Lynchburg Police Department
Battalion Chief Greg Wormser, Fire Marshal
Mr. Gerry Harter, Transportation Engineer
Mr. Doug Saunders, Acting Building Commissioner
Mr. Robert Fowler, Zoning Administrator
Mr. Kent White, Senior Planner
Ms. Erin Hawkins, Environmental Reviewer
Mr. Sam Redd, Applicant, Peakland Baptist Church Trustees
Mr. Charlie Hurt, Representative, Headforemost Engineering

VII. ATTACHMENTS

- 1. Vicinity Zoning Pattern**
- 2. Vicinity Proposed Land Use**
- 3. Watershed Location Map**
- 4. Concept Plan**

MINUTES FROM THE NOVEMBER 10, 2010 PLANNING COMMISSION MEETING (MINUTES HAVE NOT BEEN APPROVED. THERE WAS NO SECOND MEETING IN NOVEMBER):

a. Petition of Peakland Baptist Church for a conditional use permit to allow the construction of a 63-space parking area in an R-1, Low Density Single-Family Residential District at 4006 and 4018 Peakland Place.

Chair Hamilton has a conflict of interest in this matter and handed over this portion of the meeting to Vice-Chair Sale to conduct. Mr. White had the following comments for the commission. Peakland Baptist Church currently has seating for approximately 345 people and has approximately 80 parking spaces. The addition would allow for a total of 143 parking spaces and the church is required to have 87 spaces by the *Zoning Ordinance*. The church will incorporate landscaping, adequate setbacks and water quality measures into the design to help with planning and stormwater concerns. The Transportation Engineer, Fire Marshal and Crime Prevention Specialist had no comments or concerns. City staff recommends approval of the petition with the conditions noted in the report. Mr. White showed photos of the site to aid in the presentation.

Mr. Charles Hurt of Headforemost was present to represent the petition. Mr. Sam Redd from the church was also available to answer any questions. Mr. Hurt explained that the project started in 2005. He believes they have made all the adjustments necessary and answered all the City's requests. Mr. Hurt explained that they are proposing a bioretention basin that will hold water up to six inches and go down. They feel this is better than a stormwater basin that fills up deeper. It will be planted with lots of wetland plants.

Vice-Chair Sale asked for those who wished to speak in favor of the petition. No one came forward. He asked for those who wished to speak in opposition or with concerns. Ms. Monica Prahinski came forward. She resides at 4016 Peakland Place and shares the driveway with the church. She had concerns with whether the property would remain residential if the conditional use permit is granted. Vice-Chair Sale said the question would be answered after all persons have spoken and the public hearing is closed.

Ms. Esther McGuinn of 109 Linden Avenue came forward to speak. She said the church and Mr. Hurt have been very gracious but she still has some concerns with the bioretention facility. Paving this half of an acre will lift the level of land, bringing in fill dirt and taking down trees. There will be some runoff and she feels it will go into the creek. She is also concerned with a lot of mud and water during the construction phase. She is wondering how long the construction process will be. This is a beautiful area and she is concerned with any damage that might be done to the creek and surrounding area.

Mr. Hurt and Mr. Redd came back to address the neighbor's concerns. Mr. Hurt explained that the zoning would stay the same. Mr. Hurt further explained that the bioretention basin will be preceded with a sediment storm basin during construction and will be converted after construction. Mr. Hurt said there are some wetlands in the area and they may adjust the location of the basin so it will not be in that area. They met with the Department of Environmental Quality today and feel they have done the best they can in the design of the stormwater management area. There will not be any excavation on the project. The dirt will be brought in and built up in layers. They will be sensitive to the neighbors' concerns about dust during construction.

Vice-Chair Sale closed the public hearing portion of the petition.

Commissioner Swienton suggested that Ms. McGuinn contact Jacob Dorman with Zoning and Natural Resources in the event that she has any concerns during the construction phase of the project.

Commissioner Hooper asked if they had given any thought to permeable paving, which might minimize the need for the bioretention basin. Mr. Hurt explained that placing permeable paving over fill will give them trouble and will not be as stable. Maintenance for the church for the proposed paving will also be similar to what they have now. Commissioner Hooper asked if they had any time frame in mind to begin construction. Mr. Hurt said the church is not likely to start right away due to financial constraints.

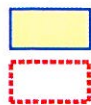
Commissioner Hannon made the following motion, which was seconded by Commissioner Swienton, and passed by the following vote:

“That the Planning Commission recommends to City Council approval of Peakland Baptist Church’s petition for a conditional use permit (CUP) to allow the construction of a sixty-three (63) space parking addition at 4006 and 4018 Peakland Place, subject to the following condition:

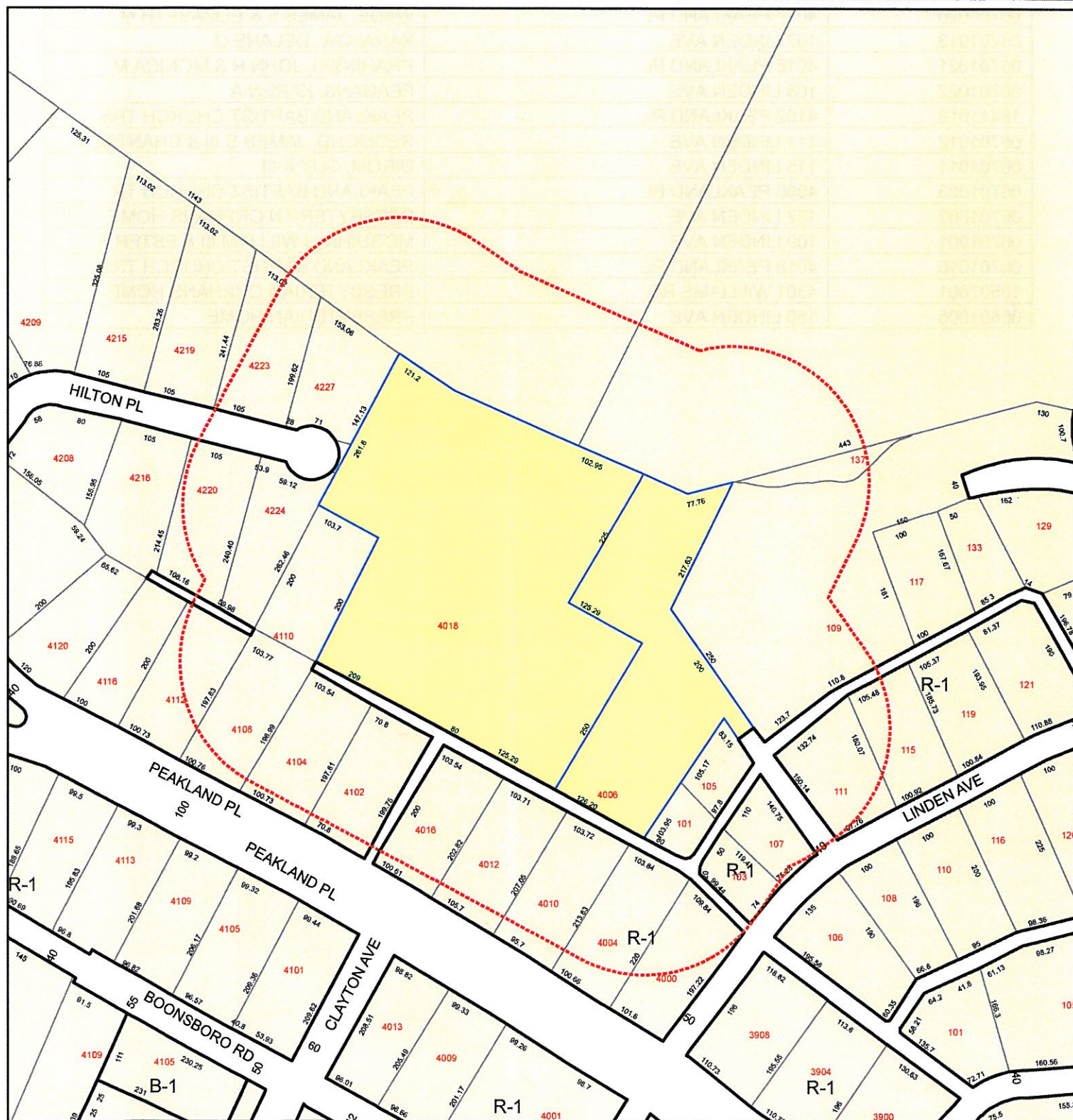
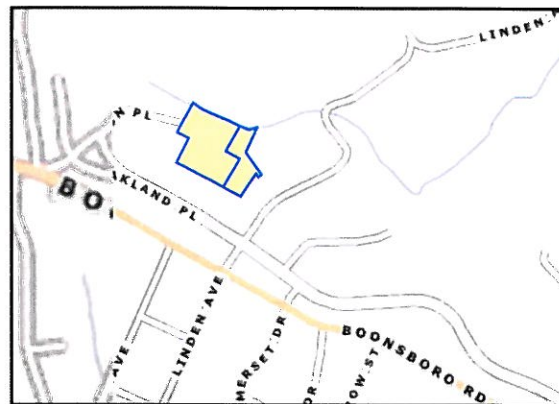
- 1. The property shall be developed in substantial compliance with the concept plan for the Additional Parking Lot for Peakland Baptist Church revised October 8, 2010, and received by the Department of Community Development on October 8, 2010.**
- 2. All lighting shall be glare-shielded and directed to prevent illumination across the property line.**

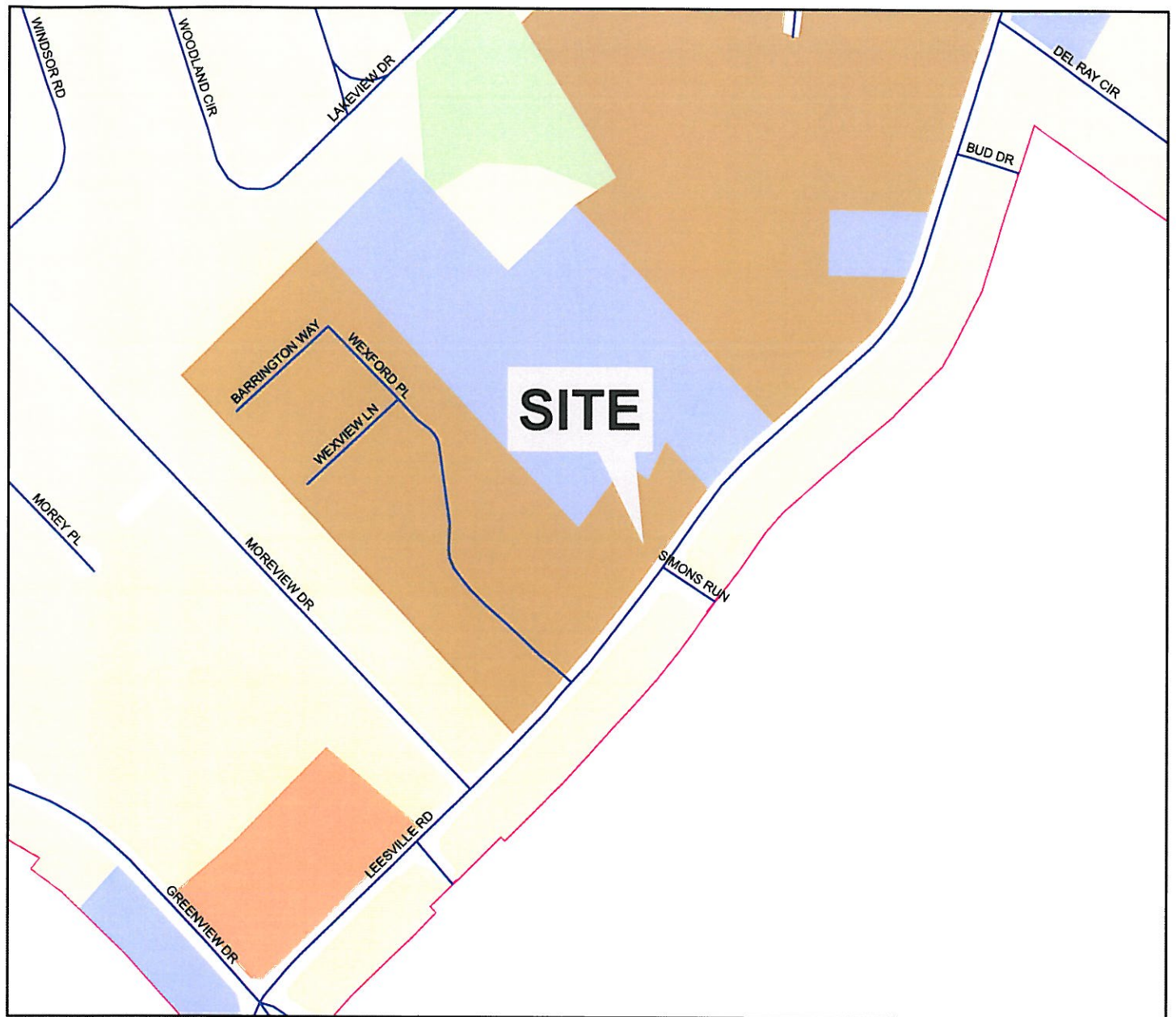
AYES:	Hannon, Hooper, Sale and Swienton	4
NOES:		0
ABSTENTIONS:	Hamilton	1
ABSENT:	Barnes and Coleman	2

4006 and 4018 Peakland Place
Petitioner - Peakland Baptist Church



200 Foot Buffer





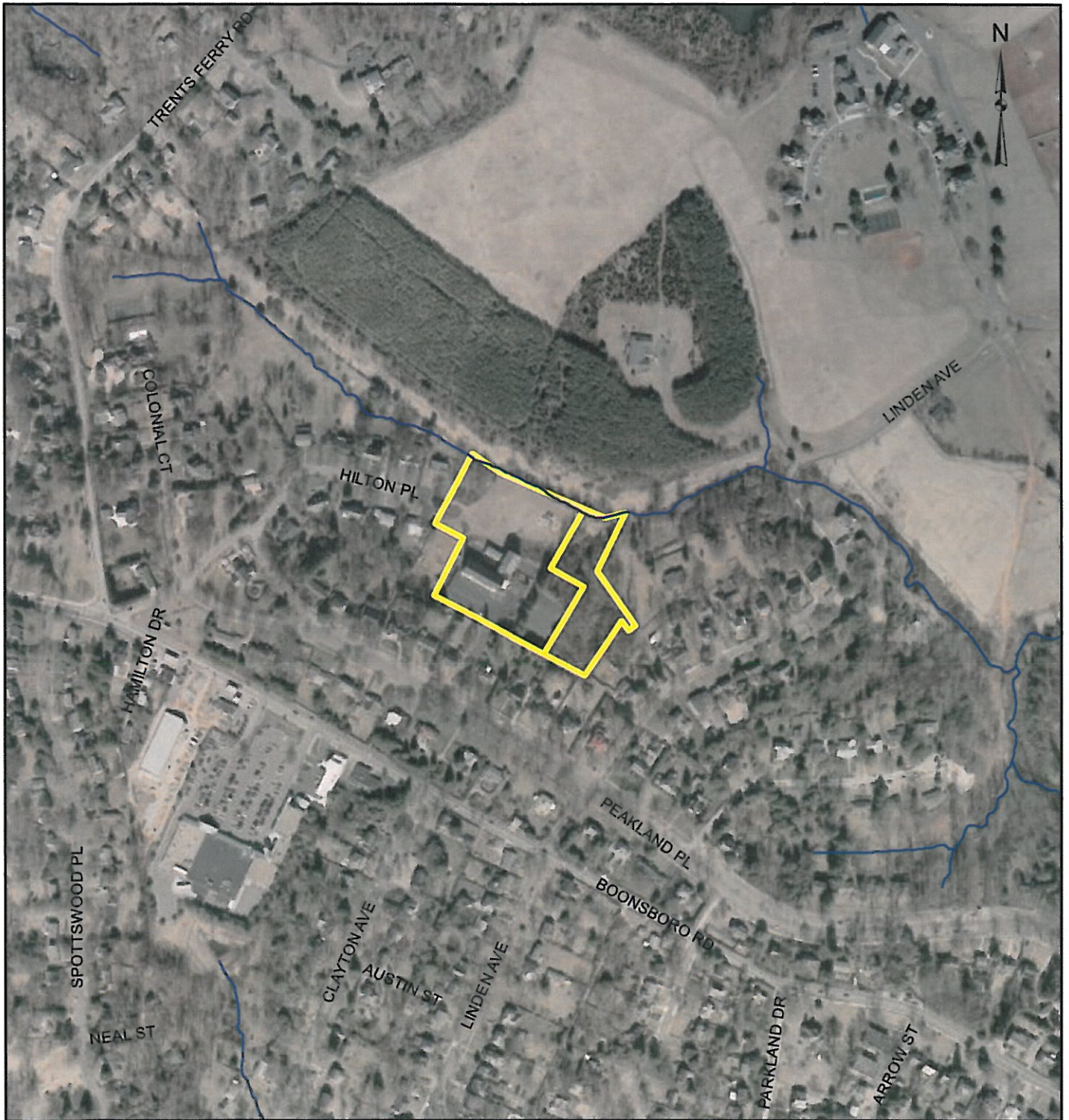
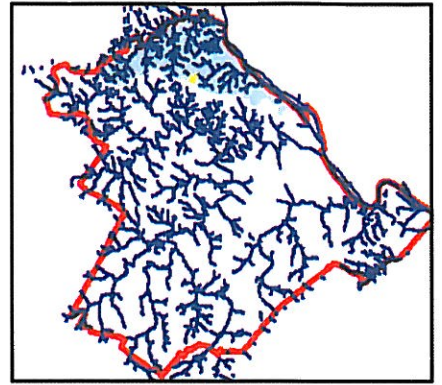
LTD PROPERTIES, INC. **750, 752, 756 AND** **760 LEESVILLE ROAD** **LAND USE PLAN**



Peakland Baptist Church

Watershed Location Map

-  Project Site
-  Judith Creek
-  Corporate Limit



November 10, 2010

PLEASE PRINT

[illegible]



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

PEAKLAND BAPTIST CHURCH 4006 AND 4018 PEAKLAND PLACE LAND USE PLAN



RECEIVED

OCT 08 2010

COMMUNITY
DEVELOPMENT

PEAKLAND BAPTIST CHURCH
D.B. 306, PG. 260
T.M. # 067-01-016

PEAKLAND BAPTIST CHURCH
FLOOR ELEVATION
759.50

Headforemost, LLC
Charles F. Hurt, P.E.
Charles K. Hurt, P.E.
Consulting Engineering
SPECIAL INSPECTIONS
&
INVESTIGATIONS
408 St. Andrews Cr.
Lynchburg, VA 24503
Mobile 434-401-0303
Comm# 2005022
Date 2/14/08

SCALE
0 10' 20'

PEAKLAND BAPTIST CHURCH
D.B. 306, PG. 260

JOHN R. PRAHINSKI
INST. # 040005806
LOT 5

P. POLE WITH
UNDERGROUND
SERVICE

PEAKLAND
BLOCK 7

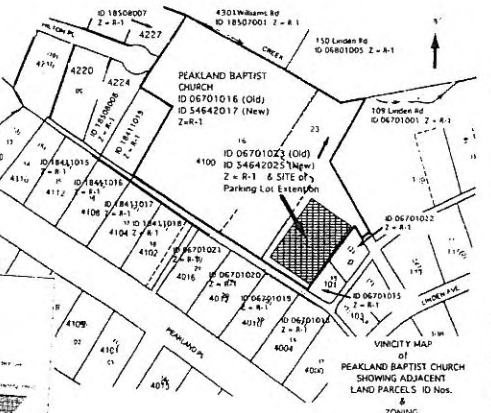
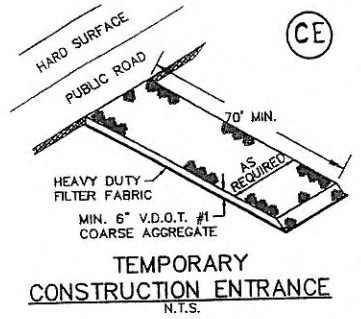
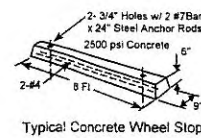
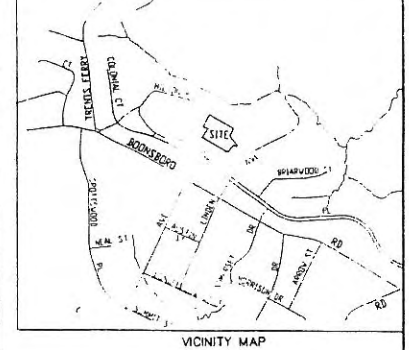
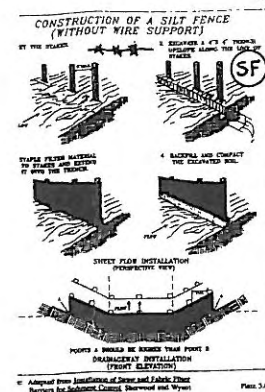
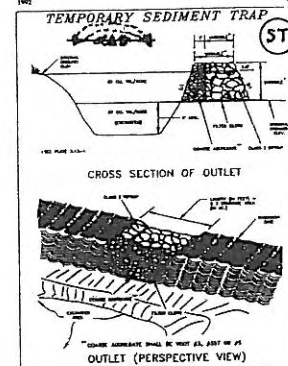
JAMES S. WADE
D.B. 817, PG. 680
LOT 4

P. POLE WITH
UNDERGROUND
SERVICE

MICHAEL T. SECKMAN
D.B. 1137, PG. 771
LOT 3

NOTE: On this site the cut and fill does not balance as all fill material will have to be transported to the site, and a plan addendum is required, prior to the issuance of any land disturbance permit, identifying the location, adequate stabilization measures and an approved permit for any off-site borrow/fill waste site(s) that will be used in conjunction with this project. The ultimate destination of all debris from demolition must be identified at the pre-construction conference.

TYPICAL PAVEMENT & CURB SECTION



Existing Grades — 726 —
New Grades — (726) —

LEGEND
OVERHEAD POWER
P. POLE
+ 528.9 SPOT ELEVATION
I.P.F. IRON PIN FOUND
GUY WIRE
CHAIN LINK FENCE
LIGHT POST
TREES TO BE REMOVED

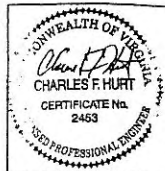
Owner: Peakland Baptist Church
Address: 4018 Peakland Place Lynchburg VA 24503
Project: Parking Lot Addition
Contact: Mr. Sam Redd 434-384-0724

THE ENGINEER AND/OR SURVEYOR TAKES NO RESPONSIBILITY FOR THE LOCATION OR ACCURACY OF THE UTILITIES AS SHOWN HEREON OR ANY UTILITIES WITHIN THE AREA THAT MAY NOT BE SHOWN HEREON. THE CONTRACTOR SHALL BE RESPONSIBLE FOR CONTACTING THE UTILITY COMPANIES TO SEE IF ANY UTILITIES EXIST WITHIN THE AREA OF THE PROJECT BEFORE ANY CONSTRUCTION BEGINS. ANY COST INCURRED BY DAMAGING ANY UTILITY WITHIN THE PROJECT SHALL BE AT THE EXPENSE OF THE CONTRACTOR.
48 WORKING HOURS PRIOR TO STARTING THE WORK, THE CONTRACTOR SHALL CALL MISS UTILITY AT 1-800-552-7001 AND ADVISE THE NATURE AND LOCATION OF THE WORK.

Total New Parking Spaces 20+20+15+5+3 = 63

GRADING PLAN # 1 of 4

DRAWING LEGEND
GRADING PLAN # 1 of 4
EROSION & CONTROL PLAN # 2 of 4
LANDSCAPING PLAN # 3 of 4
TOPOGRAPHIC SURVEY # 4 of 4



ADDITIONAL PARKING LOT
GRADING PLAN
for
PEAKLAND BAPTIST CHURCH
4018 Peakland Place
Lynchburg, VA

SCALE: 1" = 20'
DATE: 10/8/2010
FILE# L-1-2006

27. EROSION AND SEDIMENT CONTROL NOTES
 E-1. UNLESS OTHERWISE INDICATED, ALL VEGETATIVE AND STRUCTURAL EROSION AND SEDIMENT CONTROL MEASURES SHALL BE CONSTRUCTED AND MAINTAINED ACCORDING TO MINIMUM STANDARDS AND SPECIFICATIONS OF THE VIRGINIA EROSION AND SEDIMENT CONTROL HANDBOOK AND VIRGINIA REGULATIONS. EROSION AND SEDIMENT CONTROL MEASURES SHALL BE PLACED PRIOR TO OR AS THE FIRST STEP IN CLEARING.
 E-2. THE PLAN APPROVING AUTHORITY MUST BE NOTIFIED ONE WEEK PRIOR TO THE PRE-CONSTRUCTION CONFERENCE. ONE WEEK PRIOR TO COMMENCEMENT OF LAND DISTURBING ACTIVITIES AND ONE WEEK PRIOR TO FINAL INSPECTION.
 E-3. ALL EROSION AND SEDIMENT CONTROL MEASURES ARE TO BE PLACED PRIOR TO OR AS THE FIRST STEP IN CLEARING.
 E-4. A COPY OF THE APPROVED EROSION AND SEDIMENT CONTROL PLAN SHALL BE MAINTAINED ON THE SITE AT ALL TIMES.
 E-5. PRIOR TO COMMENCING LAND DISTURBING ACTIVITIES IN AREAS OTHER THAN INDICATED ON THESE PLANS, INCLUDING BUT NOT LIMITED TO OFF-SITE BORROW OR WASTE AREAS, THE CONTRACTOR SHALL SUBMIT SUPPLEMENTARY EROSION CONTROL PLAN TO THE OWNER FOR REVIEW AND APPROVAL BY THE PLAN APPROVING AUTHORITY.
 E-6. THE CONTRACTOR IS RESPONSIBLE FOR INSTALLATION OF ANY ADDITIONAL EROSION CONTROL MEASURES NECESSARY TO PREVENT EROSION AND SEDIMENTATION AS DETERMINED BY THE PLAN APPROVING AUTHORITY.
 E-7. ALL DISTURBED AREAS ARE TO BE RETURNED TO APPROVED SEDIMENT CONTROL MEASURES AT ALL TIMES DURING LAND DISTURBING ACTIVITIES AND DURING SITE DEVELOPMENT UNTIL FINAL SITE ABANDONMENT IS ACHIEVED.
 E-8. DURING DEWATERING OPERATIONS, WATER SHALL BE PUMPED INTO AN APPROVED FILTERING DEVICE.
 E-9. THE CONTRACTOR SHALL INSPECT ALL EROSION CONTROL MEASURES PERIODICALLY AND AFTER EACH RAINFALL-PRODUCING EVENT. ANY NECESSARY REPAIRS OR CLEAN UP TO MAINTAIN TO EFFECTIVENESS OF THE EROSION CONTROL DEVICES SHALL BE MADE IMMEDIATELY.

28. Certified Responsible Land Disturber:
 Name: _____
 Title: _____
 Date: _____

29. PLAN REVIEW MINIMUM STANDARD CHECK LIST
 IF AN REVIEW MINIMUM STANDARD CHECKLIST

1. Stormwater management plan shall be submitted to the plan review authority for review and approval.
 2. The plan review authority shall review the plan for compliance with the minimum standards and specifications of the Virginia Erosion and Sediment Control Handbook and Virginia Regulations.
 3. The plan review authority shall review the plan for compliance with the minimum standards and specifications of the Virginia Erosion and Sediment Control Handbook and Virginia Regulations.
 4. The plan review authority shall review the plan for compliance with the minimum standards and specifications of the Virginia Erosion and Sediment Control Handbook and Virginia Regulations.
 5. The plan review authority shall review the plan for compliance with the minimum standards and specifications of the Virginia Erosion and Sediment Control Handbook and Virginia Regulations.
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 9. The plan review authority shall review the plan for compliance with the minimum standards and specifications of the Virginia Erosion and Sediment Control Handbook and Virginia Regulations.
 10. The plan review authority shall review the plan for compliance with the minimum standards and specifications of the Virginia Erosion and Sediment Control Handbook and Virginia Regulations.

30. COST ESTIMATE FOR E & S BOND
 Please Peakland Baptist Church Parking Lot Addition
 4018 Peakland Place Lynchburg, VA 24503
 Date: 10/8/2010
 Amount: \$10,000.00

ITEM	DESCRIPTION	UNIT	QTY	UNIT PRICE	TOTAL COST
1.0	Temporary Erosion Control Measures	EA	1	\$10,000.00	\$10,000.00
2.0	Construction Erosion Control Measures	EA	1	\$10,000.00	\$10,000.00
3.0	Permanent Erosion Control Measures	EA	1	\$10,000.00	\$10,000.00
4.0	Stormwater Management Measures	EA	1	\$10,000.00	\$10,000.00
5.0	Vegetative Erosion Control Measures	EA	1	\$10,000.00	\$10,000.00
6.0	Structural Erosion Control Measures	EA	1	\$10,000.00	\$10,000.00
7.0	Soil Stabilization Measures	EA	1	\$10,000.00	\$10,000.00
8.0	Soil Erosion Control Measures	EA	1	\$10,000.00	\$10,000.00
9.0	Soil Erosion Control Measures	EA	1	\$10,000.00	\$10,000.00
10.0	Soil Erosion Control Measures	EA	1	\$10,000.00	\$10,000.00

Headforemost, LLC
 Charles F. Hurt, P.E.
 Charles K. Hurt, P.E.
 Consulting Engineering
 SPECIAL INSPECTIONS
 INVESTIGATIONS
 408 St. Andrews Cr
 Lynchburg, VA 24503
 Mobile 434-401-0303
 Comm 2005022
 Date 2/14/08

PEAKLAND BAPTIST CHURCH
 D.B. 306, PG. 266

19. STORM WATER CALCULATIONS

Storm Water	Area	Runoff	Peak	Time	Flow
1.0	1.00	1.00	1.00	1.00	1.00
2.0	2.00	2.00	2.00	2.00	2.00
3.0	3.00	3.00	3.00	3.00	3.00
4.0	4.00	4.00	4.00	4.00	4.00
5.0	5.00	5.00	5.00	5.00	5.00
6.0	6.00	6.00	6.00	6.00	6.00
7.0	7.00	7.00	7.00	7.00	7.00
8.0	8.00	8.00	8.00	8.00	8.00
9.0	9.00	9.00	9.00	9.00	9.00
10.0	10.00	10.00	10.00	10.00	10.00

Design Flow Summary

Design Event Frequency	2-yr	10-yr	25-yr
Drainage Area ID	DA-1	DA-1	DA-1
Drainage Area Size (ac)	2.26	2.26	2.26
Composite Runoff Factor	0.58	0.58	0.58
Time of Conc (min)	5	5	5
Rainfall Intensity (in/hr)	5.5	7.1	8.1
Design Flow (cfs)	7.2	9.2	10.5

Design Event Frequency	2-yr	10-yr	25-yr
Drainage Area ID	DA-1	DA-1	DA-1
Drainage Area Size (ac)	2.26	2.26	2.26
Composite Runoff Factor	0.58	0.58	0.58
Time of Conc (min)	5	5	5
Rainfall Intensity (in/hr)	5.5	7.1	8.1
Design Flow (cfs)	5.4	7.0	8.0

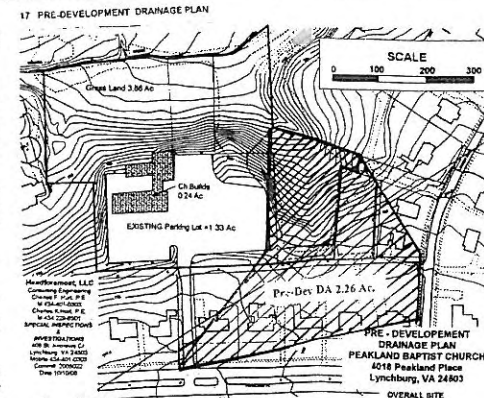
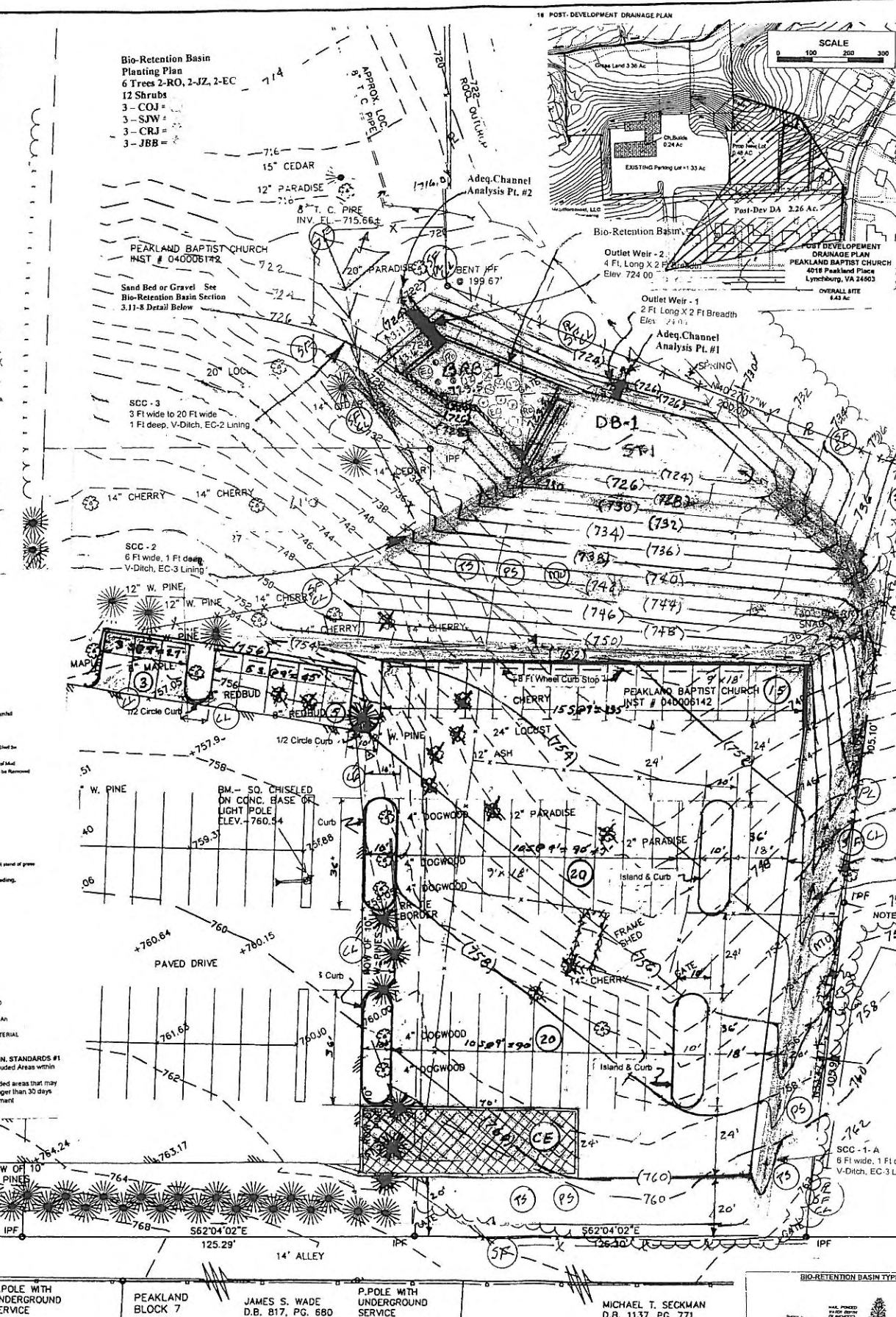
22. SOIL STOCKPILES & FILL AREAS:

Stockpile	Area	Volume	Notes
1.0	1.00	1.00	1.00
2.0	2.00	2.00	2.00
3.0	3.00	3.00	3.00
4.0	4.00	4.00	4.00
5.0	5.00	5.00	5.00
6.0	6.00	6.00	6.00
7.0	7.00	7.00	7.00
8.0	8.00	8.00	8.00
9.0	9.00	9.00	9.00
10.0	10.00	10.00	10.00

24. SEQUENCE OF CONSTRUCTION

Sequence	Notes
1.0	1.00
2.0	2.00
3.0	3.00
4.0	4.00
5.0	5.00
6.0	6.00
7.0	7.00
8.0	8.00
9.0	9.00
10.0	10.00

26. VIRGINIA EROSION & SEDIMENT CONTROL REGULATIONS MIN. STANDARDS #1
 Permanent or Temporary Soil Stabilization shall be applied to denuded areas within 7 days after final grade is reached on any portion of the site.
 Temporary Soil Stabilization shall be applied within 7 days to denuded areas that may not be at final grade, but will remain denuded (undisturbed) for longer than 30 days.
 Permanent Stabilization shall be applied to areas that are left dormant for more than one year.



NOTE: All erosion control/stormwater management measures must be de-watered prior to issuance of a Certificate of Occupancy AND all temporary erosion control measures must be removed within 30 days of permanent stabilization of the site.

J. WM. MCGUINN, III
 D.B. 977, PG. 582

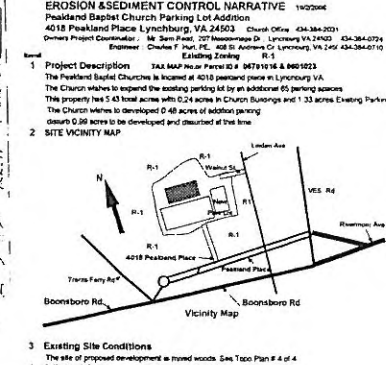
Temporary Sediment Trap

Drainage Area ID	DA-1
Drainage Area Size (ac)	2.26
Composite Runoff Factor	0.58
Time of Conc (min)	5
Rainfall Intensity (in/hr)	5.5
Design Flow (cfs)	7.2

Bio-Retention Basin Notes:

- After site stabilization, temporary sediment trap is to be de-watered and converted to storm water detention pond / bio-retention basin.
- Bio-Retention Facility is not to be installed prior to site stabilization. If installed prematurely, Contractor shall restore as per Virginia Storm Water Management Design Specification Requirements.
- Bio-Retention Basin shall be constructed as per Virginia Storm Water Management Specification.
- Soil within 42"-deep planting soil layer shall include a clay content <5%. Soil mix shall include 20-30% topsoil and 20-30% organic (leaf compost).
- Mulch layer shall consist of minimum 3" shredded hardwood.
- A minimum of one solid boring log is required.
- The following plants shall be evenly spaced throughout the Bio-Retention Basin.

Number	Common Name	Botanical Name	Size	Planting Height	Remarks
1	Red Oak	Quercus rubra	1-1/2" cal	4'	Well-branched
2	Japanese Zelkova	Zelkova serata	1-1/2" cal	4'	Well-branched
3	Eastern cottonwood	Populus deltoides	1-1/2" cal	4'	Well-branched
4	Common juniper	Juniperus communis	1 gallon	N/A	Full Plant
5	St. John's wort	Hypericum densiflorum	1 gallon	N/A	Full Plant
6	Creeping juniper	Juniperus horizontalis	1 gallon	N/A	Full Plant
7	Japanese barberry	Berberis thunbergii	1 gallon	N/A	Full Plant



EROSION & SEDIMENT CONTROL NARRATIVE

Measure	Location	Notes
1.0	1.00	1.00
2.0	2.00	2.00
3.0	3.00	3.00
4.0	4.00	4.00
5.0	5.00	5.00
6.0	6.00	6.00
7.0	7.00	7.00
8.0	8.00	8.00
9.0	9.00	9.00
10.0	10.00	10.00

Stormwater Conveyance Channels

Channel	Area	Volume	Notes
1.0	1.00	1.00	1.00
2.0	2.00	2.00	2.00
3.0	3.00	3.00	3.00
4.0	4.00	4.00	4.00
5.0	5.00	5.00	5.00
6.0	6.00	6.00	6.00
7.0	7.00	7.00	7.00
8.0	8.00	8.00	8.00
9.0	9.00	9.00	9.00
10.0	10.00	10.00	10.00

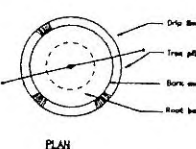
Stormwater Detention Basin

Basin	Area	Volume	Notes
1.0	1.00	1.00	1.00
2.0	2.00	2.00	2.00
3.0	3.00	3.00	3.00
4.0	4.00	4.00	4.00
5.0	5.00	5.00	5.00
6.0	6.00	6.00	6.00
7.0	7.00	7.00	7.00
8.0	8.00	8.00	8.00
9.0	9.00	9.00	9.00
10.0	10.00	10.00	10.00

EROSION & CONTROL PLAN #2 of 4

ADDITIONAL PARKING LOT
 EROSION & CONTROL PLAN
 for
 PEAKLAND BAPTIST CHURCH
 4018 Peakland Place
 Lynchburg, VA

SCALE: 1" = 20'
 DATE: 10/8/2010 FILE: L-1-2006



Small tree planting (up to 2-1/2" cal.)

1. Select trees to be planted in the area of the church and parking lot. Do not plant trees in the area of the church and parking lot.

2. The trees to be planted in the area of the church and parking lot should be 2-1/2" cal. or smaller.

3. The trees to be planted in the area of the church and parking lot should be 2-1/2" cal. or smaller.

4. The trees to be planted in the area of the church and parking lot should be 2-1/2" cal. or smaller.

5. The trees to be planted in the area of the church and parking lot should be 2-1/2" cal. or smaller.

6. The trees to be planted in the area of the church and parking lot should be 2-1/2" cal. or smaller.

7. The trees to be planted in the area of the church and parking lot should be 2-1/2" cal. or smaller.

8. The trees to be planted in the area of the church and parking lot should be 2-1/2" cal. or smaller.

9. The trees to be planted in the area of the church and parking lot should be 2-1/2" cal. or smaller.

10. The trees to be planted in the area of the church and parking lot should be 2-1/2" cal. or smaller.

PLANTING, FERTILIZATION and WATERING SCHEDULE

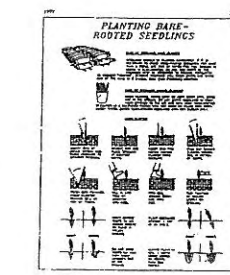
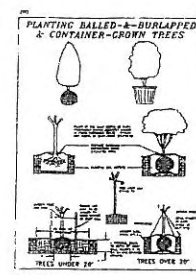
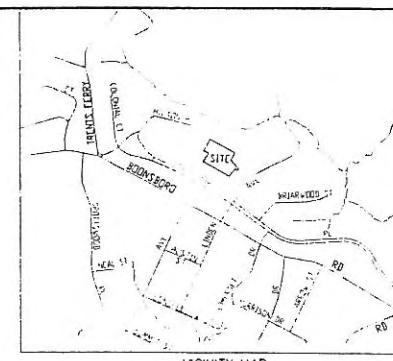
For TREES SHRUBS & GROUND COVER

Shall be in accord with the 1992 edition of the Virginia Erosion and Sediment Control Handbook Standards STD & SPEC 3.37

PLANTING TIME Spring, Late Summer & Fall

FERTILIZATION Check Soil Tests at planting site and Adjust for the requirements for the specific plant, tree or shrub needs such as nutrients & pH and adjust the soil to meet the specific plant needs

WATERING General At Planting Time and within 1 week intervals for first 2 months. Then at 2 week intervals for next 4 months and from that time on a monthly basis for 6 months. With the watering schedule adjusted for the rainfall and the specific plant, tree, shrub, or ground covering



SMALL TREE PLANTING (UP TO 2-1/2" CAL.)

PEAKLAND BAPTIST CHURCH
D.B. 306, PG. 260
T.M. # 067-01-016

PEAKLAND BAPTIST CHURCH
FLOOR ELEVATION
759.50

Headforemost, LLC
Charles F. Hurt, P.E.
Charles K. Hunt, P.E.
Consulting Engineering
SPECIAL INSPECTIONS
&
INVESTIGATIONS
408 St. Andrews Cr.
Lynchburg, VA 24503
Mobile 434-401-0303
Comm# 2005022
Date 2/14/08

SCALE
0 10' 20'

PEAKLAND BAPTIST CHURCH
D.B. 306, PG. 260

JOHN R. PRAHINSKI
INST. # 040005806

PEAKLAND BLOCK 7

JAMES S. WADE
D.B. 817, PG. 680
LOT 4

MICHAEL T. SECKMAN
D.B. 1137, PG. 771
LOT 3

Total New Parking Spaces 20+20+15+5+3 = 63

LANDSCAPING PLANTING SCHEDULE						
CODE	SYMBOL	Scientific Name	Common Name	Quantity	Size	Root Cond.
TREES						
New Parking Spaces = 63 / 8 spaces per Tree = 8 Trees						
EXISTING TREES TO REMAIN						
A	(A)	CORNUS FLORIDA	Dogwood Flowering	7	1-1/2"	B&B
B	X	To Be Removed SEE Dwg. #1 of 4				
NEW TREES						
C	(C)	Landscape Buffer Trees Pinus Strobus	Eastern White Pines	47	1-1/2"	B&B
C-1	(C-1)	Acer Rubrum	Maple, Red	6	1-1/2"	B&B
D	(D)	CORNUS FLORIDA	Dogwood Flowering	8	1-1/2"	B&B
SHRUBS						
New Shrubs = 1 per Ea Parking Space Added (63) = 63						
S	(S)	Pentstemon / Rhododendron	AZALEAS, Flowering	63	3 gal	1gal
NOTE: Contractor Shall Test Soil and Adjust PH as needed for all Lawn seeding & Each Type of Planting Area & Correct for Acid or Alkaline requirements as well as fertilizer needs. All Areas in Cut shall be cultivated PRIOR to Spreading the Top Soil and Fertilizing Seeding & Mulching						

LEGEND

OVERHEAD POWER

P. POLE

+ 528.9 SPOT ELEVATION

○ I.P.F. IRON PIN FOUND

○ GUY WIRE

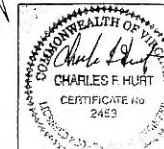
○ CHAIN LINK FENCE

○ LIGHT POST

THE ENGINEER AND/OR SURVEYOR TAKES NO RESPONSIBILITY FOR THE LOCATION OR ACCURACY OF THE UTILITIES AS SHOWN HEREON OR ANY UTILITIES WITHIN THE AREA THAT MAY NOT BE SHOWN HEREON. THE CONTRACTOR SHALL BE RESPONSIBLE FOR CONTACTING THE UTILITY COMPANIES TO SEE IF ANY UTILITIES EXIST WITHIN THE AREA OF THE PROJECT BEFORE ANY CONSTRUCTION BEGINS. ANY COST INCURRED BY DAMAGING ANY UTILITY WITHIN THE PROJECT SHALL BE AT THE EXPENSE OF THE CONTRACTOR.

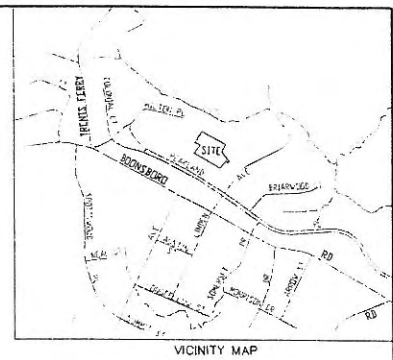
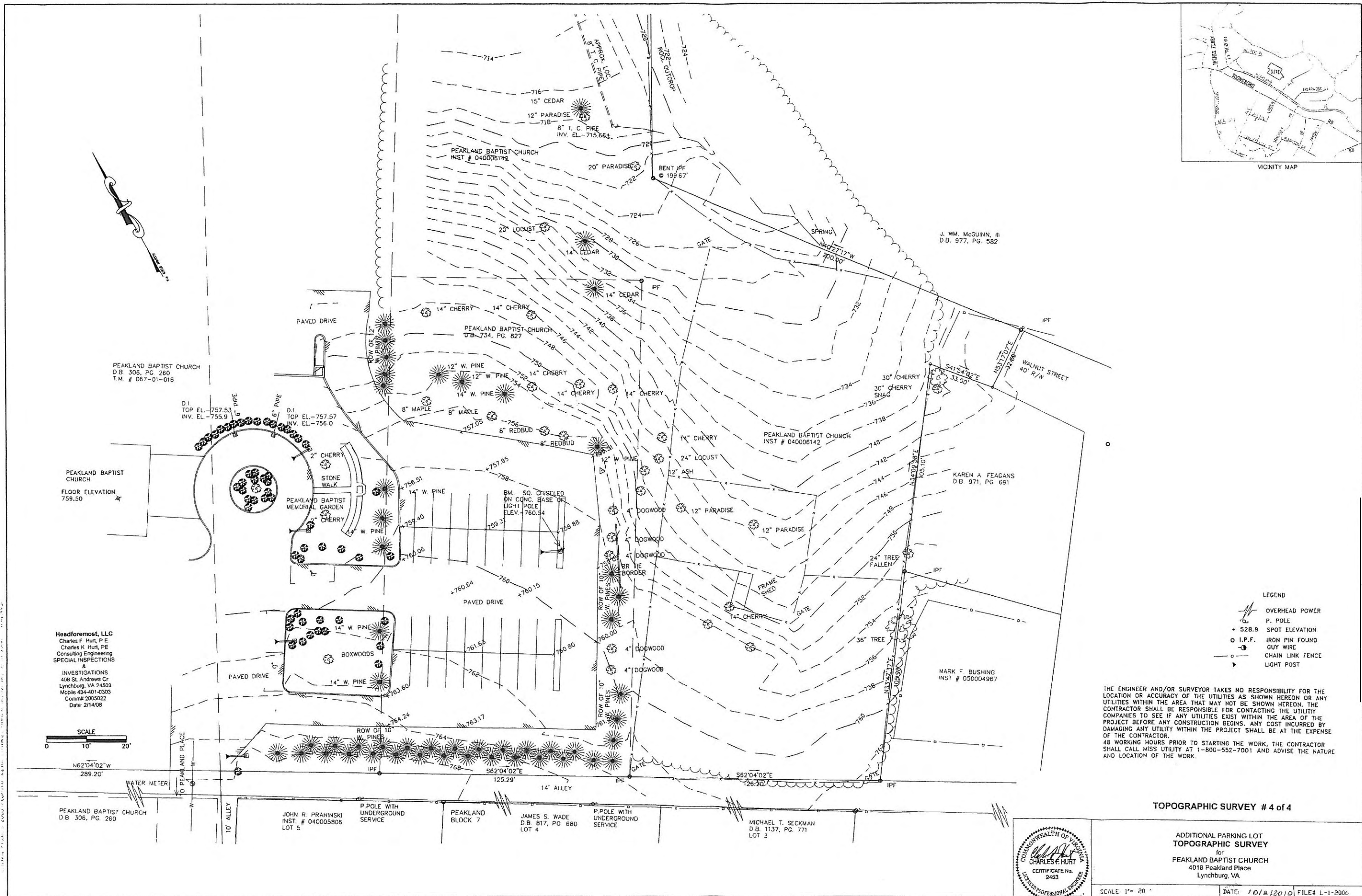
48 WORKING HOURS PRIOR TO STARTING THE WORK, THE CONTRACTOR SHALL CALL MISS UTILITY AT 1-800-552-7001 AND ADVISE THE NATURE AND LOCATION OF THE WORK.

LANDSCAPING PLAN #3 of 4



ADDITIONAL PARKING LOT
LANDSCAPING PLAN
for
PEAKLAND BAPTIST CHURCH
4018 Peakland Place
Lynchburg, VA

SCALE: 1" = 20' DATE: 10/8/2010 FILE# L-1-2006

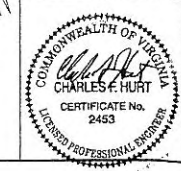


THE ENGINEER AND/OR SURVEYOR TAKES NO RESPONSIBILITY FOR THE LOCATION OR ACCURACY OF THE UTILITIES AS SHOWN HEREON OR ANY UTILITIES WITHIN THE AREA THAT MAY NOT BE SHOWN HEREON. THE CONTRACTOR SHALL BE RESPONSIBLE FOR CONTACTING THE UTILITY COMPANIES TO SEE IF ANY UTILITIES EXIST WITHIN THE AREA OF THE PROJECT BEFORE ANY CONSTRUCTION BEGINS. ANY COST INCURRED BY DAMAGING ANY UTILITY WITHIN THE PROJECT SHALL BE AT THE EXPENSE OF THE CONTRACTOR. 48 WORKING HOURS PRIOR TO STARTING THE WORK, THE CONTRACTOR SHALL CALL MISS UTILITY AT 1-800-552-7001 AND ADVISE THE NATURE AND LOCATION OF THE WORK.

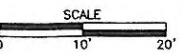
TOPOGRAPHIC SURVEY # 4 of 4

ADDITIONAL PARKING LOT
TOPOGRAPHIC SURVEY
for
PEAKLAND BAPTIST CHURCH
4018 Peakland Place
Lynchburg, VA

SCALE: 1" = 20' DATE: 10/8/2010 FILE# L-1-2006



Headforemost, LLC
Charles F. Hurt, P.E.
Charles K. Hurt, P.E.
Consulting Engineering
SPECIAL INSPECTIONS &
INVESTIGATIONS
408 St. Andrews Cr
Lynchburg, VA 24503
Mobile 434-401-0303
Central 202-5022
Date: 2/14/08



- LEGEND
- OVERHEAD POWER
 - P. POLE
 - + 528.9 SPOT ELEVATION
 - I.P.F. IRON PIN FOUND
 - GUY WIRE
 - CHAIN LINK FENCE
 - ▶ LIGHT POST

LYNCHBURG CITY COUNCIL

Agenda Item Summary

MEETING DATE: **December 14, 2010**

AGENDA ITEM NO.: 9

CONSENT:

REGULAR: **X**

WORK SESSION:

CLOSED SESSION:

(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: *Future Land Use Map (FLUM) Amendment: Medium Density Residential to Neighborhood Commercial at 750, 752, 756 and 760 Leesville Road*

Rezoning: R-1, Low-Density Single-Family Residential District and R-4C, Medium-High Density Multi-Family Residential District (Conditional) to B-2C, Local Neighborhood Business District (Conditional) at 750, 752, 756 and 760 Leesville Road

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

SUMMARY: LTD Properties, LLC, is petitioning to amend the *FLUM* and to rezone three and eleven hundredths (3.11) acres at 750, 752, 756 and 760 Leesville Road to allow the development of a seventeen thousand two hundred and five (17,205) square foot business center that would include multiple office and light retail uses. Planning Commission originally held a public hearing on the petition to rezone the subject properties B-3C, Community Business District (Conditional) on October 13, 2010. The petitioner requested additional time to review their proposed zoning designation request and the voluntarily submitted proffers. On November 10, 2010, Planning Commission heard an amended request from the petitioner to rezone the properties to B-2C, Local Neighborhood Business District (Conditional) that included a proffer to limit the uses on either end of the development to those allowed only in a B-1, Limited Business District.

The Planning Commission recommended approval of the *FLUM* amendment and rezoning petitions because:

- The uses within the development would be limited to offices and light retail and service uses that do not require outdoor displays such as bakeries, delicatessens, florists, hardware stores, barber or beauty salons, banks, care centers and computer centers at 752 and 756 Leesville Road. In addition, the petitioner has proffered to limit the uses on either end of the development at 750 and 760 Leesville Road, respectively, to B-1, Limited Business District (examples include offices, barber or beauty salons, banks, care centers and computer centers).
- The development would consolidate existing driveways on Leesville Road and include cross-aisle access between parcels and pedestrian features along the frontage of the lots.

PRIOR ACTION(S):

October 13, 2010: The Planning Division recommended approval of the proposed FLUM amendment and the rezoning petition.

The Planning Commission tabled the original petition to allow the petitioner the opportunity to address some of the concerns voiced during the public hearing.

November 10, 2010: The Planning Commission waived the twenty-one (21) day submittal requirement for proffers.

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

FISCAL IMPACT: None

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

ATTACHMENT(S):

- Ordinance – FLUM Amendment
- Ordinance – Rezoning
- Planning Commission Memo – November 10, 2010
- Concept Plan Revision – October 20, 2010
- Proffers – November 1, 2010
- Speaker Sign Up Sheet – November 10, 2010
- Planning Commission Report
- Planning Commission Minutes – November 10, 2010
- Planning Commission Minutes – October 13, 2010
- Vicinity Map
- Future Land Use Map
- Watershed Location Map
- Concept Plan – October 6, 2010
- *FLUM* Amendment Narrative
- Proffers – October 6, 2010
- Agreement to Negotiate Future Stormwater Easement – Calvary Baptist Church and Michael Harrison
- Speaker Signup Sheet – October 13, 2010

REVIEWED BY: lkp

ORDINANCE:

AN ORDINANCE AMENDING THE FUTURE LAND USE MAP FOR THE PROPERTY LOCATED AT 750, 752, 756 AND 760 LEESVILLE ROAD, FROM MEDIUM DENSITY RESIDENTIAL TO NEIGHBORHOOD COMMERCIAL.

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

Section 35.1-76.____. Amend the Future Land Use Map for the subject property at 750, 752, 756 and 760 Leesville Road from Medium Density Residential to Neighborhood Commercial.

The area embraced within the following boundaries . . .

Parcel Number: 266-01-001

Acreage 0.667 Ac

beginning at a point along Leesville Road, at the southern point of the property at a pipe found; thence to a point N 44° 49' 17" W for 228.14'; thence to a point N 39° 06' 34" E for 129.03'; thence to a point S 44° 50' 12" E for 224.18'; thence to a point S 37° 22' 16"W for 129.57'.

Parcel Number: 262-14-001

Acreage 0.924 Ac

beginning at a point along Leesville Road, at the southern point of the property at a pin found; thence to a point N 44° 50' 12" W for 224.18'; thence to a point N 44° 50' 12" W for 40.32"; thence to a point N 36° 07' 35" E for 155.33; thence to a point S 44° 02' 30" W for 264.54'; thence to a point S 35° 17' 18" W for 9.97'; thence to a point S 36° 00' 15" W for 142.39'.

Parcel Number: 262-13-002

Acreage 0.760 Ac

beginning at a point along Leesville Road, at the southern point of the property at a pin found; thence to a point N 44° 02' 30" W for 264.54'; thence to a point N 36° 07' 33" W for 104.40'; thence to a point S 54° 09' 26" E for 258.45'; thence to a point S 35° 17' 18" W for 160.84'.

Parcel Number: 262-13-001

Acreage 0.760 Ac

beginning at a point along Leesville Road, at the southern point of the property at a pin found; thence to a point N 54° 09' 26" W for 168.98'; thence to a point N 25° 00' 04" W for 137.03'; thence to a point S 43° 53' 01" E for 200.11'; thence to a point S 35° 50' 34" W for 98.90'.

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

Adopted:

Certified:

Interim Clerk of Council

164L01

AN ORDINANCE CHANGING A CERTAIN AREA LOCATED AT 750, 752, 756 AND 760 LEESVILLE ROAD FROM R-1, LOW DENSITY SINGLE-FAMILY RESIDENTIAL DISTRICT AND R-4C, MEDIUM-HIGH DENSITY MULTI-FAMILY RESIDENTIAL DISTRICT (CONDITIONAL) TO B-2C, LOCAL NEIGHBORHOOD BUSINESS DISTRICT (CONDITIONAL).

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

Section 35.1-76.____. Change of a certain area located at 750, 752, 756 and 760 Leesville Road from R-1, Low Density Single-Family Residential District and R-4C, Medium-High Density Multi-Family Residential District (Conditional) to B-2C, Local Neighborhood Business District (Conditional)

The area embraced within the following boundaries...

Parcel Number: 266-01-001

Acreage 0.667 Ac

beginning at a point along Leesville Road, at the southern point of the property at a pipe found; thence to a point N 44° 49' 17" W for 228.14'; thence to a point N 39° 06' 34" E for 129.03'; thence to a point S 44° 50' 12" E for 224.18'; thence to a point S 37° 22' 16"W for 129.57'.

Parcel Number: 262-14-001

Acreage 0.924 Ac

beginning at a point along Leesville Road, at the southern point of the property at a pin found; thence to a point N 44° 50' 12" W for 22.18'; thence to a point N 44° 50' 12" W for 40.32"; thence to a point N 36° 07' 35" E for 155.33; thence to a point S 44° 02' 30" W for 264.54'; thence to a point S 35° 17' 18" W for 9.97'; thence to a point S 36° 00' 15" W for 142.39'

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beginning at a point along Leesville Road, at the southern point of the property at a pin found; thence to a point N 44° 02' 30" W for 264.54'; thence to a point N 36° 07' 33" W for 104.40'; thence to a point S 54° 09' 26" E for 258.45'; thence to a point S 35° 17' 18" W for 160.84'.

Parcel Number: 262-13-001

Acreage 0.760 Ac

beginning at a point along Leesville Road, at the southern point of the property at a pin found; thence to a point N 54° 09' 26" W for 168.98'; thence to a point N 25° 00' 04" W for 137.03'; thence to a point S 43° 53' 01" E for 200.11'; thence to a point S 35° 50' 34" W for 98.90'.

... is hereby changed from R-1, Low Density Single-Family Residential District and R-4C, Medium-High Density Multi-Family Residential District (Conditional) to B-2C, Local Neighborhood Business District (Conditional) subject to the conditions set out herein below which were voluntarily proffered in writing by the owner, namely LTD Properties, LLC, to wit:

1. Substantial Compliance with the site plan as prepared by Perkins and Orrison, Inc. and dated October 20, 2010.
2. The drainage easement obtained from Calvary Chapel of Lynchburg can and will be adjusted should the future development of Calvary Chapel of Lynchburg so need.
3. Stormwater from Parcel 1, as shown on the October 5, 2010 drawing from Perkins and Orrison, Inc., will discharge into a channel onsite, just downstream from the discharge of the City's storm sewer system in Leesville Road. This channel shall be improved with outlet protection and channel lining in such manner as to substantially reduce the potential for erosion and reduce the energy of

the water being discharged. This channel shall be improved to a point either at the property line of Parcel 1, or in conjunction with an agreement with Wexford LTD Townhomes Homeowners.

4. The uses in this development shall be limited to light retail and general offices not exceeding 3000 square feet; and small restaurants with limited seating (no more than 25 seats) and primarily used for delivery or take out; and all uses allowed in B1 and B2. The following uses will not be allowed: convenience stores; boardinghouses and lodging houses; group homes; halls or theaters; rooming houses; tourist homes or bed and breakfast; garden and farm supplies; greenhouses; supermarkets; hotels and motels; and auditoriums.
5. Due to the potential of a left turn lane being required, an additional 8 to 10 feet of right of way will be dedicated at such time the left turn lane is installed. Actual area and location of right of way dedication to be determined during the turn lane design.
6. Businesses on these properties shall be closed by 9:00 p.m.

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

Adopted:

Certified:

Interim Clerk of Council

164L02

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

To: Planning Commission

From: Planning Division

Date: October 13, 2010

Re: ***FUTURE LAND USE MAP AMENDMENT (FLUM)***: Medium Density Residential to Neighborhood Commercial at 750, 752, 756 and 760 Leesville Road

REZONING: R-1, Low Density Single-Family Residential District and R-4C, Medium-High Density Multi-Family Residential District (Conditional) to B-3C, Community Business District (Conditional) at 750, 752, 756 and 760 Leesville Road

I. PETITIONER

LTD Properties, LLC., 107 Trinity Court, Lynchburg, VA 24502

Representative: Norm Walton, Perkins and Orrison, Inc., 27 Green Hill Drive, Forest, VA 24551

II. LOCATION

The subject properties include four (4) tracts totaling three and eleven hundredths (3.11) acres at 750, 752, 756 and 760 Leesville Road.

Property Owners: Curtis McDaniel, 750 Leesville Road, Lynchburg, VA 24502

Michael G. and Martha G. Harrison, 752 Leesville Road, Lynchburg, VA 24502

LTD Properties, LLC., 107 Trinity Court, Lynchburg, VA 24502

Peggy Lynn Rice, 760 Leesville Road, Lynchburg, VA 24502

III. PURPOSE

The purpose of this petition is to allow the development of a seventeen thousand two hundred and five (17,205) square foot business center that would include multiple office and light retail uses.

IV. SUMMARY

- The petitioner proposes to amend the *Comprehensive Plan 2002-2020*'s *FLUM* designation for the subject properties from Medium Density Residential to Neighborhood Commercial.
- Petition agrees with the *Zoning Ordinance* which permits a variety of office and light retail uses in a B-3, Community Business District.

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

V. FINDINGS OF FACT

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

The petitioner is requesting an amendment of the *FLUM* to provide for a Neighborhood Commercial (**page 5.4**) use. "These retail, personal service, and restaurant areas are sized and designed to serve their immediate neighborhood. Patrons can walk, bike or take a short drive to reach them. They are comprised of individual businesses, clusters of businesses, or small shopping centers. Neighborhood shopping centers meet the day-to-day needs of a limited residential trade area of 2,500 to 10,000 people and average about 50,000 square feet of space."

The proposed *FLUM* amendment and B-3, Community Business District zoning would permit the development of the property as an office and light retail business center. Adjacent land uses are designated for Low Density Residential, Institutional and Community Commercial by the *FLUM*. The property is located across from Simon's Run, the private road that connects the Wards Crossing Shopping Center in Campbell County to Leesville Road. Adjacent zoning includes R-1, Low Density Single-Family Residential zoning on the northern side and on the opposite side of Leesville Road from the property and R-4C, Medium-High Density Multi-Family Residential District (Conditional) on the southern side of the property; B-1, Limited Business District and B-3, Community Business District zoning is also located along Leesville Road near its intersection with Greenview Drive and Del Ray Circle, respectively.

2. **Zoning.** The subject property was annexed into the City in 1976. The existing R-1, Low Density Single-Family Residential District was established in 1978 with the adoption of the current *Zoning Ordinance*. The R-4C, Medium-High Density Multi-Family Residential District (Conditional) zoning for the property at 760 Leesville Road was established on July 14, 1981 with the approval of rezoning petition by City Council.
3. **Proffers.** The petitioner voluntarily submitted the following proffers with the rezoning application:
 1. Substantial Compliance with the site plan as prepared by Perkins and Orrison, Inc. and dated October 5, 2010.
 2. The drainage easement obtained from Calvary Chapel of Lynchburg can and will be adjusted should the future development of Calvary Chapel of Lynchburg so need.
 3. Stormwater from Parcel 1, as shown on the October 5, 2010 drawing from Perkins and Orrison, Inc., will discharge into a channel onsite, just downstream from the discharge of the City's storm sewer system in Leesville Road. This channel shall be improved with outlet protection and channel lining in such manner as to substantially reduce the potential for erosion and reduce the energy of the water being discharged. This channel shall be improved to a point either at the property line of Parcel 1, or in conjunction with an agreement with Wexford LTD Townhomes Homeowners.
 4. The uses in this development shall be limited to light retail and general offices not exceeding 3000 square feet; and small restaurants with limited seating (no more than 25 seats) and primarily used for delivery or take out; and all uses allowed in B1 and B2. The following uses will not be allowed: convenience stores; boardinghouses and lodging houses; group homes; halls or theaters; rooming houses; tourist homes or bed and breakfast; garden and farm supplies; greenhouses; supermarkets; hotels and motels; and auditoriums.
 5. Due to the potential of a left turn lane being required, an additional 8 to 10 feet of right of way will be dedicated at such time the left turn lane is installed. Actual area and location of right of way dedication to be determined during the turn lane design.
4. **Board of Zoning Appeals (BZA).** The Zoning Official has determined that no variances would be needed for the development of the property as proposed.
5. **Surrounding Area.** There have been several items requiring City Council approval in the immediate area:
 - On November 13, 2007, City Council denied Bruce and Carole Gallier's petition to rezone six and eighteen hundredths (6.18) acres 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 (CUP) to allow the construction of fifty-nine (59) townhouses at 716 Leesville Road.

- On December 11, 2001, City Council approved Tree of Life Ministry's petition for a CUP including Master Plan Development of a sanctuary, multi-purpose building, parking and athletic fields R-1, Low Density Single-Family Residential District at 752 Leesville Road.
 - On August 10, 1999, City Council approved Gerald and Deborah Maxey's petition to rezone eight tenths (0.8) of an acre from B-3C, Community Business District (Conditional) to B-1, Limited Business District to allow the use of an existing residence as a counseling center at 794 Leesville Road.
 - On January 12, 1999, City Council approved Church of God's petition for a CUP to allow construction of a parking area and access to the church sanctuary (in Campbell County) in an R-1, Low Density Single-Family Residential District at 777 Leesville Road.
 - On August 13, 1996, City Council approved Tree of Life Ministry's petition for a CUP for expansion of existing church facilities in an R-1, Low Density Single-Family Residential District at 742 Leesville Road.
 - On August 13, 1991, City Council approved Tree of Life Pentecostal Holiness Church's petition for a CUP for the construction of a sanctuary and parking lot in an R-1, Low Density Single-Family Residential District at 742 Leesville Road.
 - On September 12, 1989, City Council approved Hutter Associates, Inc.'s petition to rezone four tenths (0.4) of an acre from R-1, Low Density Single-Family Residential District to B-1, Limited Business District to allow the construction of an office building at 795 Leesville Road.
 - On October 13, 1987, City Council approved Glenn and Jo Anne Carter's petition to rezone three and five tenths (3.5) acres from R-1, Low Density Single-Family Residential District to B-3C, Community Business District (Conditional) to allow the expansion of a nonconforming nursery and use of a residence for B-1, Limited Business District uses at 794 Leesville Road.
 - On November 8, 1983, City Council approved Andrew Ellett's petition to rezone one and twenty-three hundredths (1.23) acres from R-1, Low Density Single-Family Residential District to B-3C, Community Business District (Conditional) to allow the construction and operation of a convenience store with a future expansion for light office/retail uses at the intersection of Leesville Road and Airport Drive (now 797 and 799 Leesville Road).
 - On July 14, 1981, City Council approved Phillip Coffey's petition to rezone sixteen and eight tenths (16.8) acres from R-1, Low Density Single-Family Residential District to R-4C, Medium-High Density Multi-Family Residential District (Conditional) to allow the construction of twenty-seven (27), four (4)-unit and six (6)-unit apartment buildings on Leesville Road, approximately three hundred ninety-six (396) feet from its intersection with Moreview Drive (now 760 and 762 Leesville Road).
6. **Site Description.** Parcel 1 (760 Leesville Road) and Parcel 4 (750 Leesville Road) include single-family homes with associated out buildings; a Certified Public Accountant's office operates as a legal use within an existing residence on Parcel 3 (752 Leesville Road) as part of CUP approved by the Board of Zoning Appeals on October 22, 2002. Parcel 2 (756 Leesville Road) is currently undeveloped. All properties are bound to the north by single-family homes and Calvary Baptist Church; to the east by single-family homes, institutions, commercial businesses and vacant forestal land in Campbell County; to the south by single-family homes and vacant forestal land in Campbell County; and to the west by single-family homes in the Windsor Hills subdivision and commercial businesses near in Greenview Drive.
7. **Proposed Use of Property.** The petition would allow the development of the subject properties into seventeen thousand, two hundred and five (17,205) square feet of office and light retail space. The concept plan indicates that the property at Parcel 2 (756 Leesville Road) would include a five thousand, seven hundred fifty (5,750) square foot building that would be built as part of phase one of the project. The remaining properties would be built according to the schedule of the respective owners and would include the future construction of

a three thousand (3,000) square foot building at Parcel 1 (760 Leesville Road), a five thousand, three hundred fifty (5,350) square foot building at Parcel 3 (752 Leesville Road) and a one thousand, four hundred and eighty-eight (1,488) square foot building at Parcel 4 (750 Leesville Road). The proposed development would be limited to select uses permitted within a B-3, Community Business District; these uses could include light retail, general offices, small restaurants with limited seating (i.e. no more than twenty five (25) seats) and primarily used for delivery or take out) and all uses allowed in B-1 and B-2 business districts such as banks, bakeries, delicatessens, florists, hardware stores, barber or beauty salons and banks. The buildings would be served by City water through the existing service line in Leesville Road and private septic system drainfields at the rear of each lot.

The concept plan indicates the installation of cross-aisle access between the properties as each lot develops, as well as the installation of public sidewalk along the frontage of the property. Landscaping would comply with the requirements of the City's *Zoning Ordinance* and include street trees, parking area landscaping, parking area screening, foundation plantings and utility area screening.

The property is within close proximity to the Campbell County jurisdictional boundary. Mr. Paul Harvey, Director of Community Development for Campbell County, was notified by letter on October 4, 2010 and by follow-up phone call on October 5, 2010. Mr. Harvey indicated that he would submit comments, if any, regarding the petition. To date, no comments have been issued on behalf of Campbell County.

8. **Traffic, Parking and Public Transit.** The vehicle trip threshold for the proposed development is less than the five hundred (500) daily trips and the fifty (50) peak hour trips that would warrant a traffic study. The City's Transportation Engineer commented that the driveway shown on the original concept plan should be relocated to align with the center of Simons Run and requested that the petitioner consider dedicating right-of-way to provide for the City's future installation of left turn lanes and signal equipment should they be required for the intersection at some point in the future. The petitioner centered the proposed entrance with Simons Run and noted the dedication of right-of-way on the revised concept plan.

Parking requirements for the proposed development are defined based on use within the City's *Zoning Ordinance* and the Technical Review Committee would confirm each lot's compliance with City Code. The proposed seventeen thousand, two hundred and five (17,205) square feet of office space would each require two (2) parking spaces per one thousand (1,000) square feet. The three thousand (3,000) square foot building at Parcel 1 (760 Leesville Road) would require six (6) parking spaces; the five thousand, seven hundred fifty (5,750) square foot building on Parcel 2 (756 Leesville Road) would require twelve (12) spaces; the five thousand, three hundred fifty (5,350) square foot building on Parcel 3 (752 Leesville Road) would require eleven (11) spaces; and the one thousand, four hundred and eighty-eight (1,488) square foot building at Parcel 4 (750 Leesville Road) would require three (3) spaces for a total of thirty-two (32) parking spaces. The concept plan provides for eighty-one (81) total parking spaces, with a sufficient number of spaces on each lot to meet the requirements of each development, thus meeting the requirement of City Code.

Public transit service is not currently available to the site. Greater Lynchburg Transit Company's Route 6 runs along Leesville Road, with a bus stop located approximately one thousand, six hundred and fifty (1,650) feet from the proposed development. However, the access to that stop is not connected by any pedestrian features and is a considerable distance from the site along a heavily-traveled four (4)-lane highway.

9. **Stormwater Management.** The construction of the proposed business center would exceed the one thousand (1,000) square foot threshold for stormwater management; as such, a plan to address water quantity and quality of the surface water runoff would be required for the construction. Although specifics of the stormwater plan would not be determined until actual site design, individual stormwater facilities would be designed for Parcel 1, Parcel 2 and Parcel 4. The development of Parcel 3 would allow for the expansion of a facility to serve as a regional detention basin that would serve the buildings on Parcel 2 and Parcel 3. Preliminary review of the site indicates that the unnamed tributary of Dreaming Creek is adequate to receive stormwater from the site once it meets the City's quantity and quality standards; however, an easement will likely be required to convey the drainage to that channel across Parcel 3 and Calvary Baptist Church's property. The petitioner has discussed a

potential stormwater easement to serve Parcel 2, Parcel 3 and Parcel 4 with the owner of Parcel 3 and representatives of Calvary Baptist Church and they are open to future negotiations for the easement.

Parcel 1 would discharge into a proposed City drainage easement that serves the Leesville Road storm sewer system. Although the area adjacent to the existing City stormwater pipe is stable, a portion of the downstream property owned by the Wexford LTD Townhomes Homeowners Association is eroded. Stormwater that leaves Parcel 1 will be detained and discharged at pre-development rates and the applicant has agreed to improve the existing drainage channel either to the property line or in conjunction with an agreement with a future agreement with Wexford LTD Townhomes Homeowners Association.

10. **Emergency Services.** The City's Fire Marshal noted that the parking area exceeds the one hundred fifty (150) permissible length for fire apparatus, noting that the design should provide for a shortened parking lot, a drive-through access or an adequately sized turn-around. The petitioner altered the design on the revised concept plan such that the parking area will be less than the one hundred fifty (150) foot maximum length.

The City Police Department had no concerns about the proposed *FLUM* amendment or rezoning.

11. **Impact.** The *FLUM* amendment and rezoning of the four (4) parcels would likely change the character of this portion of the Leesville Road corridor. Although one of the lots currently contains an existing business, the majority of the properties along this part of Leesville Road include residential uses. However, the potential for the commercial development of this corridor is not unexpected, given the location of existing businesses at the Greenview Drive/Leesville Road and Timberlake Road/Leesville Road intersections, respectively, and the variety of uses that comprise the corridor including businesses, large institutional uses, multi-family housing and single-family homes. In November 2005, City Council also approved the rezoning of the property at 717 and 739 Wards Ferry Road that permitted a commercial entrance into the Wards Crossing West shopping center in Campbell County. Part of the cooperation agreement for this development included the extension of a private road connection (Simons Run) to Leesville Road. The properties along Simons Run in Campbell County are zoned Business General Commercial and would likely develop as commercial use, further increasing the development pressures on Leesville Road.

The development would consolidate existing driveways on Leesville Road and include cross-aisle access between parcels and pedestrian features along the frontage of the lots. Leesville Road has adequate capacity to handle the increase in traffic and the proposed uses would not exceed the threshold for a traffic study. The City's Transportation Engineer and Fire Marshal's initial concerns have been addressed by the revisions to the concept plan and parking and stormwater management requirements would be addressed during the site plan review process. The result is a project that would provide for additional office and small business options for the Leesville Road corridor.

12. **Technical Review Committee.** The Technical Review Committee (TRC) reviewed the preliminary site plan on September 21, 2010. Comments related to the proposed use were minor in nature and have or will be addressed by the developer prior to final public infrastructure plan approval.

VI. PLANNING DIVISION RECOMMENDATION

Based on the preceding Findings of Fact, the Planning Commission recommends to City Council approval of LTD Properties, Inc.'s petition to amend the Future Land Use Map for three and eleven hundredths (3.11) acres at 750, 752, 756 and 760 Leesville Road from Medium Density Residential use to Neighborhood Commercial use.

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

Based on the preceding Findings of Fact, the Planning Commission recommends to City Council approval of LTD Properties, Inc.'s petition rezone three and eleven hundredths (3.11) acres at 750, 752, 756 and 760 Leesville Road from R-1, Low Density Single-Family Residential District and R-4C, Medium-High Density Multi-Family Residential District (Conditional) to B-3C, Community Business District (Conditional), with the voluntarily submitted proffers.

This matter is respectfully offered for your consideration.

William T. Martin, AICP
City Planner

pc: Mr. L. Kimball Payne, III, City Manager
Ms. Bonnie M. Svrcek, Deputy City Manager/Acting Director of Community Development
Mr. Walter C. Erwin, City Attorney
Mr. J. Lee Newland, City Engineer
Ms. Cynthia Kozarow, Lynchburg Police Department
Battalion Chief Greg Wormser, Fire Marshal
Mr. Gerry Harter, Transportation Engineer
Mr. Doug Saunders, Acting Building Commissioner
Mr. Robert Fowler, Zoning Administrator
Mr. Kent White, Senior Planner
Mr. Jacob Dorman, Environmental Reviewer
Mr. Robb Egle, Applicant, LTD Properties, Inc.
Mr. Norm Walton, Representative, Perkins and Orrison, Inc.

VII. ATTACHMENTS

- 1. Vicinity Zoning Pattern**
- 2. Vicinity Proposed Land Use**
- 3. Watershed Location Map**
- 4. Concept Plan**
- 5. *FLUM* Amendment Narrative**
- 6. Proffers**
- 7. Agreement to Negotiate Future Stormwater Easement – Calvary Baptist Church and Michael Harrison**

MINUTES FROM THE OCTOBER 13, 2010 PLANNING COMMISSION MEETING (MINUTES HAVE BEEN APPROVED):

- c. Petition of LTD Properties, Inc. to amend the Future Land Use Map (FLUM) from a Medium Density Residential use to a Neighborhood Commercial use and to rezone 3.11 acres from R-1, Low Density Single Family Residential District and R-4C, Medium-High Density Multi-Family Residential District (Conditional) to B-3C, Community Business District (Conditional) to allow the development of a commercial shopping center for office and light retail uses at 750, 752, 756 and 760 Leesville Road.**

Mr. White oriented the commissioner to the site with pictures. This petition is to allow the development of a 17,205 square foot business center that would include multiple office and light retail uses. The concept plan indicates that Parcel 2 would be built as part of Phase I of the project. The remaining properties would be built according to the schedule of the respective owners. The uses for this site could include light retail, general offices, small restaurants with limited seating (no more than 25 seats), primarily to be used for delivery and takeout and all uses allowed in B-1 and B-2 districts. These uses are typically offices and small services such as banks, bakeries, etc.

The development would consolidate existing driveways along Leesville Road and include cross aisle access between parcels and pedestrian features along the frontage of the lot. Each property would also be served by public water and public sewer. The proposed entrance would be aligned with Simons Run. Emergency services had no concerns regarding the proposed rezoning other than recommending that the site be designed to prevent the combination of parking areas from exceeding that allowable for emergency vehicle access, which is 150 feet. The petitioner has since revised the petition to make sure that is not applicable, so it is in compliance with Fire Marshal's request.

Individual stormwater facilities for the site would be designed for Parcel 1, 2 and 4. The development of Parcel 3 would allow for the expansion of the facility on Parcel 2. That would become somewhat of a regional facility, whether it is a pond or a bioretention facility. Preliminary review of the site indicates that the unnamed tributary of Dreaming Creek is adequate to receive stormwater from the site once it meets the City's quantity and quality standards. However, a drainage easement will be required from both Calvary Baptist Church and from Parcel 3 to allow that stormwater conveyance. Both owners have expressed a willingness to negotiate that easement. Parcel 1 is a little different. The drainage of that would actually discharge toward the Leesville Road storm sewer system. That incorporates about 100 feet of Leesville Road and has a discharge pipe and a manhole that empties directly in front of the petitioner's property. Although the area is adjacent to the stormwater system and that area is stable, a portion of the downstream property owned by Wexford Townhomes, LTD is eroded. The designer and a representative from City Engineering and the City's Environmental Reviewer have all looked at it. It is quite an anomaly that the channel appears completely stable and then suddenly erodes midstream and suddenly flattens out and the erosion goes away. There is no insight into this but staff is looking for some.

Stormwater that leaves Parcel 1 would be detained and discharged either to the property line or the petitioner has proffered that they would work with the homeowners' association to actually repair that erosion area. Similarly, the City has also contacted the Wexford Townhomes and has offered to come in and fix that area. Both parties would need an access easement.

The applicant is also requesting an amendment to the *FLUM* from Medium Density Residential to Neighborhood Commercial use. Although one of the lots contains an existing business, the majority of the properties along Leesville Road are residential uses. However, the potential for this commercial development is not unforeseen given the commercial development at the intersection of Greenview Drive and Leesville Road and the intersection of Timberlake Road and Leesville Road.

A variety of uses comprise the corridor and in addition, there is a potential for commercial development along Simons Run in Campbell County. The City's Transportation Engineer and Fire Marshal's concerns have been addressed. Stormwater management and parking requirements will be addressed in site plan review. Staff recommends approval of the *FLUM* amendment, waiver of the 21-day requirement for proffer submittal and the rezoning as submitted.

Mr. Norm Walton and Mr. Rob Egel came forward to represent the petition. Mr. Walton and Mr. Egel think this rezoning is consistent with some of the development trends that have gone along Leesville Road, especially to the west of this property back toward Waterlick Road. These sites will be used as a mix of office and retail spaces. The proffers have excluded a number of uses that would impact this neighborhood negatively. They are also proffering substantial

compliance with the site plan. Mr. Walton said they have addressed all the TRC comments. There is water available to the site. There is a 24-inch main that is on this side of Leesville Road. The sewer will be septic and they are doing some preliminary field work to determine that there is adequate area with drain fields. Any restaurants will be small in scale.

They have worked with the Transportation Engineer and are locating the principal entrance directly across from Simons Run in anticipation of this intersection being signaled at some point in the future. They have talked about stormwater management. There is an adequate channel on the church's property and they have granted an easement. All the water from Parcel 2, 3 and 4 is going in that direction. Parcel 1 would drain back toward the west. There is a City drop inlet in Leesville Road, as well as a small channel that discharges out of the site along the western property line. They do not think they will discharge directly into that channel. They think they will discharge into the channel just beyond the discharge point to not impact that structure. A proffer has been submitted to improve that channel where it has eroded along the property line and, if they can work with the Wexford Townhomes, along their property line as well.

All the owners will maintain the ownership of their property and will stay as four independent parcels. The way the parking is laid out and the entrances are laid out, there will be cross aisle easements with parking and access.

They think this property is an excellent opportunity for development because it is right across Leesville Road where Simons Run will come in and they can provide direct access when a signal does occur there. With the development trends along Leesville Road, they think this proposal fits. This area is growing and they think this is a good development opportunity. Mr. Walton had some slides of other office developments in Lynchburg to demonstrate how the proposed buildings might look.

Chair Hamilton asked for anyone else who wished to speak in favor of this petition. No one came forward. She asked for anyone who wished to speak in opposition to the petition. Ms. Joan Tice of 806 Wexford Place came forward to speak. She is secretary of the homeowners association and is speaking for the residents of the townhomes. About three weeks ago, they found out that this rezoning was coming up when the developer came to their board meeting and asked for the easement. They have major concerns with this proposal. She would like to know when Lynchburg is going to stand up for residential areas. She does think anything on this end of Leesville Road looks anything like the first picture shown by Mr. Walton. The commercial developments are all down within the first couple of blocks of Timberlake Road. These residents' position is that we have enough restaurants on Wards Road and Timberlake Road. There are no sidewalks on Leesville Road and no one is going to be walking to one of these proposed businesses. It will all be done by driving.

She would like to know the benefits to the surrounding neighborhood. She only sees increased traffic and noise, especially if you allow B-3 uses which allows businesses to stay open late at night. She thinks there is enough empty office space available in Lynchburg. She does not think anyone in Wexford will support these businesses.

The other concern they have is the water issue. The church notified Wexford recently that they were dumping muddy water onto their property and damaging the streams. The church was afraid of repercussions from that. Wexford had an engineer from Hurt and Proffitt look at the problem. The problem is coming from the City. It has redirected a stream and disrupted a spring that was at the bottom of that land. Parcel 2 is all wooded. There is no pavement. When that is clear cut, there will be a great deal of water generated by that. Wexford has spent thousands of dollars to correct problems left by the developer and trying to control runoff. Basically, that was to keep water out of the residents' basements. The developer has already admitted there are problems on that border and it is coming from Lynchburg. How do the residents know the developer will do what they say they are going to do? The residents of Wexford think this development is way out of line with the site and with the potential for development behind it. She is wondering if it is appropriate to put this kind of development in this area which only has a septic system. The residents are asking that the commissioners deny this petition, especially a B-3 zoning.

Mr. Walton mentioned that they have worked with the Transportation Engineer to make the best traffic plan they could to incorporate it with Leesville Road. When you look at the development potential in Campbell County down Simons Run, this is going to be a drop in the bucket as to what the potential traffic generator to this intersection is going to be. There is not a threshold generated that would require a traffic study. The traffic impact is not going to be a significant increase.

They have talked quite a bit with City staff about stormwater management. They are trying to do the best they can to minimize to the letter of state law and city ordinance runoff coming off this site. There is landscaping along the front

to try and filter the water before it gets to Leesville Road. This site will crown, so a portion of the water will come to the front and a portion of the water will go to rear. On the church property, they have a 20-foot easement. There is a substantial growth of trees there and they do not want to cut a ditch down across that slope. That slope is pretty steep and the contour is relatively tight. They decided to start a Phase I stormwater management pond and then expand it as Parcel 3 develops. They are thinking of constructing a level spreader similar to what is at Snowflex that will spread the water out as much as possible. They will use concrete like they did at Snowflex, which will sustain the test of time and stay level over a longer period of time. This is an attempt to sheet flow the water before it gets off site and not create erosion coming off the church. They have seen the church's master plan and are trying to incorporate their discharge point to accommodate the church's future development. Mr. Walton pointed out where the storm drain and pipe discharge are on the site plan. There is a channel down the property and then it discharges across the property. The erosion scar comes out of the end of the culvert and goes down into a draw where the contours flatten out. What seems to happen is the water gets down into the bottom area and is acting as a natural level spreader. There are two channels coming into one big area and then everything dissipates.

They have proffered that they will do what they can on their side to stabilize the area to reduce the runoff energy. They think their measures will end up helping Wexford's property. Hurt and Proffitt has contacted Mr. Walton, discussed this with him and Mr. Walton has sent them this plan. After meeting with Wexford, some of the parking was removed to try to keep as much of a buffer between the developments. Only Parcel 1 discharges onto Wexford's property. Mr. Walton pointed out where a stormwater pond will be placed and other measures that will be taken to address stormwater quality and quantity. Mr. Walton honestly thinks that the properties that front Leesville Road will be developed as businesses.

Ms. Tice came back to address these comments. The residents object to the noise and also changing the character of the neighborhood. They understand that there are corridors but think the other end of Leesville Road is a better place to start with this kind of construction. The residents would be a lot happier if this was a smaller office park, not B-3 zoning. She thinks Lynchburg needs to look at planning on a long term basis and not do it piecemeal.

Chair Hamilton closed the public hearing portion of the petition.

Mr. Egel explained that they had excluded many of the B-3 uses. The owners feel the best use for this property is commercial.

Commissioner Coleman asked Mr. Egel what he could say to ease some of the residents' concerns. Mr. Egel thinks this is very similar to Timberlake Road and he does not know how he could develop this site as a single-family home. There are buffers on their property and there is a common area that separates the townhomes from this site. Coming down Simons Run will eventually be commercial. The highest and best use for this property is a commercial development.

Commissioner Swienton asked if they had any conversations with the homeowners association from Lakeland. Mr. Egel said he did not and was not aware he needed to do so. Commissioner Swienton said Lakeland had concerns when there was a townhome development about runoff going into their lake. Commissioner Swienton asked where the nearest sewer line was and Mr. Walton said it is about 1,500 feet downstream from this site across the church property. There is no opportunity for gravity to either the east or west down Leesville Road.

Commissioner Swienton asked if sewer service would pretty much make this a commercial area. Mr. White said that is a great point and pointed out that septic permits are issued based on the intensity of the use for the drain field. Commissioner Swienton asked Mr. White if he sees any challenges for tenants due to B-3. Mr. Egel said they proffered out more intensive uses. Mr. Walton said they had three areas of concerns when considering the proffers—a fit with the neighborhood, the sanitary sewer use issues and the traffic impacts at the intersection of Leesville Road and Simons Run. Mr. Egel said they would like to be a good neighbor and it is not their intent to put in a convenient store or something that will generate a lot of traffic. Commissioner Swienton asked how the drain field compares with what would go up for a single-family house. Mr. Walton said it will be slightly larger. The uses they are intending to market to will have relatively the same square footage of a home. It will not take up the whole back side of the property or look like a massive drain field.

In answer to a question from Commissioner Swienton, Mr. White said that although the City would like to have this site as a customer, he thought Utilities recognized the practicality and would defer to the Department of Health.

Commissioner Coleman pointed out that with the Police Department having no concerns it suggests that there is sense of confidence that they are not going to bring anything into that area that would create safety challenges. Mr. Egel anticipates professional businesses and light retail. He anticipates the businesses would not have late hours of operation. Commissioner Swienton asked if there had been any thought to just going B-1. Mr. Egel said they wanted to keep it open to as many tenants as possible in this economy and proffered out everything that would be the more intensive B-3 uses.

Commissioner Swienton pointed out that a major pizza chain would not be prevented by these proffers. A major pizza chain might be open until midnight and have a large sign. Mr. Egel suggested that he could proffer B-1 uses only. Chair Hamilton suggested that if that is something he is interested in doing that he could bring it back as a different petition. Commissioner Swienton thought the proffers could be changed before they take their vote. Mr. White said the proffer would have to be written and signed. Staff usually encourages a delay so the party does not rush into a decision.

Commissioner Swienton said he does look at Leesville Road as being commercial and looks at it being four-lane. He looks at other parts of town where there can be commercial pressures. He sees this particular site as not being in the middle of a neighborhood or adjoining a neighborhood or potentially redefining where a neighborhood ends and where a neighborhood begins. It does border the common area for a townhome development but he does not see that as being the same as a house immediately next door or right in the middle of a neighborhood. He also sees this as setting the tone for how that area will most likely develop. What these developers do as the first one up will influence a lot because of that classic first impression. His big concern is if a business is open late. He would be in favor of this petition if it were a B-1 zoning instead of a B-3 zoning.

Commissioner Sale thinks the property is clearly commercial. It is a question of the quality of commercial that will be there. He looks at what is possibly coming up Simons Run and the impact on this intersection. He does not want something like a Sheetz there. He is thinking it is more appropriate if this is B-1 also. They are setting the tone in this area and he is tossed between what their intent is and what is being proffered.

Commissioner Hannon thinks that without a sewer line this area will not be developed as commercial. In view of that, what we are talking about is probably the worst sort of land use planning that can be offered, which is a piecemeal upzoning. It sets a precedent and he thinks it is a bad precedent. There is massive R-1 zoning in this area and this is not consistent with the *Comprehensive Plan*. Without a commercial corridor study, he cannot see his way to voting for this petition.

Commissioner Coleman would like to see the zoning as B-1 in keeping with what the *Comprehensive Plan* talks about. He does trust that they have honestly been considerate with the proffers proposed but would like to see them go back and do some work on this proposal.

Chair Hamilton said she is in agreement with Mr. Hannon. She thinks that there is some development on Leesville Road, but it is unobtrusive and is small in nature. Many of the businesses were grandfathered. This parcel is a large property and a gigantic step relative to some of the other commercial properties. She thinks the City needs to take a more planning look at this rather than rezoning parcel after parcel. She does not doubt that at some point part of this area will have some commercial tendencies but what it looks like remains to be seen.

Commissioner Hooper said he is on the fence about this. It makes sense that this area will become more commercial than residential. He shares the concerns of Commissioner Swienton regarding the potential B-3 uses. If he had to vote right now, he would probably vote against it. He would encourage Mr. Egel to go back and change his proposal to B-1.

Chair Hamilton asked Mr. Egel if he would like to come back with another proposal. Commissioner Hannon made a motion to table this petition, which was seconded by Commissioner Coleman. The motion passed by the following vote:

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

MINUTES FROM THE NOVEMBER 10, 2010 PLANNING COMMISSION MEETING (MINUTES HAVE NOT BEEN APPROVED. THERE WAS NO SECOND MEETING IN NOVEMBER):

- b. Petition of LTD Properties, Inc. to amend the *Future Land Use Map* from a Medium Density Residential use to Neighborhood Commercial use and to rezone 3.11 acres from R-1, Low Density Single-Family Residential District and R-4C, Medium-High Density Multi-Family Residential District (Conditional) to B-2C, Local Neighborhood Business District (Conditional) to allow the development of office and light retail uses at 750, 752, 756 and 760 Leesville Road.**

Mr. White had the following comments for the commissioners. On October 13, 2010, there was a public hearing on this petition. The petitioner requested additional time to review the proposed zoning designation request and review the voluntarily submitted proffers and determine if the petition could be revised to address some of the concerns voiced during that public hearing. Planning Commission postponed the request to give the petitioner time to do so. The petitioner has submitted a revised request to rezone the four properties from R-1 and R-4C to B-2C. In addition to the original proffers, the petitioner has proffered to limit the uses on either side of the development (750 and 760 Leesville Road) to B-1 uses. The petitioner has also proffered that all businesses would close by 9:00 p.m. Although Planning Commission originally closed the public hearing portion, the petition was readvertised and notices were mailed to all property owners located within 200 feet due to the request for a different zoning.

Mr. Norm Walton came forward to represent the petition. Mr. Walton indicated that he and the petitioner appreciated the conversation that occurred at the last meeting. They have attempted to meet as many of the concerns raised at the last public hearing as possible. They feel the changes made provide a smooth transition from the adjacent residential uses while providing flexibility for the retail they feel is essential to make the development successful.

Chair Hamilton asked for anyone else who wished to speak in favor of the petition. Mr. Tom DeWitt came forward. He feels that the current residential zoning is impractical. He does not think there has been a single-family residence built on Leesville Road in that area in at least twenty plus years. One duplex went in about ten years ago and a couple of townhouse projects. B-1 zoning is a little too limited though. They have found they get a lot of small retail type uses that would fit in here easily and would not be a nuisance to the neighbors or create too much traffic. The B-2 uses are very practical and light in nature. The area is changing and there is a potential for a stoplight there. He feels this is a perfect use and likes the proffer about putting B-1 uses on the two ends of the development.

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

Commissioner Sale commented that the revised petition has addressed his concerns. Commissioner Hannon thought that this was a good compromise.

Commissioner Swienton commented that he has noticed new residential construction on roads that have more traffic than Leesville Road in other parts of the nation but recognizes that Lynchburg is different than those cities. He also looks at the fact that Simons Run Road was put in after the *Comprehensive Plan* was passed. If that road was put there and it was known that we had a road connecting commercial from Kohl's to Leesville Road would that change the *Comprehensive Plan*? He is not sure but sees this as being a good case for changing the *Comprehensive Plan* to another use other than residential. The part that makes this property unique for him is that it is not part of a neighborhood and does not adjoin a neighborhood. We are not defining where a neighborhood begins or ends or even directly affecting a neighborhood.

Commissioner Hooper thinks it is a good plan and feels the proffers are commendable.

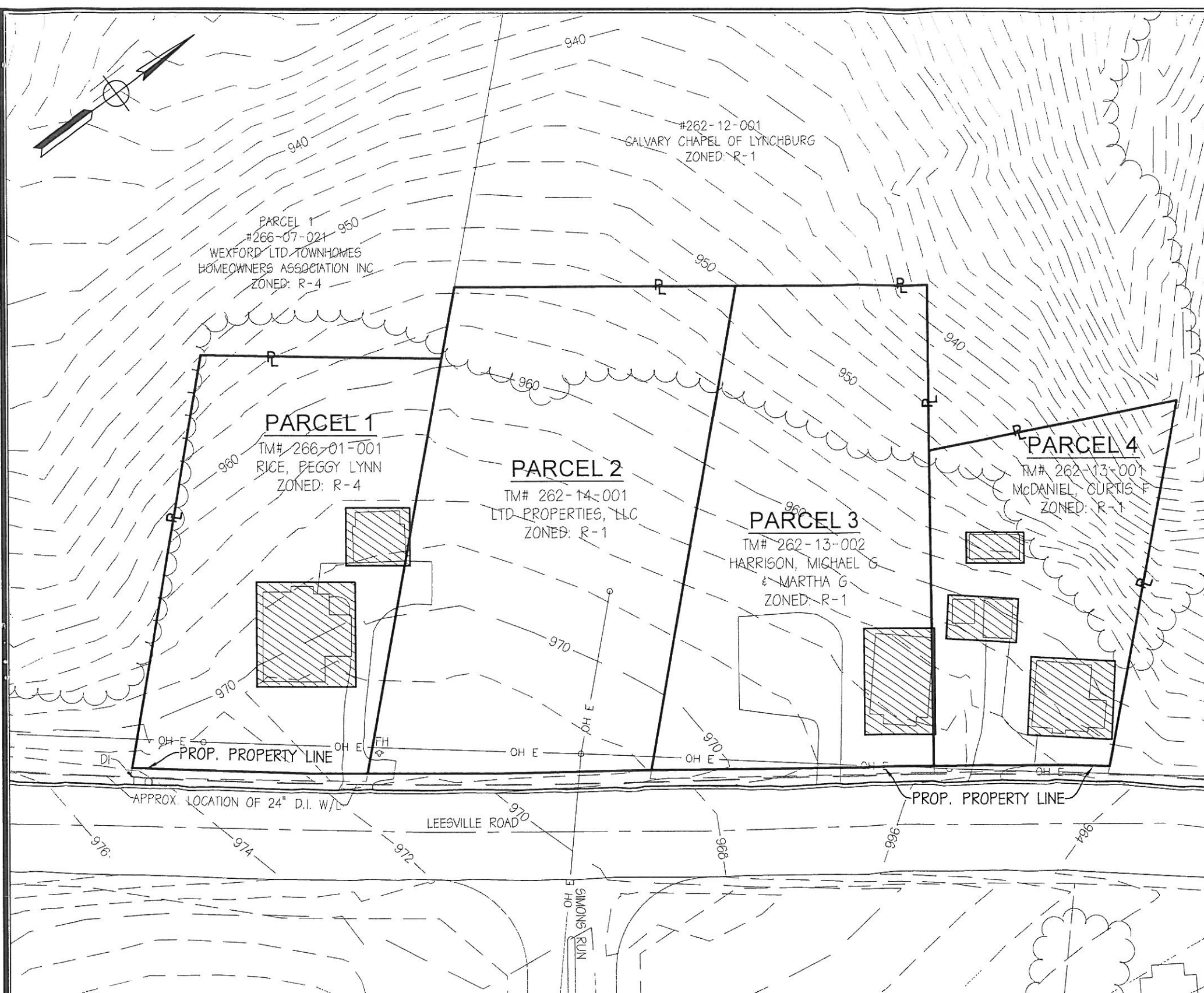
Commissioner Hannon made the following motion, which was seconded by Commissioner Swienton, and passed by the following vote:

"That the Planning Commission recommends to City Council approval of LTD Properties, Inc.'s petition to amend the *Future Land Use Map* for three and eleven hundredths (3.11) acres at 750, 752, 756 and 760 Leesville Road from Medium Density Residential use to Neighborhood Commercial use.

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

That the Planning Commission recommends to City Council approval of LTD Properties, Inc.'s petition rezone three and eleven hundredths (3.11) acres at 750, 752, 756 and 760 Leesville Road from R-1, Low Density Single-Family Residential District and R-4C, Medium-High Density Multi-Family Residential District (Conditional) to B-2C, Community Business District (Conditional), with the voluntarily submitted proffers."

AYES:	Hamilton, Hannon, Hooper, Sale and Swienton	5
NOES:		0
ABSTENTIONS:		1
ABSENT:	Barnes and Coleman	2



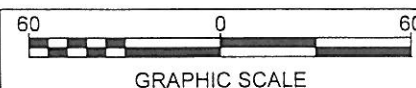
REZONING PLAN - EXISTING CONDITIONS

SCALE: 1"=60'



27 Green Hill Drive
Forest, Virginia 24551

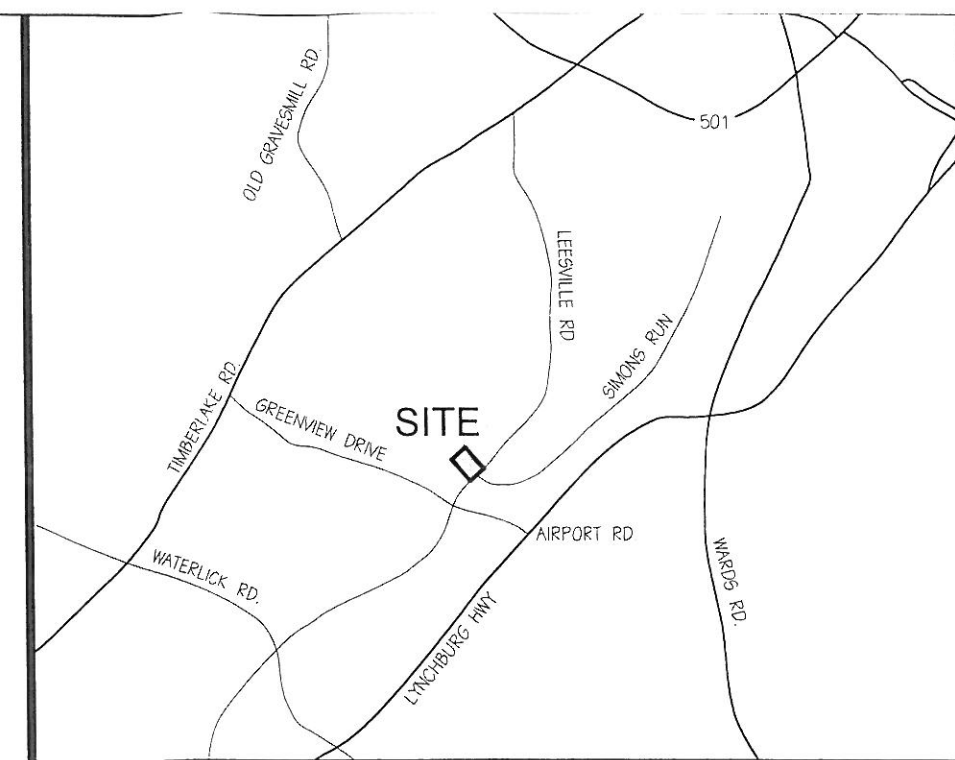
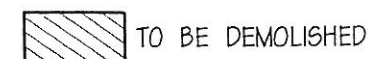
Office: 434-525-5985
Fax: 434-525-5986
E-Mail: pno@perkins-orrison.com



DATE: 10/05/10

1 of 2
JOB#: 10216
DWG: C-RZ-10216
DWN: RAF

LEGEND



VICINITY MAP

NOT TO SCALE

NOTE:

1. PROPERTY LINE(S) AND TOPOGRAPHIC INFORMATION TAKEN FROM CITY GIS. THIS INFORMATION HAS NOT BEEN FIELD VERIFIED.

PARCEL 1

TM# 266-01-001

CURRENT USE: RENTAL PROPERTY
CURRENT ZONING: R-4
PROPOSED USE: RENTAL PROPERTY
PROPOSED ZONING: B-3
OWNER: PEGGY LYNN RICE

PARCEL 2

TM# 266-01-001

CURRENT USE: VACANT
CURRENT ZONING: R-1
PROPOSED USE: OFFICE BUILDINGS
PROPOSED ZONING: B-3
OWNER: LTD PROPERTIES, LLC

PARCEL 3

TM# 262-13-002

CURRENT USE: CPA OFFICE
CURRENT ZONING: R-1
PROPOSED USE: CPA OFFICE
PROPOSED ZONING: B-3
OWNER: MICHAEL G & MARTHA G HARRISON

PARCEL 4

TM# 262-13-001

CURRENT USE: RESIDENCE
CURRENT ZONING: R-1
PROPOSED USE: RENTAL PROPERTY
PROPOSED ZONING: B-3
OWNER: McDANIEL, CURTIS F

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COMMUNITY
DEVELOPMENT

NOTES:

1. SITE PLAN IS FOR A MULTIPLE OFFICE BUILDINGS AND LIGHT RETAIL (1-STORY) TOTALING APPROX. 17,205 SQ FT OF OFFICE SPACE AND LIGHT RETAIL SPACE, WHICH WILL BE RENTAL UNITS.
2. STORM WATER MANAGEMENT WILL BE CONTROLLED BY A BMP IN THE FRONT OF THE SITE AND BY A SWMP AT THE REAR OF THE SITE. WATER FROM THE POND WILL DISCHARGE INTO AN ENGINEERED LEVEL SPREADER AND WILL LEAVE THE SITE AS SHEET FLOW. COMPLETE STORM WATER DESIGN, WATER QUALITY DESIGN AND EROSION AND SEDIMENT CONTROL WILL BE CONSIDERED DURING THE SITE DESIGN.
3. A COMMERCIAL ENTRANCE IS SHOWN ACROSS FROM SIMONS RUN. THIS IS DESIGNED TO PROVIDE ACCESS TO ALL THREE LOTS, HAVING ACCESS POINTS PROVIDED TO BOTH ADJACENT PARCELS.
4. NO SITE LIGHTING IS PROPOSED IN THE PARKING LOT AT THIS TIME.
5. UTILITIES: WATER SERVICE WILL BE OFF OF THE CITY 24" MAIN. A DRAIN FIELD WILL TREAT SANITARY SEWER.
6. THIS BUILDING WILL NOT BE SPRINKLED. THE NEAREST FIRE HYDRANT IS AT THE SOUTHWEST CORNER OF THE PROPERTY.
7. FRONT YARD LANDSCAPING SHALL ALSO INCORPORATE LANDSCAPING NECESSARY TO FUNCTION AS A BMP AND TO ATTENUATE STORM RUNOFF.
8. PARCEL "2" WILL BE THE PHASE ONE (1) OF CONSTRUCTION. PARCELS 1, 3 AND 4 WILL BE DEVELOPED IN FUTURE PHASES. SEQUENCE UNKNOWN AT THIS TIME.
9. THIS SITE DOES NOT FALL IN THE 100 YEAR FLOOD PLAIN ACCORDING TO PANEL# 5100930104D, ZONE "X".
10. DUE TO THE POTENTIAL OF A LEFT TURN LANE BEING REQUIRED, AN ADDITIONAL 8 TO 10 FEET OF RIGHT OF WAY WILL BE DEDICATED AT SUCH TIME THE LEFT TURN LAND IS INSTALLED. ACTUAL AREA AND LOCATION OF RIGHT OF WAY DEDICATION TO BE DETERMINED DURING THE TURN LANE DESIGN.

12. PARKING IS BASED OFF OF THE PARKING ORDINANCE. SEC. 35.1-25

PARCEL 1
2 SPACES PER 1000 sq.ft.
3000 sq.ft. BUILDING
6 SPACES REQ'D

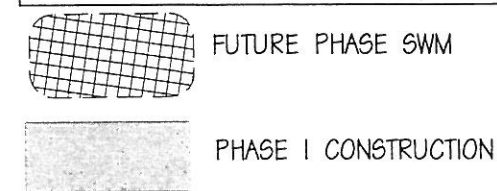
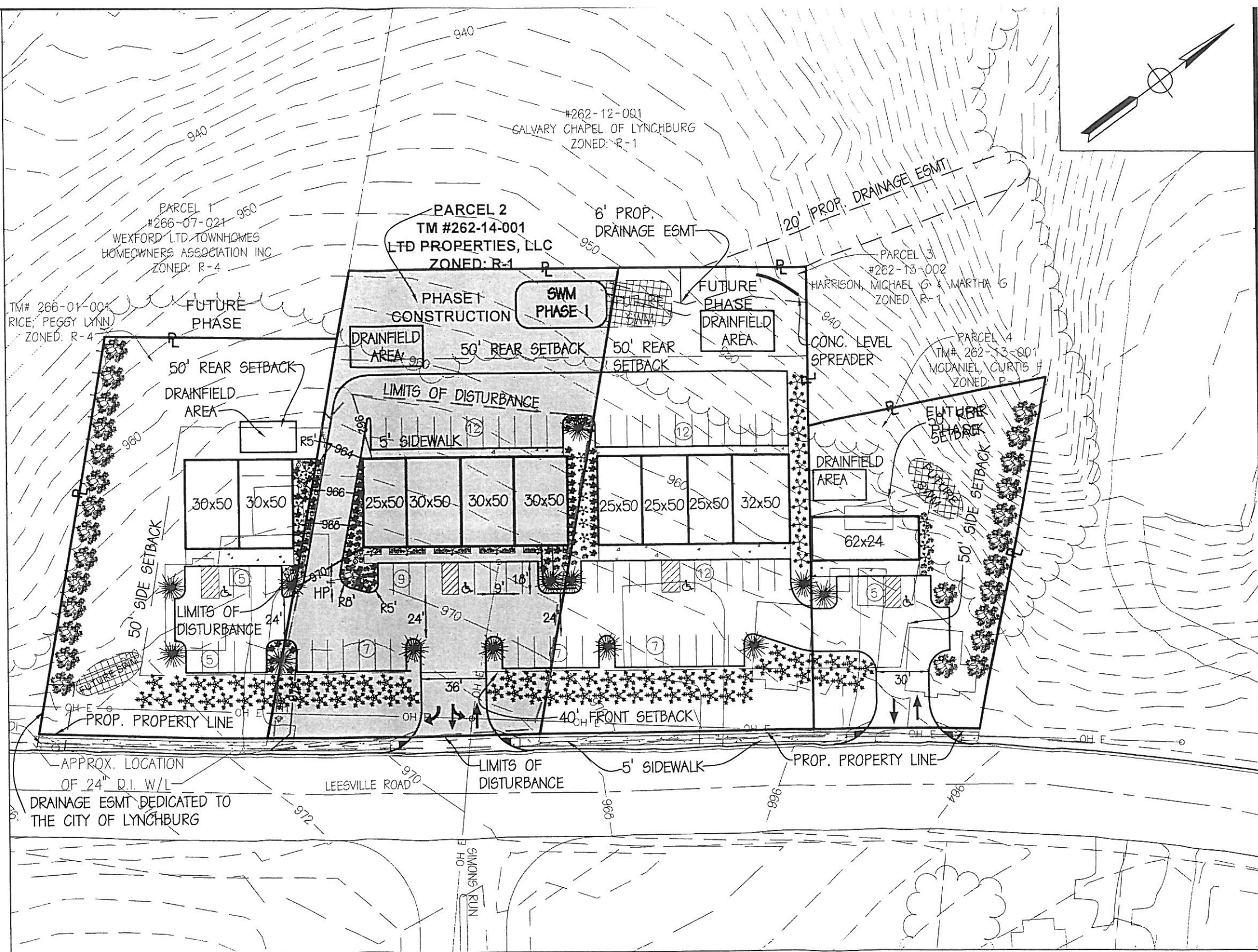
PARCEL 2
2 SPACES PER 1000 sq.ft.
5750 sq.ft. BUILDING
12 SPACES REQ'D

PARCEL 3
2 SPACES PER 1000 sq.ft.
5350 sq.ft. BUILDING
11 SPACES REQ'D

PARCEL 4
2 SPACES PER 1000sq.ft.
1488 sq.ft. BUILDING
3 SPACES REQ'D

TOTAL SPACES REQ'D

PARCEL 1 = 6
PARCEL 2 = 12
PARCEL 3 = 11
PARCEL 4 = 3
TOTAL SPACES = 32
77 REG. SPACES PROVIDED
4 H.C. SPACES PROVIDED



REZONING PLAN

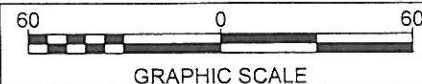
SCALE: 1"=60'

CURRENT ZONING R-1
PROPOSED ZONING B-3C

2 of 2

27 Green Hill Drive
Forest, Virginia 24551

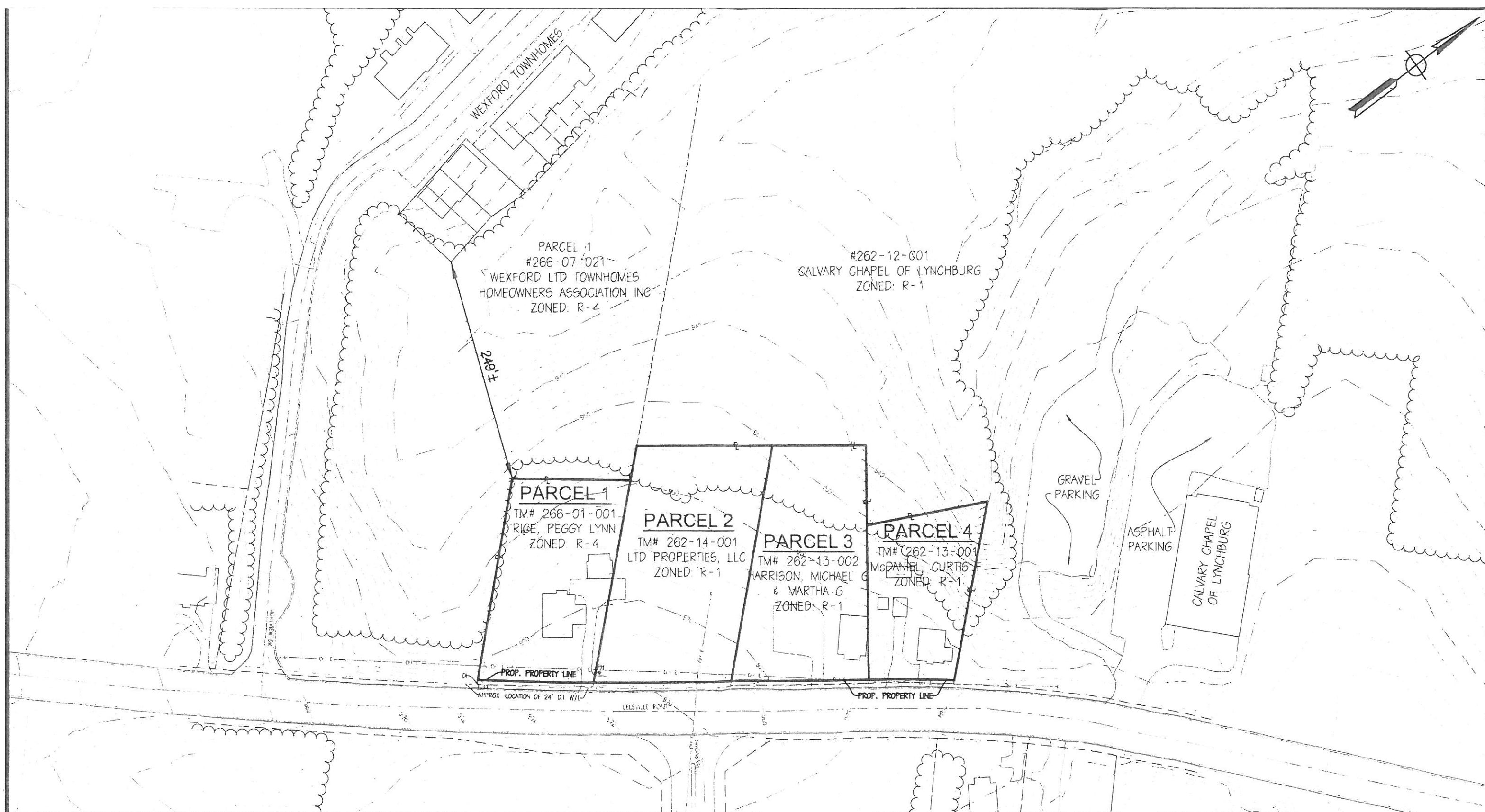
Office: 434-525-5985
Fax: 434-525-5986
E-Mail: pno@perkins-orrison.com



DATE: 10/05/10

JOB#: 10216
DWG: C-RZ-10216
DWN: RAF





REZONING PLAN - EXISTING CONDITIONS

SCALE: 1"=100'

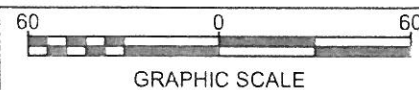
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OCT 20 2010

COMMUNITY
DEVELOPMENT

27 Green Hill Drive
Forest, Virginia 24551

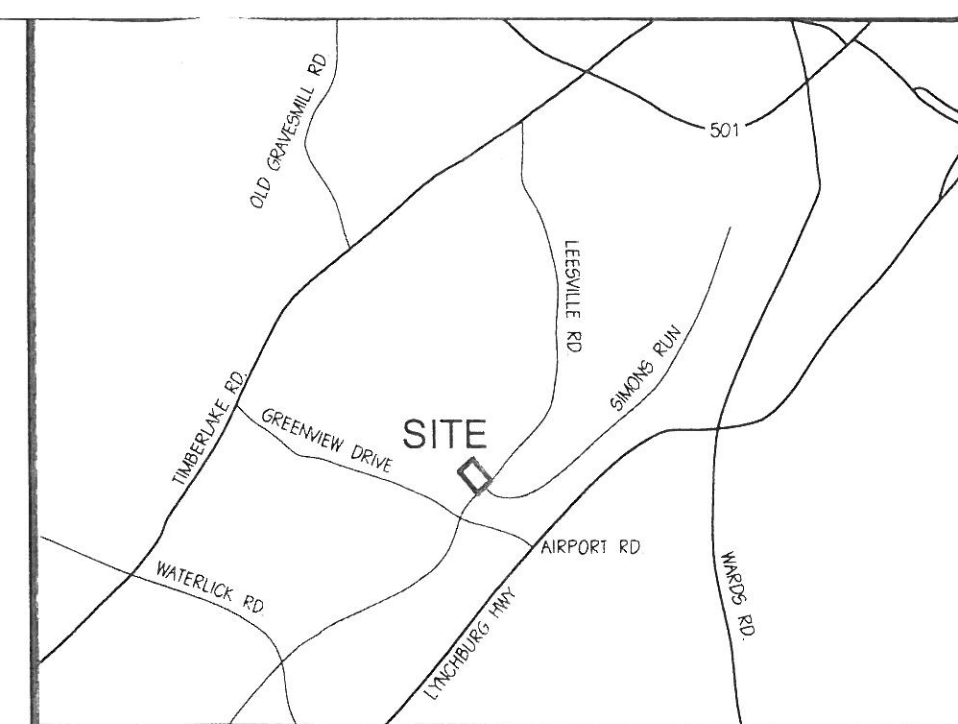
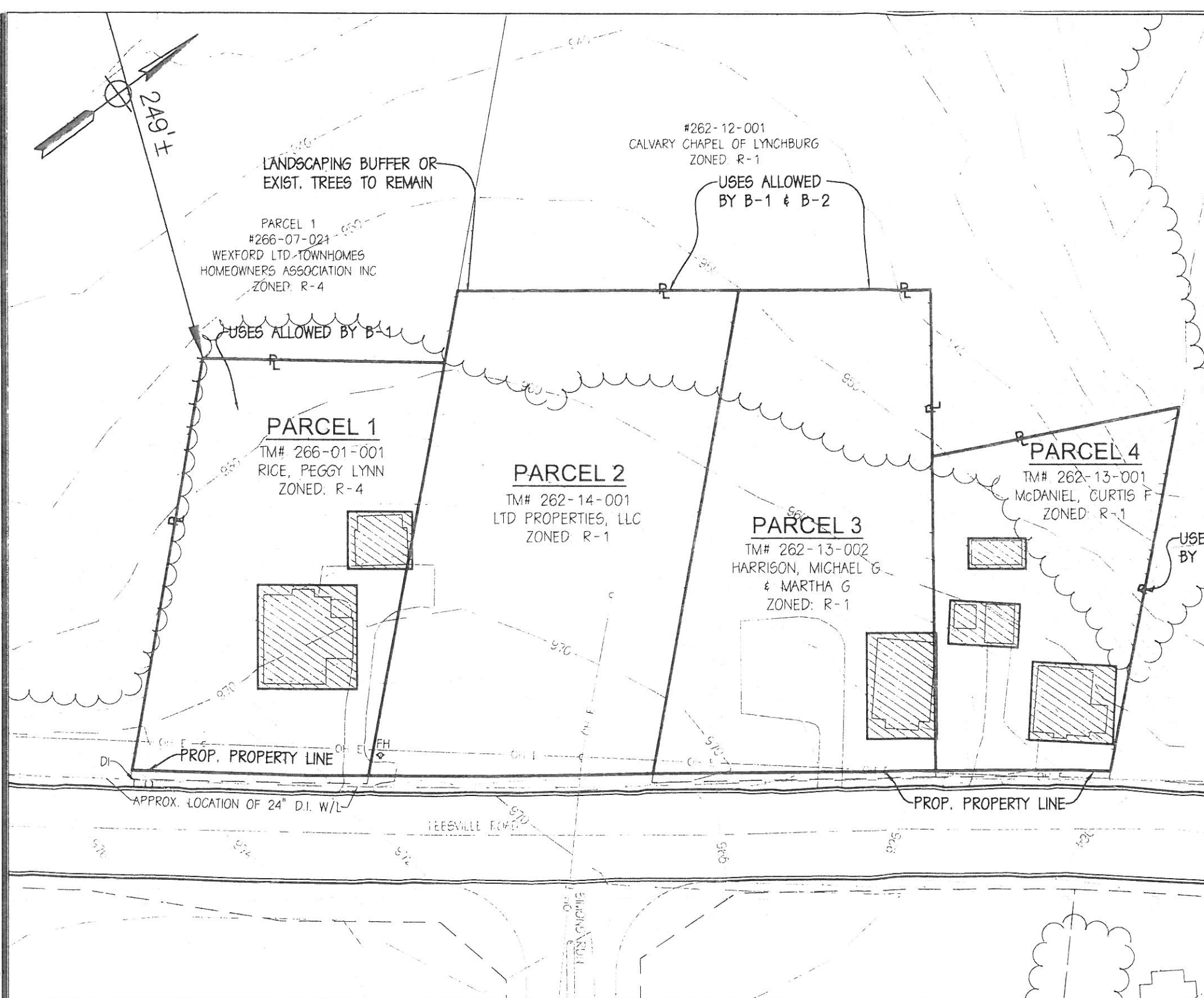
Office: 434-525-5985
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E-Mail: pno@perkins-orrison.com



DATE: 10/20/10

1 of 2
JOB#: 10216
DWG: C-RZ-10216
DWN: RAF





VICINITY MAP
NOT TO SCALE

NOTE:

1. PROPERTY LINE(S) AND TOPOGRAPHIC INFORMATION TAKEN FROM CITY GIS. THIS INFORMATION HAS NOT BEEN FIELD VERIFIED.

PARCEL 1

TM# 266-01-001

CURRENT USE: RENTAL PROPERTY
CURRENT ZONING: R-4
PROPOSED USE: RENTAL PROPERTY
PROPOSED ZONING: B-2C
OWNER: PEGGY LYNN RICE

PARCEL 2

TM# 266-01-001

CURRENT USE: VACANT
CURRENT ZONING: R-1
PROPOSED USE: OFFICE BUILDINGS, ANY USES LISTED UNDER UNDER (B-1) ZONING ORDINANCE.
PROPOSED ZONING: B-2C
OWNER: LTD PROPERTIES, LLC

PARCEL 3

TM# 262-13-002

CURRENT USE: NON CONFORMING USE (CPA OFFICE)
CURRENT ZONING: R-1
PROPOSED USE: CPA OFFICE
PROPOSED ZONING: B-2C
OWNER: MICHAEL G & MARTHA G HARRISON

PARCEL 4

TM# 262-13-001

CURRENT USE: RESIDENCE
CURRENT ZONING: R-1
PROPOSED USE: RENTAL PROPERTY
PROPOSED ZONING: B-2C
OWNER: McDANIEL, CURTIS F

REZONING PLAN - EXISTING CONDITIONS

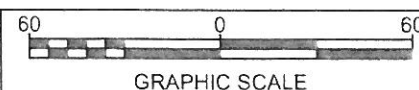
SCALE: 1"=60'

PERKINS
&
ORRISON

ENGINEERS ▲ PLANNERS ▲ SURVEYORS

27 Green Hill Drive
Forest, Virginia 24551

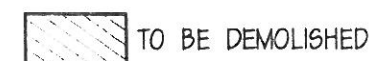
Office: 434-525-5985
Fax: 434-525-5986
E-Mail: pro@perkins-orrison.com



DATE: 10/20/10

1 of 2
JOB#: 10216
DWG: C-RZ-10216
DWN: RAF

LEGEND



1. THE CONCEPT PLAN PROVIDES FOR A TOTAL OF 17,205 SQUARE FEET OF SINGLE STORY BUSINESS RENTAL UNITS ON FOUR PARCELS AT 750, 752, 756 AND 760 LEESVILLE ROAD. THE PERMITTED USES WOULD INCLUDE OFFICE SPACE AND/OR USES ALLOWED IN A B-2, NEIGHBORHOOD BUSINESS DISTRICT. THE PETITIONER HAS PROFFERED TO ONLY ALLOW B-1, LIMITED BUSINESS DISTRICT USES ON PARCEL 1 AND PARCEL 4 (750 AND 760 LEESVILLE ROAD, RESPECTIVELY)

-
- The site plan illustrates a residential development layout with the following details:
- Parcel 1:** #266-07-021, WEXFORD LTD TOWNHOMES HOMEOWNERS ASSOCIATION INC, ZONED R-4. Located at the top left.
 - Parcel 2:** TM #262-14-001, LTD PROPERTIES, LLC, ZONED R-1. Located at the top center.
 - Parcel 3:** #262-13-002, HARRISON, MICHAEL G & MARTHA G, ZONED R-1. Located at the top right.
 - Parcel 4:** TM# 262-13-001, MCDANIEL, CURTIS F, ZONED R-1. Located on the right side.
 - Setbacks:** 50' REAR SETBACK, 50' SIDE SETBACK, 40' FRONT SETBACK, and 5' SIDEWALK setbacks are indicated throughout the plan.
 - Drainage Features:** Includes DRAINFIELD AREA, FUTURE PHASE, and 20' PROP. DRAINAGE ESMT (Easement to the City of Lynchburg).
 - Building Footprints:** Various rectangular footprints are shown with dimensions such as 30x50, 25x50, 32x50, and 62x24.
 - Other Features:** LANDSCAPING BUFFER OR EXIST. TREES TO REMAIN, CONG. LEVEL SPREADER, and LIMITS OF DISTURBANCE are also labeled.
 - Orientation:** A north arrow is located in the top right corner.
 - Property Lines:** The PROP. PROPERTY LINE is clearly marked along the bottom and right edges.
 - Adjacent Roads:** LEEVILLE ROAD and SIMONS RUN are shown at the bottom of the plan.

SCALE: 1" = 60'

CURRENT ZONING R-1 & R-4
PROPOSED ZONING B-2C

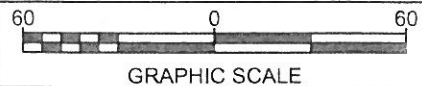
FUTURE PHASE SWM

PHASE I CONSTRUCTION

2 of 2

27 Green Hill Drive
Forest, Virginia 24551

Office: 434-525-5985
Fax: 434-525-5986
E-Mail: pno@perkins-orrison.com



DATE: 10/20/10

JOB#: 10216
DWG: C-RZ-10216
DWN: RAF



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OCT 06 2010

COMMUNITY
DEVELOPMENT

October 5, 2010

LTD Properties, LLC

RE: 750, 752, 756 and 760 Leesville Road Rezoning
Proffers

To Whom it May Concern;

As owner of LTD Properties, LLC, I would offer the following proffers for the rezoning of the above mentioned proproperties:

1. Substantial Compliance with the site plan as prepared by Perkins and Orrison, Inc. and dated October 5, 2010.
2. The drainage easement obtained from Calvary Chapel of Lynchburg can and will be adjusted should the future development of Calvary Chapel of Lynchburg so need.
3. Stormwater from Parcel 1, as shown on the October 5, 2010 drawing from Perkins and Orrison, Inc., will discharge into a channel onsite, just downstream from the discharge of the City's storm sewer system in Leesville Road. This channel shall be improved with outlet protection and channel lining in such manner as to substantially reduce the potential for erosion and reduce the energy of the water being discharged. This channel shall be improved to a point either at the property line of Parcel 1, or in conjunction with an agreement with Wexford LTD Townhomes Homeowners.
4. The uses in this development shall be limited to light retail and general offices not exceeding 3000 square feet; and small restaurants with limited seating (no more than 25 seats) and primarily used for delivery or take out; and all uses allowed in B1 and B2. The following uses will not be allowed: convenience stores; boardinghouses and lodging houses; group homes; halls or theaters; rooming houses; tourist homes or bed and breakfast; garden and farm supplies; greenhouses; supermarkets; hotels and motels; and auditoriums.
5. Due to the potential of a left turn lane being required, an additional 8 to 10 feet of right of way will be dedicated at such time the left turn lane is installed. Actual area and location of right of way dedication to be determined during the turn lane design.

These proffers are made with the conscience decision for the best utilization for marketing this property, fit in the community, and in spirit of being a good neighbor.

Sincerely,



Robb Egel

October 20, 2010

LTD Properties, LLC

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NOV 01 2010

COMMUNITY
DEVELOPMENT

RE: 750, 752, 756 and 760 Leesville Road Rezoning
Proffers

To Whom It May Concern;

As owner of LTD Properties, LLC, (and representing the other owners involved) I offer the following proffers for the rezoning of the above mentioned properties:

1. Substantial Compliance with the site plan as prepared by Perkins and Orrison, Inc. and dated October 20, 2010.
2. The drainage easement obtained from Calvary Chapel of Lynchburg can and will be adjusted should the future development of Calvary Chapel of Lynchburg so need.
3. Stormwater from Parcel 1, as shown on the October 20, 2010 drawing from Perkins and Orrison, Inc., will discharge into a channel onsite, just downstream from the discharge of the City's storm sewer system in Leesville Road. This channel shall be improved with outlet protection and channel lining in such manner as to substantially reduce the potential for erosion and reduce the energy of the water being discharged. This channel shall be improved to a point either at the property line of Parcel 1, or in conjunction with an agreement with Wexford LTD Townhomes Homeowners.
4. The uses in this development shall be limited to by right uses of B-1 and B-2 not exceeding 3000 square feet. Parcels 1 and 4 will be uses allowed by B-1 and Parcels 2 and 3 will be uses allowed by B-2.
5. Due to the potential of a left turn lane being required, an additional 8 to 10 feet of right of way will be dedicated at such time the left turn lane is installed. Actual area and location of right of way dedication to be determined during the turn lane design.
6. Businesses on these properties shall be closed by 9:00 p.m.

These proffers are made with the conscious decision for the best utilization for marketing this property, fit in the community, and in spirit of being a good neighbor.

Sincerely,

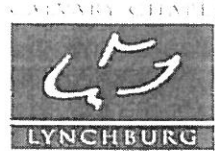


Robb Egel

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SEP 29 2010

COMMUNITY
DEVELOPMENT



"Not by might nor by power, but by My Spirit says the Lord of Hosts." Zechariah 4:6

September 29, 2010

Mr. Robb Egel
LTD Properties

Subject: Intent To Provide Easement, LTD Properties

Dear Robb:

Pursuant to the meeting on September 20, 2010 with yourself, Norman Walton of Perkins & Orrison, Tom Guffey of Guffey Warner & Associates and Joe Pamer of Calvary Chapel Lynchburg, Calvary Chapel Lynchburg is willing to grant a drainage easement for the conveyance of storm water to the stream, or adequate channel on our property.

This decision is based on using the revised plan suggested by Tom Guffey. The plan is to channel your properties storm water along the back portion of the property of Michael G & Martha G Harrison, and then dispersing the storm water by using a level spreading structure located at the Northern most corner of the Harrison property. The resulting spread flow would then cross onto our property and enter the stream.

It is our clear understanding that LTD Properties, and any subsequent property owners, is responsible for any and all maintenance and or erosion issues that may occur as a result this easement.

Per our verbal agreement, LTD Properties will cover / reimburse all costs associated with the legal review, official recording and documentation.

Chapel Lynchburg is willing to donate this easement to LTD Properties.

Troy Warner

Senior Pastor, President
Calvary Chapel Lynchburg

October 5, 2010

Michael G. Harrison
752 Leesville Road
Lynchburg, VA 24502

RECEIVED

OCT 05 2010

COMMUNITY
DEVELOPMENT

RE: Drainage for 756 Leesville Road

To Whom It May Concern;

I have met with Mr. Robb Egel of LTD Properties, LLC, and his engineer, Norman Walton of Perkins and Orrison, Inc. to discuss a drainage ditch and easement across my property. This letter acknowledges my intent to provide an easement to LTD Properties, LLC for the express use of a drainage ditch across the rear of my property.

As discussed on-site on October 4, 2010, this drainage easement will be 6 feet in width and allow the construction of a "V" ditch with the approximate dimensions of 18" in depth and 3' in width at the top. This ditch will convey water across the rear of my property to a level spreader constructed on the Northwest corner of the property, as shown on the plans provided by Perkins and Orrison, Inc. for the rezoning of parcels 750, 752, 756, and 760 Leesville Road.

No trees greater than 4" in diameter shall be removed for any construction on the property at 752 Leesville Road. This easement will only be utilized for the conveyance of stormwater.

Sincerely



Michael Harrison

LEXINGTON

Wes Perkins, LS
Russ Orrison, PE, LS

Susan Perkins
Pierson Hotchkiss, LS
Dave Walsh



September 29, 1010

LYNCHBURG

Kenneth Knott, LS
Norman Walton, PE

Joseph (Jay) Craddock, PE
Aaron Dooley, LS

Kent White, Senior Planner
Department Of Community Development
City of Lynchburg
900 Church Street
Lynchburg, VA 24504

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SEP 29 2010

COMMUNITY
DEVELOPMENT

RE: Parcels 750, 752, 760 and 762 Leesville Road
 FLUM amendment narrative

Dear Mr. White,

As you are aware, we are requesting a rezoning of the above mentioned parcels. With that rezoning, we are also requesting a Future Land Use map (FLUM) amendment.

The current FLUM depicts this area as Medium Density Residential. Two of the four properties are currently residential (one rental), one vacant and one non-conforming use (a CPA's office occupies one parcel). From Greenview Drive to McVeigh Road is depicted as a mix of uses on the FLUM including Institution, Neighborhood Commercial, Medium Density Residential and Low Density Residential. This reflects the current uses along this stretch of Leesville Road.

Neighbors to the subject parcels include Wexford Townhomes and Calvary Chapel of Lynchburg. Directly across Leesville Road is Simons Run, which connects Leesville Road to Wards Ferry Road. Simons Run is mostly undeveloped with future plans of commercial retail and residential.

By looking at current or recent development trends, the entire Leesville Road corridor (in the City and in Campbell County) is becoming more commercial. It seems most commercial uses are salons, professional offices, landscaping supply business and churches. We believe this proposed development maintains that trend. This development is intended to be a professional office space with light retail. We are requesting this area be amended on the FLUM to be Neighborhood Commercial.

Should you have any questions or comments, please let me know.

Sincerely,

Norman B. Walton, Jr., P.E.
Perkins & Orrison, Inc.

17 W. Nelson Street • P.O. Box 1567
Lexington, Virginia 24450

27 Green Hill Drive
Forest, Virginia 24551

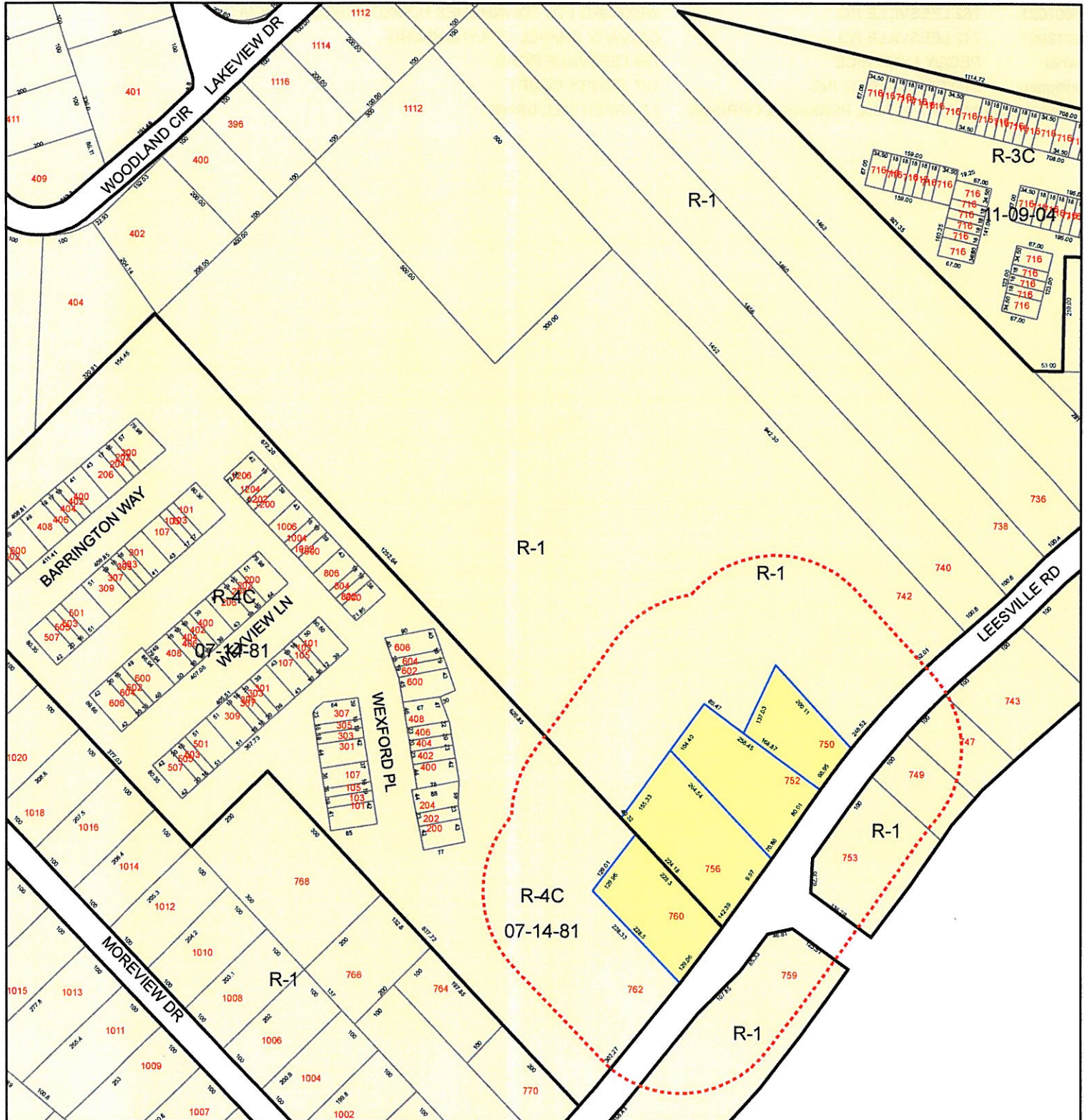
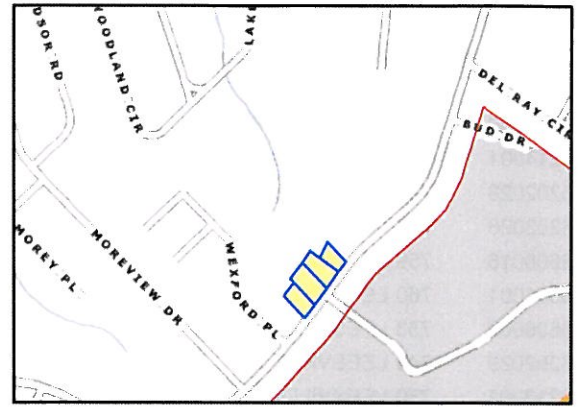
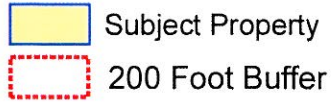
540-464-9001 Fax: 540-464-5009

434-525-5985 Fax: 434-525-5986

email: pho@perkins-orrison.com

LTD PROPERTIES, INC.

750, 752, 756 and 760 Leesville Road
Petitioner - LTD Properties, Inc.



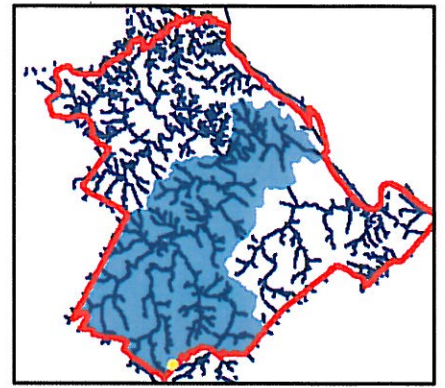
LTD Properties Adjoining Owners

PIN	Owner	Local Address
26213002	752 LEESVILLE RD	HARRISON, MICHAEL G & MARTHA G
26214001	756 LEESVILLE RD	LTD PROPERTIES LLC
26202028	747 LEESVILLE RD	GREENVIEW PROPERTIES (CARTER) LLC
26202026	743 LEESVILLE RD	GREENVIEW PROPERTIES (CARTER) LLC
26606016	759 LEESVILLE RD	GREENVIEW PROPERTIES LLC
26601001	760 LEESVILLE RD	RICE, PEGGY LYNN
26606002	753 LEESVILLE RD	GREENVIEW PROPERTIES LLC
26202029	749 LEESVILLE RD	GREENVIEW PROPERTIES (CARTER) LLC
26213001	750 LEESVILLE RD	MCDANIEL, CURTIS F
26607021	762 LEESVILLE RD	WEXFORD LTD TOWNHOMES HOMEOWNERS ASSOCIATION INC.
26212001	742 LEESVILLE RD	CALVARY CHAPEL OF LYNCHBURG
Owner	PEGGY LYNN RICE	760 LEESVILLE ROAD
Petitioner	LTD PROPERTIES, INC.	107 TRINITY COURT
Representative	NORM WALTON, PERKINS & ORRISON	27 GREEN HILL DRIVE

LTD Properties

Watershed Location Map

-  Project Site
-  Blackwater Creek
-  Corporate Limit



LYNCHBURG CITY COUNCIL

Agenda Item Summary

MEETING DATE: **December 14, 2010**

AGENDA ITEM NO.: 10

CONSENT: REGULAR: **X**

WORK SESSION:

CLOSED SESSION:
(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: **Resolution Authorizing the Issuance of Bonds for Centra Health, Inc.**

RECOMMENDATION: Adopt a resolution authorizing the issuance of up to \$30,000,000 in bonds through the Lynchburg Economic Development Authority (LEDA) for the benefit of Centra Health, Inc.

SUMMARY: The attached information provided by Ted Craddock, counsel to the LEDA, explains the proposed issuance in detail. Centra Health proposes to finance several projects, including the purchase and development of a building for its nursing program and the outfitting of the fifth floor of the bed tower at Lynchburg General Hospital, through the issuance of up to \$30,000,000 in bonds.

The LEDA, in accordance with federal and state law, serves as a conduit for the bonds and assumes no financial responsibility or costs.

The LEDA has conducted the requisite public hearing and has adopted a resolution recommending that City Council authorize the bonds.

The issuance of the bonds through the EDA places no obligations on the City.

PRIOR ACTION(S): N/A

FISCAL IMPACT: N/A

CONTACT(S): Kimball Payne, 455-3990; Ted Craddock, 846-2731

ATTACHMENT(S): Information from the LEDA provided by Mr. Craddock including the proposed resolution for adoption by City Council.

REVIEWED BY: lkp

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LYNCHBURG, VIRGINIA

WHEREAS, Centra Health, Inc., a not-for-profit Virginia nonstock corporation (the "Corporation"), owns and operates hospital facilities in the City of Lynchburg, Virginia;

WHEREAS, the Corporation has requested that the Economic Development Authority of the City of Lynchburg, Virginia (the "Authority"), issue revenue bonds (the "Bonds") pursuant to the Industrial Development and Revenue Bond Act, Chapter 49, Title 15.2, Code of Virginia of 1950, as amended (the "Act"), in one or more series, in an amount not to exceed \$30,000,000;

WHEREAS, the proceeds of the Bonds will be used to finance costs of certain acquisitions, additions and improvements to the Corporation's health care facilities in the City of Lynchburg, Virginia, including routine capital expenditures (collectively, the "Project"), including interest on the Bonds for the period of acquisition and construction of the Project and for up to one year thereafter, and costs of issuance incurred in connection with the issuance of the Bonds;

WHEREAS, the Authority, on December 2, 2010, held a public hearing on the issuance of the Bonds;

WHEREAS, Section 147(f) of the Internal Revenue Code, as amended (the "Code"), and Section 15.2-4906 of the Act require that the governmental unit on behalf of which the Authority will issue the Bonds approve the issuance of such bonds;

WHEREAS, the Corporation has requested the City Council of the City of Lynchburg, Virginia (the "Council"), approve the issuance of the Bonds to comply with Section 15.2-4906 of the Act and Section 147(f) of the Code;

WHEREAS, a copy of the Authority's resolution of December 2, 2010, approving issuance of the Bonds, a record of the public hearing and a fiscal impact statement with respect to the issuance of the Bonds have been filed with the Council; and

WHEREAS, the Authority has recommended that the Council approve the issuance of the Bonds to comply with Section 147(f) of the Code and Section 15.2-4906 of the Act.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LYNCHBURG, VIRGINIA:

1. The Council hereby approves the issuance of the Bonds by the Authority for the benefit of the Corporation, as required by Section 147(f) of the Code and Section 15.2-4906 of the Act.
2. The approval of the issuance of the Bonds does not constitute an endorsement of the Bonds or the creditworthiness of the Corporation. The Bonds shall provide that neither the City of Lynchburg, Virginia, nor the Authority shall be obligated to pay the Bonds or the interest thereon or other costs incident thereto except from revenues and moneys pledged therefor, and neither the faith and credit nor the taxing power of the Commonwealth of Virginia, the City of Lynchburg, Virginia, or the Authority shall be pledged thereto.
3. All acts and doings of the officers and members of the Council that are in conformity with the purposes and intent of this resolution shall be, and the same hereby are, in all respects approved and confirmed.
4. This resolution shall take effect immediately upon its adoption.

Adopted:

Certified:

Interim Clerk of Council

**ECONOMIC DEVELOPMENT AUTHORITY
OF THE
CITY OF LYNCHBURG, VIRGINIA**

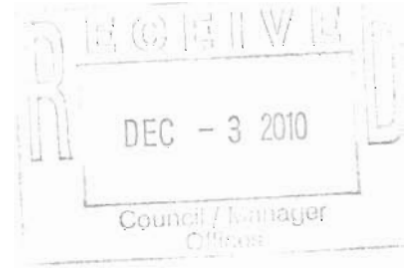
828 MAIN STREET, 10TH FLOOR
LYNCHBURG, VA 24504

TEL (434) 455-4490
FAX (434) 847-2067

December 2, 2010

DELIVERED BY HAND

Honorable Mayor and Members of the
Council of the City of Lynchburg
c/o L. Kimball Payne, City Manager
900 Church Street
Lynchburg, VA 24504



Re: **Economic Development Authority of the City of Lynchburg, Virginia,
proposed financing for Centra Health, Inc.**

Dear Madam Mayor and Members of Council:

Centra Health, Inc., a non-profit Virginia non-stock corporation (the "Applicant") has requested the Economic Development Authority of the City of Lynchburg, Virginia (the "Authority"), to issue its revenue bonds in an amount not to exceed \$30,000,000 (the "Bonds") to assist Centra Health, Inc. in (1) routine capital expenditures at Centra's existing facilities, (2) the build-out and completion of the 5th Floor Bed Tower at Lynchburg General Hospital, and (3) the acquisition, modification, renovation and equipping of an existing facility to serve as a facility for Centra's School of Nursing (collectively, the "Project").

As set forth in the enclosed resolution, the Authority has agreed to issue its Bonds as requested. The Authority has conducted a public hearing on the proposed financing of the Project and has recommended that the City Council approve the issuance of the Bonds as required by Section 147(f) of the Internal Revenue Code of 1986, as amended, and Section 15.2-4906 of the Code of Virginia of 1950, as amended.

Attached hereto is a copy of the Applicant's letter application for financing and (1) a certificate evidencing the conduct of the meeting and the action taken by the Authority, (2) the Fiscal Impact Statement required pursuant to Virginia Code Section 15.2-4907, and (3) the form of resolution suggested by counsel to evidence your approval.

It is requested that consideration of the proposed Council Resolution be placed on the Council agenda for the meeting scheduled for Tuesday, December 14, 2010. A representative of the Authority will be present at the meeting.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "H. M. Pope", is written over a horizontal line.

Assistant Secretary, Economic Development
Authority of the City of Lynchburg, Virginia

HML/ahd

cc: Walter C. Erwin, Esquire
City Attorney

Marjette G. Upshur, Director
Office of Economic Development

Robert Dean Pope, Esquire
Hunton & Williams
Counsel to Centra Health, Inc.



C E N T R A

1920 Atherholt Road
Lynchburg, Virginia 24501

PHONE: 434.200.4700
WEB: www.centrahealth.com

November 17, 2010

Economic Development Authority of
the City of Lynchburg, Virginia
c/o Theodore J. Craddock, Esquire
Caskie & Frost
Lynchburg, VA

Re: Application for Bond Financing - Centra Health

Dear Mr. Craddock:

This letter constitutes the request of Centra Health, Inc. ("Centra") that the Economic Development Authority of the City of Lynchburg, Virginia issue revenue bonds for the benefit of Centra.

In particular, Centra requests the issuance of up to \$30,000,000 in revenue bonds to finance (1) the acquisition of certain existing facilities in the City of Lynchburg for use by Centra for its School of Nursing, (2) the acquisition of routine capital expenditures over the next 24 months for Centra's hospital and other health care facilities and (3) the completion of a bed tower at Lynchburg General Hospital.

The facilities to be financed are listed as Appendix A. Also attached is a brief Plan of Finance.

The new bonds need to be issued by the end of December 2010 because of an expiring provision in the federal tax law that allows non-profit organizations such as Centra to designate up to \$30,000,000 each year as "bank qualified" bonds. This enables a bank, in this case Branch Banking and Trust Company, to accept an attractive interest rate, when in turn allows Centra to keep health care costs at its facilities at the lowest possible levels.

Centra understands and accepts the conditions set forth on page 6 of the Authority's application form.

Centra has been grateful over many years for the cooperation of the Authority in issuing bonds on its behalf. We look forward to attending the meeting of the Authority, now scheduled for December 2, to authorize the issuance of such bonds.

Very truly yours,

Lewis Addison
Chief Financial Officer

ATLANTA AUSTIN BANGKOK BEIJING BRUSSELS CHARLOTTE DALLAS HOUSTON LONDON LOS ANGELES
MCLEAN MIAMI NEW YORK NORFOLK RALEIGH RICHMOND SAN FRANCISCO WASHINGTON

54056.000024 EMF US 33411612v1

www.huntan.com

Appendix A

The Project consists of the following:

1. The purchase, acquisition, modification, renovation and equipping of a parcel of real estate, together with the improvements on such parcel, as a facility for Centra's School of Nursing and other educational and healthcare activities to be located on a parcel of approximately 5 acres in the City of Lynchburg, Virginia located in the Plaza Shopping Center and fronting on Lakeside Drive and Allegheny Avenue. Centra expects to utilize the proceeds of tax-exempt Bonds, in an amount not currently expected to exceed \$12,000,000, to pay the costs of this portion of the Project.
2. The completion, build-out, and equipping of the 5th floor of the Bed Tower of Lynchburg General Hospital which hospital is located at 1901 Tate Springs Road, Lynchburg, Virginia 24501. Centra expects to utilize the proceeds of tax-exempt Bonds to pay the costs of this portion of the Project.
3. Purchase, acquisition, upgrading, and installation of information technology applications, including software and hardware, serving Centra facilities located in the City of Lynchburg, Virginia. Centra expects to utilize the proceeds of tax-exempt Bonds to pay all or some of the costs of this portion of the Project.
4. Purchase, acquisition, upgrading, replacement and installation of equipment serving Centra facilities located in the City of Lynchburg, Virginia. Centra expects to utilize the proceeds of tax-exempt Bonds to pay all or some of the costs of this portion of the Project.

2010 PLAN OF FINANCE

BONDS FOR CENTRA HEALTH, INC.

The following sets forth the Plan of Finance for the issuance of refunding bonds (the "2010 Bonds") by the Economic Development Authority of City of Lynchburg, Virginia (the "Authority") for the benefit of Centra Health, Inc. (the "Corporation") and related entities. The Corporation owns and operates hospitals and other health care facilities in the City of Lynchburg.

2010 Bonds. The 2010 Bonds will be issued in an amount up to \$30,000,000. The Corporation will designate the 2010 Bonds as "bank qualified bonds" as permitted by current tax law in order to achieve a favorable interest rate from the purchaser of the 2010 Bonds, Branch Banking and Trust Company (the "Bank"). The 2010 Bonds will be issued pursuant to a Bond Purchase and Loan Agreement or similar agreement (the "Bond Agreement") between the Authority, the Corporation and the Bank.

The 2010 Bonds will be secured on a parity basis with the other bonds previously issued by the Authority for the Corporation and outstanding pursuant to the 1998 Master Trust Indenture ("MTI") between the Corporation and a master trustee. This parity security will be evidenced by a promissory note issued by the Corporation in the principal amount of the 2010 Bonds, which Note will constitute an Obligation under the MTI.

The Projects Financed. The projects financed are described in the notice of public hearing published by the Authority and consists of (1) routine capital expenditures at the Corporation's existing facilities, (2) the build-out and completion of the 5th Floor Bed Tower at Lynchburg General Hospital and (3) the acquisition, modification, renovation and equipping of an existing facility to serve as a facility for the Corporation's School of Nursing.

Terms of the Bonds. The 2010 Bonds will bear interest at a variable rate tied to LIBOR (London Interbank Offered Rate), a widely used rate index. The 2010 Bonds will have a final maturity consistent with the useful life of the projects financed.

Interest Rate Swap. The Corporation may enter into an interest rate swap with the Bank with respect to all or a portion of the 2010 Bonds, and if it does, it will ask the Authority make the necessary acknowledgements to permit such swap to be "integrated" with the 2010 Bonds under federal income tax regulations. Under the swap, the Corporation will pay the Bank a fixed rate and receive in turn a variable rate, expected to be identical to the rate on the 2010 Bonds.

November 18, 2010

CERTIFICATE OF PUBLIC HEARING

The undersigned Secretary of the Economic Development Authority of the City of Lynchburg, Virginia (the "Authority"), hereby certifies as follows:

A regular meeting of the Authority was duly called and held at 8:30 a.m. on December 2, 2010, at the Office of Economic Development of the City of Lynchburg, Virginia, in the Bank of the James Building, 10th Floor, 828 Main Street, Lynchburg, Virginia. The meeting was open to the public, and persons of differing views were given an opportunity to be heard. At such meeting all of the members of the Authority were present or absent throughout as follows:

PRESENT: Massie G. Ware, Jr. (Chairman)
Mark A. Varah (Vice Chairman)
H. Michael Lucado (Assistant Secretary/Treasurer)
Ronald (Ronnie) G. Kidd, Jr.
Louise E. Mitchell

ABSENT: Gary F. Allen (Secretary/Treasurer)
Susan G. Ackley

The Chairman announced the commencement of a public hearing on the application of Centra Health, Inc. Notice of such hearing was published on November 18, 2010, and November 25, 2010, in *The News and Advance* (the "Notice"). A copy of the Notice and certificate of publication of such Notice have been filed with records of the Authority and are attached hereto as Exhibit (i).

The individuals identified in Exhibit (ii) appeared and addressed the Authority and a reasonably detailed summary of the statements made at the public hearing is included in Exhibit (ii). The fiscal impact statement required by the Virginia Industrial Development and Revenue Bond Act is attached hereto as Exhibit (iii).

Attached hereto as Exhibit (iv) is a true, correct and complete copy of a resolution (the "Resolution"), adopted at such meeting of the Authority by the following vote:

AYES: Massie G. Ware, Jr. (Chairman)
Mark A. Varah (Vice Chairman)
H. Michael Lucado (Assistant Secretary/Treasurer)
Ronald (Ronnie) G. Kidd, Jr.
Louise E. Mitchell

NAYS: None

ABSTAIN: None

ABSENT: Gary F. Allen (Secretary/Treasurer)
Susan G. Ackley

The Resolution constitutes all formal action taken by the Authority at such meeting relating to matters referred to in the Resolution. The Resolution has not been repealed, revoked, rescinded or amended and is in full force and effect on the date hereof.

WITNESS my hand and the seal of the Authority this 2nd day of December, 2010.




Assistant Secretary, Economic Development
Authority of the City of Lynchburg, Virginia

THE NEWS & ADVANCE
Virginia Newspapers, Inc. A Media General Company

This is to certify that the attached
Order of Publication was published
in the News & Advance, a newspaper
published in the City of Lynchburg, Virginia

2 times on

Nov 18th & 25th 2010

given under my hand on the 26th day

of November 2010

Donna Bennett

Classified Manager

Account No. 3299844

Total amount for this 1 column 85 line

Insertion is \$ 741.00



Donna Bennett
11/26/2010



LEGAL NOTICES

NOTICE OF PUBLIC HEARING BY THE
ECONOMIC DEVELOPMENT AUTHORITY OF
CITY OF LYNCHBURG, VIRGINIA
ON PROPOSED REVENUE BOND FINANCING
FOR CENTRA HEALTH, INC.

Notice is hereby given that the Economic Development Authority of the City of Lynchburg, Virginia (the "Authority") will hold a public hearing on the application of Centra Health, Inc. (the "Corporation"), a not-for-profit Virginia non-stock corporation whose principal place of business is located at 1920 Atherholt Road, Lynchburg, Virginia 24501, for the Authority to issue, pursuant to the Virginia Industrial Development and Revenue Bond Act, as amended (the "Act"), its revenue bonds (the "Bonds") in an amount now estimated not to exceed \$30,000,000. The Corporation and related entities own and operate hospital and other health care facilities including support facilities, in the City of Lynchburg (collectively, the "Existing Facilities"). The Existing Facilities include (1) Lynchburg General Hospital, 1901 Tate Springs Road, (2) Virginia Baptist Hospital, 3300 Rivermont Avenue, (3) Centra Health Corporate Office and Data Center, 1920 Atherholt Road, (4) Centra Business Center, 1204 Fenwick Drive, (5) Centra Clinical/Financial Informatics Building, 2010 Atherholt Road, and (6) Alan B. Pearson Cancer Center, 1701 Thompson Drive.

The Corporation intends to use proceeds of the Bonds to finance (1) routine capital expenditures, including without limitation, information technology equipment, at the Existing Facilities; (2) the build-out and equipping of the fifth floor of the East Tower of Lynchburg General Hospital, which will add approximately 36 beds; and (3) the acquisition, modification, renovation and equipping of an existing facility of approximately 70,000 square feet located in the Plaza Shopping Center fronting Lakeside Drive and Allegheny Avenue in Lynchburg, which facility will be utilized as a nursing school facility and simulation laboratory. All of the above described uses are referred to as the "Projects."

The Bonds are to be issued to finance cost of the Projects and finance issuance costs and qualifying interest expense.

The hearing will be part of the approval process for the Bonds, which will include approval by the City Council of the City of Lynchburg, Virginia.

As required by the Act, the Bonds will not pledge the credit or the taxing power of the Commonwealth of Virginia, the City of Lynchburg, Virginia, or the Authority, but will be payable solely from revenues derived from the facilities of the Corporation and related entities and pledged therefor.

The public hearing, which may be continued or adjourned, will be held at 8:30 o'clock a.m. on December 2, 2010, before the Authority at its offices in the Bank of the James Building, 10th Floor, 828 Main Street, Lynchburg, Virginia. Any person interested in the issuance of the Bonds or the location or nature of the Projects may appear and be heard and may submit written views prior to the meeting. A copy of the Corporation's request for the issuance of the Bonds may be inspected at the office of the Authority.

ECONOMIC DEVELOPMENT AUTHORITY OF THE
CITY OF LYNCHBURG, VIRGINIA
By: Gary F. Allen, Secretary

EXHIBIT (ii) TO CERTIFICATE OF PUBLIC HEARING

SUMMARY OF STATEMENTS

The Chairman declared the public hearing open. The Chairman advised the Directors concerning the necessity for this public hearing. Mr. Craddock reminded the Directors that the notice of this public hearing had been published as required by law and it was upon the letter application of Centra Health, Inc. for the Authority to issue its revenue bonds in an amount not to exceed \$30,000,000 (the "Bonds") to assist Centra Health, Inc. in (1) routine capital expenditures at Centra's existing facilities, (2) the build-out and completion of the 5th Floor Bed Tower at Lynchburg General Hospital, and (3) the acquisition, modification, renovation and equipping of an existing building to serve as a facility for Centra's School of Nursing.

Mr. Craddock introduced Mr. Lewis Addison, Chief Financial Officer of Centra Health, Inc. Mr. Addison reviewed with the Directors the current diploma nursing program at Lynchburg General Hospital. He advised the Directors that approximately \$11,000,000 of the Bonds would go to the acquisition and reconditioning of the 70,000 square foot building formerly occupied by Roses Stores and to renovate the building and construct a simulation lab for the nursing program. The plan is to change the current nursing program from a diploma to a two-year associate program.

Secondly, approximately \$8,000,000 of the Bonds will be used to build out the 5th floor of the East Tower and assist the relocation of the pediatric unit from Virginia Baptist Hospital to the North Building on Tate Springs Road. The build-out of the East Tower 5th floor will add 36 beds.

Mr. Addison reported that the balance of the bond issue will be used to purchase new equipment, upgrade existing equipment and improve the information technology at the hospital facilities in the City. Mr. Addison reported that the pricing on the Bonds is very attractive and that the plans were to close this bond issue during December. Mr. Craddock reminded the Directors that this bond issue will be under a current bank-qualified exemption, which under the current tax legislation must be closed by December 31st.

The Chairman then asked if anyone wished to speak in opposition to Centra Health's application. No one appeared or spoke in opposition to the application. The Chairman declared the public hearing closed.

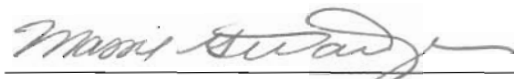
FISCAL IMPACT STATEMENT

December 2, 2010

Centra Health, Inc.
(Applicant)

Centra Existing Facilities and Centra School of Nursing
(Facility)

1.	Maximum amount of financing sought	\$30,000,000
2.	Estimated taxable value of the facility's real property to be maintained and improved in the municipality	\$0
3.	Estimated real property tax per year using present tax rates	\$0
4.	Estimated personal property tax per year using present tax rates	\$0
5.	Estimated merchants' capital tax per year using present tax rates	\$0
6. a.	Estimated dollar value per year of goods that will be purchased from Virginia companies within the locality	\$54 million
b.	Estimated dollar value per year of goods that will be purchased from non-Virginia companies within the locality	\$125 million
c.	Estimated dollar value per year of services that will be purchased from Virginia companies within the locality	\$18 million
d.	Estimated dollar value per year of services that will be purchased from non-Virginia companies within the locality	\$41 million
7.	Estimated number of regular employees on year round basis	6,213
8.	Average annual salary per employee	\$44,549


Chairman

Industrial Development Authority of the City of Lynchburg, Virginia

**RESOLUTION OF THE
ECONOMIC DEVELOPMENT AUTHORITY OF
THE CITY OF LYNCHBURG, VIRGINIA**

CENTRA HEALTH, INC.

WHEREAS, the Economic Development Authority of the City of Lynchburg, Virginia (the "Authority") is a political subdivision of the Commonwealth of Virginia (the "Commonwealth") created and existing pursuant to the Virginia Industrial Development and Revenue Bond Act, being Chapter 49, Title 15.2, Code of Virginia of 1950, as amended (the "Act"); and

WHEREAS, the Act authorizes the Authority to issue bonds to finance hospital and other healthcare facilities; and

WHEREAS, Centra Health, Inc. (the "Corporation") is a not-for-profit Virginia non-stock corporation that is a tax-exempt organization under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the "Code") and that together with related organizations operates hospitals and other health care facilities in the City of Lynchburg, Virginia (the "City"); and

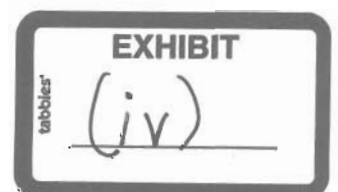
WHEREAS, the Corporation has requested the Authority to issue its revenue bonds (the "2010 Bonds") for the benefit of the Corporation and related entities to pay costs of certain acquisitions, additions and improvements to the Corporation's health care facilities in the City, including routine capital expenditures, all as described in Exhibit A hereto (collectively, the "Project"), including interest on the 2010 Bonds for the period of acquisition and construction of the Project and for up to one year thereafter, and costs of issuance incurred in connection with the issuance of such bonds; and

WHEREAS, there has been presented to this meeting a plan of finance (the "Plan of Finance"), a copy of which shall be filed in the records of the Authority, pursuant to which the Authority has been requested to issue the 2010 Bonds for the purposes set forth above; and

WHEREAS, a public hearing has been held by the Authority as required by Section 147(f) of the Code and Section 15.2-4906 of the Act;

BE IT RESOLVED BY THE ECONOMIC DEVELOPMENT AUTHORITY OF THE CITY OF LYNCHBURG, VIRGINIA:

1. It is hereby found and determined that the financing of the Project will be in furtherance of the purposes of the Act by reducing the costs of providing health care to the residents of the City and surrounding areas.
2. The Authority hereby recommends that the City Council of the City approve the issuance of the 2010 Bonds in accordance with the provisions of Section 147(f) of the Code and Section 15.2-4906 of the Act.



3. The Authority hereby authorizes the issuance of the 2010 Bonds pursuant to the Plan of Finance and the loan of the proceeds of the 2010 Bonds to the Corporation pursuant to the terms of the Bond Purchase and Loan Agreement described in the Plan of Finance.

4. The Chairman and the Vice Chairman either of whom may act (the "Authorized Officers") are each hereby authorized and directed to approve the final terms of the 2010 Bonds, including the principal amount, maturities, interest rates and redemption provision, prices and dates; provided, however, that (a) the aggregate maximum principal amount of the 2010 Bonds shall not exceed \$30,000,000, and (b) no 2010 Bond shall mature beyond December 31, 2025.

5. The Authorized Officers are each authorized to execute and deliver the documents described in the Plan of Finance to which the Authority is a party (the "Financing Instruments").

6. The Authorized Officers are each hereby authorized and directed to execute the 2010 Bonds by manual or facsimile signature, and the Secretary of the Authority and the Assistant Secretary, either of whom may act, are authorized and directed to have the seal of the Authority affixed or printed thereon and to attest such seal by manual or facsimile signature. The officers of the Authority are authorized and directed to deliver the 2010 Bonds to Branch Banking and Trust Company or a related entity as the purchaser thereof upon terms provided in the Bond Purchase and Loan Agreement.

7. The Financing Instruments and the 2010 Bonds shall be in form and substance consistent with the Plan of Finance and in such form as the executing officer of the Authority and the Authority's Counsel may approve, with execution of any financing instrument constituting conclusive evidence of approval of any such completions, omissions, insertions and changes.

8. The officers of the Authority are hereby authorized and directed to execute, deliver and file all documents, certificates and instruments, including Internal Revenue Service Form 8038, on behalf of the Authority and to take all such further action as may be necessary or desirable in connection with the issuance and sale of the 2010 Bonds.

9. Any authorization given herein to the officers of the Authority to execute documents shall include authorization to execute the document, authorization to the Secretary or Assistant Secretary to affix the seal of the Authority to such document and attest such seal and authorization to any officer to provide for the recording of such document where appropriate and deliver it to the other parties thereto.

10. All costs and expenses of the Authority in connection with the financing, including the Authority's fees, shall be paid or reimbursed by the Corporation, or to the extent permitted by applicable law, from the proceeds of the 2010 Bonds. If for any reason the 2010 Bonds are not issued or if the proceeds thereof cannot be used to pay all such expenses, it is understood that all such costs and expenses shall be paid or reimbursed by the Corporation and that the Authority shall have no responsibility therefor.

11. At the request of the Corporation, the Authority hereby approves Hunton & Williams LLP as bond counsel to supervise the proceedings and approve the legality of the issuance of the 2010 Bonds.

12. All other acts of the officers of the Authority that are in conformity with the purposes and intent of this resolution and in furtherance of the issuance and sale of the 2010 Bonds are hereby authorized, ratified and approved.

13. This resolution shall take effect immediately upon its adoption.

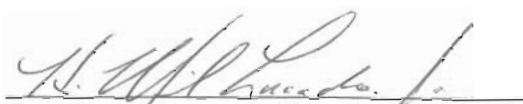
The Project consists of the following:

1. The purchase, acquisition, modification, renovation and equipping of a parcel of real estate, together with the improvements on such parcel, as a facility for the Corporation's School of Nursing and other educational and healthcare activities to be located on a parcel of approximately 5 acres in the City of Lynchburg, Virginia, located in the Plaza Shopping Center and fronting on Lakeside Drive and Allegheny Avenue.
2. The completion, build-out, and equipping of the 5th floor of the Bed Tower of Lynchburg General Hospital, which hospital is located at 1901 Tate Springs Road, Lynchburg, Virginia 24501.
3. The purchase, acquisition, upgrading, and installation of information technology applications, including software and hardware, serving the Corporation's facilities located in the City of Lynchburg, Virginia.
4. The purchase, acquisition, upgrading, replacement and installation of equipment serving the Corporation's facilities located in the City of Lynchburg, Virginia.

CERTIFICATE

The undersigned Secretary of the Economic Development Authority of the City of Lynchburg, Virginia (the "Authority"), hereby certifies that the foregoing is a true, correct and complete copy of a resolution adopted by a majority of the Directors of the Authority present and voting at a meeting duly called and held on December 2, 2010, in accordance with law, and that such resolution has not been repealed, revoked, rescinded or amended, and is in full force and effect on the date hereof.

WITNESS the following signature this 2nd day of December, 2010.

A handwritten signature in dark ink, appearing to read "A. W. Lucas, Jr.", is written over a horizontal line.

Secretary, Economic Development Authority of the
City of Lynchburg, Virginia

2010 PLAN OF FINANCE

BONDS FOR CENTRA HEALTH, INC.

The following sets forth the Plan of Finance for the issuance of bonds (the "2010 Bonds") by the Economic Development Authority of the City of Lynchburg, Virginia (the "Authority") for the benefit of Centra Health, Inc. (the "Corporation") and related entities. The Corporation owns and operates hospitals and other health care facilities in the City of Lynchburg.

2010 Bonds. The 2010 Bonds will be issued in an amount up to \$30,000,000. The Corporation will designate the 2010 Bonds as "bank qualified bonds" as permitted by current tax law in order to achieve a favorable interest rate from the purchaser of the 2010 Bonds, Branch Banking and Trust Company (the "Bank"). The 2010 Bonds will be issued pursuant to a Bond Purchase and Loan Agreement (the "Bond Agreement") between the Authority, the Corporation and the Bank.

The 2010 Bonds will be secured on a parity basis with the other bonds previously issued by the Authority for the Corporation and outstanding pursuant to the 1998 Master Trust Indenture ("MTI") between the Corporation and a master trustee. This parity security will be evidenced by a promissory note issued by the Corporation in the principal amount of the 2010 Bonds, which Note will constitute an Obligation under the MTI.

The Projects Financed. The projects financed are described in the notice of public hearing published by the Authority and consist of (1) routine capital expenditures at the Corporation's existing facilities, (2) the build-out and completion of the 5th Floor Bed Tower at Lynchburg General Hospital and (3) the acquisition, modification, renovation and equipping of an existing facility to serve as a facility for the Corporation's School of Nursing.

Terms of the Bonds. The 2010 Bonds will bear interest at a variable rate tied to LIBOR (London Interbank Offered Rate), a widely used rate index. The 2010 Bonds will have a final maturity consistent with the useful life of the projects financed.

Interest Rate Swap. The Corporation may enter into an interest rate swap with the Bank with respect to all or a portion of the 2010 Bonds, and if it does, it will ask the Authority to make the necessary acknowledgements to permit such swap to be "integrated" with the 2010 Bonds under federal income tax regulations. Under the swap, the Corporation will pay the Bank a fixed rate and receive in turn a variable rate, expected to be identical to the rate on the 2010 Bonds.

December 2, 2010

**RESOLUTION OF THE
CITY COUNCIL OF THE CITY OF LYNCHBURG, VIRGINIA**

WHEREAS, Centra Health, Inc., a not-for-profit Virginia nonstock corporation (the "Corporation"), owns and operates hospital facilities in the City of Lynchburg, Virginia;

WHEREAS, the Corporation has requested that the Economic Development Authority of the City of Lynchburg, Virginia (the "Authority"), issue revenue bonds (the "Bonds") pursuant to the Industrial Development and Revenue Bond Act, Chapter 49, Title 15.2, Code of Virginia of 1950, as amended (the "Act"), in one or more series, in an amount not to exceed \$30,000,000;

WHEREAS, the proceeds of the Bonds will be used to finance costs of certain acquisitions, additions and improvements to the Corporation's health care facilities in the City of Lynchburg, Virginia, including routine capital expenditures (collectively, the "Project"), including interest on the Bonds for the period of acquisition and construction of the Project and for up to one year thereafter, and costs of issuance incurred in connection with the issuance of the Bonds;

WHEREAS, the Authority, on December 2, 2010, held a public hearing on the issuance of the Bonds;

WHEREAS, Section 147(f) of the Internal Revenue Code, as amended (the "Code"), and Section 15.2-4906 of the Act require that the governmental unit on behalf of which the Authority will issue the Bonds approve the issuance of such bonds;

WHEREAS, the Corporation has requested the City Council of the City of Lynchburg, Virginia (the "Council"), approve the issuance of the Bonds to comply with Section 15.2-4906 of the Act and Section 147(f) of the Code;

WHEREAS, a copy of the Authority's resolution of December 2, 2010, approving issuance of the Bonds, a record of the public hearing and a fiscal impact statement with respect to the issuance of the Bonds have been filed with the Council; and

WHEREAS, the Authority has recommended that the Council approve the issuance of the Bonds to comply with Section 147(f) of the Code and Section 15.2-4906 of the Act.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LYNCHBURG, VIRGINIA:

1. The Council hereby approves the issuance of the Bonds by the Authority for the benefit of the Corporation, as required by Section 147(f) of the Code and Section 15.2-4906 of the Act.
2. The approval of the issuance of the Bonds does not constitute an endorsement of the Bonds or the creditworthiness of the Corporation. The Bonds shall provide that neither the City of Lynchburg, Virginia, nor the Authority shall be obligated to pay the Bonds or the interest thereon or other costs incident thereto except from revenues and moneys pledged therefor, and

neither the faith and credit nor the taxing power of the Commonwealth of Virginia, the City of Lynchburg, Virginia, or the Authority shall be pledged thereto.

3. All acts and doings of the officers and members of the Council that are in conformity with the purposes and intent of this resolution shall be, and the same hereby are, in all respects approved and confirmed.

4. This resolution shall take effect immediately upon its adoption.

CERTIFICATE

The undersigned Clerk of the City Council of the City of Lynchburg, Virginia (the "Council"), hereby certifies that the foregoing is a true, correct and complete copy of a resolution adopted by a majority of the Council present and voting at a regular meeting duly called and held on December 14, 2010, in accordance with law.

WITNESS the following signature and the seal of the Council this ____ day of December, 2010.

Clerk of the City Council of the City of
Lynchburg, Virginia

Prepared by: (landowner's attorney)

This deed is exempt from recordation taxes imposed by §§58.1-801 and 58.1-803 of the Code of Virginia (1950), as amended, pursuant to §§58.1-811(A)(3), 58.1-811(D) and 10.1-1803 and from the Circuit Court Clerk's fee under §17.1-266.

DEED OF CONSERVATION EASEMENT

THIS DEED OF GIFT OF EASEMENT (this "Easement"), made this ____ day of _____, 20__, by and between LYNCHBURG GROWS, a non-profit, non-stock company, party of the first part, GRANTOR; the CITY OF LYNCHBURG, a municipal corporation of the Commonwealth of Virginia, party of the second part, GRANTEE, and Theodore J. Craddock, TRUSTEE for the Economic Development Authority of the City of Lynchburg, and the Economic Development Authority of the City of Lynchburg ("Noteholder").

WITNESSETH:

WHEREAS, Grantor is the owner in fee simple of real property situated in the City of Lynchburg, Virginia, containing in the aggregate 6.836 acres as further described below (the "Property"), and desires to give and convey to Grantee a perpetual conservation and open-space easement over the Property as herein set forth; and

WHEREAS, Grantee is a municipal corporation of the Commonwealth of Virginia and a "qualified organization" and "eligible donee" under Section 170(h)(3) of the Internal Revenue Code (the "IRC") and Treasury Regulation §1.170A-14(c)(1) and is willing to accept a perpetual conservation and open-space easement over the Property as herein set forth; and

WHEREAS, the Open Space Land Act of 1966 (Chapter 17, Title 10.1, §§10.1-1700 to 10.1-1705 of the Code of Virginia, as amended) declares that the preservation of open-space land serves a public purpose by promoting the health and welfare of the citizens of the Commonwealth by curbing urban sprawl, preventing the spread of urban blight and deterioration and encouraging more economic and desirable urban development, helping provide or preserve necessary park, recreational, historic and scenic areas, and conserving land and other natural resources, and authorizes the acquisition of interests in real property, including easements in gross, as a means of preserving and maintaining the character of open-space land; and

WHEREAS, Chapter 18, Title 10.1 of the Code of Virginia (§§ 10.1-1800 to 10.1-1804, as amended) declares it to be the public policy of the Commonwealth to encourage preservation of open-space land and authorizes the City of Lynchburg to hold real property or any estate or interest therein for the purpose of preserving the natural, scenic, historical, scientific, open-space and recreational lands of the Commonwealth; and

WHEREAS, this Easement is intended to constitute (i) a “qualified conservation contribution” as defined in IRC Section 170(h)(1) as more particularly explained below, and (ii) a qualifying “interest in land” under the Virginia Land Conservation Incentives Act of 1999 (Section 58.1-510 *et seq.* of the Code of Virginia (1950), as amended); and

WHEREAS, this Easement is intended to be a grant “exclusively for conservation purposes” under IRC Section 170(h)(1)(C) because it effects “the preservation of open space (including farmland and forest land)” under IRC Section 170(h)(4)(A)(iii). Specifically, the preservation of open space on the Property is pursuant to clearly delineated state governmental conservation policies and will yield a significant public benefit; and

WHEREAS, the hereinafter described property comprises productive urban agricultural fields and historic greenhouse and associated farm structures; and

WHEREAS, the preservation of the property hereinafter described will further the City of Lynchburg Comprehensive Plan strategy specifically mentioned in Chapter 13 under Goal 1, Objective 1.D. to “increase recreation opportunities to meet the needs of citizens,” and Strategy 3 under that objective to “Master Plan and develop the Schenkel and Allen-Morrison properties, in conjunction with The [City] Stadium area, for recreational purposes.”; and

WHEREAS, the preservation of the hereinafter described property will further the City of Lynchburg Comprehensive Plan specifically supporting the incorporation of historic preservation, cultural landscape preservation, and cultural resource interpretation in plans for historic parks (Chapter 13, Goal 1, Objective 1.C.); and

WHEREAS, the Grantors are the owners in fee simple of the real property hereinafter described, which they desire preserved as open-space, park land and urban agriculture in the public interest; and

WHEREAS, Lynchburg City Council has, by Resolution adopted September 23, 2008, expressed its support for the continued development and preservation of Grantor’s property and agreed to serve as holder of the conservation easement herein conveyed.

NOW, THEREFORE, in recognition of the foregoing and in consideration of the mutual covenants herein and the acceptance hereof by the Grantee, the Grantors do hereby voluntarily grant and convey to the Grantee, and its successors and assigns, an open-space easement in gross over, and the right in perpetuity to restrict the use of, the real estate consisting of 6.836 acres more or less described in SCHEDULE A, located in Mid-Town Lynchburg, fronting on Englewood Street and Naval Reserve Street, and hereinafter referred to as the "Property:"

See Legal Description attached as Schedule A.

The above-described tracts are shown as parcel number 02807004 among the land records of the City of Lynchburg and totals 6.836 acres more or less in the aggregate.

SECTION I - PURPOSE

The conservation purpose of this Easement is to preserve land for agricultural and public use, the preservation of scenic open space, and to protect the conservation values of the Property in perpetuity by imposing restrictions on the use of the Property set forth in Section II and providing for their enforcement in Section III. The conservation values of the Property are its open-space and public use values including recreation and education and its values as land preserved for open-space including urban agriculture and horticulture.

SECTION II – RESTRICTIONS

Restrictions are hereby imposed on the use of the Property pursuant to the public policies set forth above. The acts that Grantor covenants to do and not to do upon the Property, and the restrictions that Grantee is hereby entitled to enforce, are and shall be as follows:

1. **PUBLIC USE.** The Property shall be open to the public during normal operating hours and special events for the public. However, although this Conservation Easement in gross will benefit the public as described, nothing herein shall be construed to convey to the public a right of entry to or any rights of use of the Property.
2. **DIVISION.** Separate conveyance of a portion of the Property or division, or subdivision of the Property is prohibited.

Boundary line adjustments with adjoining parcels of land are permitted and shall not be considered separate conveyances of portions of the Property or divisions or subdivisions of the Property, provided that Grantee approves such adjustments, is made party to any deed creating a boundary line adjustment, and at least one of the following conditions is met:

- (i) The entire adjacent parcel is subject to a recorded open-space easement owned by Grantee; or
- (ii) The proposed boundary line adjustment shall have been reviewed and approved in advance by the City Council of the Grantee.

3. **BUILDINGS, STRUCTURES, ROADS, AND UTILITIES.** No new buildings, structures, roads or utilities, other than the following, are permitted on the Property:

(i) One single-family dwelling or dwelling units such as barn or garage apartments, which shall not exceed an aggregate of 2,900 square feet of above-ground enclosed living area. Such dwelling shall not exceed 2,900 square feet of above-ground enclosed living area without Grantee's prior review and written approval, which approval shall take into consideration the impact of the size, height and siting of the proposed dwelling(s) on the scenic and other conservation values of the Property. Any such dwelling or dwelling unit shall be built north of the greenhouse footprint on the property.

Dwellings currently existing on the Property shall not be counted in the number of permitted dwellings and in the permitted aggregate square feet of above-ground enclosed living area. Grantor shall give Grantee 30 days' written notice before beginning construction or enlargement of any dwelling on the Property.

(ii) non-residential outbuildings and structures commonly and appropriately incidental to dwellings permitted in subsection (i) of this paragraph, and sized appropriately to serve as amenities to single-family residential use, provided that the aggregate footprint of such non-residential outbuildings and structures for each permitted dwelling shall not exceed 1,000 square feet in ground area unless prior written approval shall have been obtained from Grantee that a larger footprint is permitted considering the purpose of this Easement and the scale of the proposed outbuilding or structure in relation to the surrounding area *and/or* and located near such dwellings. For the purpose of this paragraph (ii), "near" means within 200 feet of such dwelling, unless prior written approval shall have been obtained from Grantee that a greater distance is permitted considering the purpose of this Easement and the scale of the proposed outbuilding or structure in relation to the surrounding area.

(iii) farm buildings or structures, except that a farm building or farm structure exceeding 4,000 square feet in ground area, may not be constructed on the Property unless prior written approval for the building or structure shall have been obtained from Grantee, which approval shall be limited to consideration of the impact of the size, height and siting of the proposed structure on the conservation values of the Property; and

Grantor shall have the right to construct new dwellings, buildings and structures permitted in this Section II Paragraph 3 and to repair, maintain, renovate and replace all new and existing permitted dwellings, buildings and structures on the Property, within the limitations set forth in this Easement.

(iv) Private roads to serve permitted buildings or structures only; and

(v) Public or private utilities to serve permitted buildings or structures only may be constructed and maintained. Public or private utilities that do not serve the Property shall not cross the Property unless Grantee determines that the construction and maintenance of such utilities will not impair the conservation values of the Property and gives its prior written approval for such construction and maintenance, which approval shall take into consideration the visibility and other impact of such utilities on the conservation values of the Property. Grantor reserves its separate rights to approve or disapprove such public or private utilities.

The collective footprint of all buildings and structures on the Property, excluding the nine existing greenhouses and roads, shall not exceed 15% of the total area of the Property, provided that if Grantor can demonstrate that an increase in the collective footprint would result in increased protection of the conservation values of the Property, Grantee may approve such increase. For the purpose of this paragraph the collective footprint is the ground area measured in square feet of the buildings and structures set forth in subsections (i) through (iii) above and all other impervious surfaces, excluding roads.

4. INDUSTRIAL OR COMMERCIAL ACTIVITIES. Industrial or commercial activities are prohibited with the exception of the following:

- (i) agriculture (including livestock production), equine activities and forestry;
- (ii) small-scale incidental commercial or industrial operations related to activities set forth in (i) above that Grantee approves in writing as being consistent with the conservation purpose of this Easement;
- (iii) processing and sale of products produced on the Property as long as no additional buildings are required;
- (iv) temporary or seasonal outdoor activities that do not permanently alter the physical appearance of the Property and that do not diminish the conservation values of the Property herein protected; and
- (v) activities that can be and in fact are conducted within permitted buildings without material alteration to their external appearance.

Temporary outdoor activities involving 100 or more people shall not exceed 7 consecutive days in any 90-day period without prior written approval of Grantee.

5. AGRICULTURAL USE. As to any portion of the Property in agricultural use, a written Conservation Farm Management Plan stipulating the use of best management practices (such as proper nutrient management, utilization of cover crop[s], and stabilization of highly erodible lands) shall be developed in consultation with and approved by the Robert E. Lee Soil and Water Conservation District or the U.S. Natural Resources Conservation Service representative and shall be implemented as long as such portions of the Property remain in urban Agricultural production.

6. **GRADING, BLASTING, AND MINING.** Grading, blasting or earth removal shall not materially alter the topography of the Property except for (i) dam construction to create ponds, (ii) wetlands or stream bank restoration pursuant to a government permit, (iii) erosion and sediment control pursuant to an erosion and sediment control plan, or (iv) as required in the construction of permitted buildings, structures, roads, and utilities. Best Management Practices, in accordance with the Virginia Erosion and Sediment Control Law, shall be used to control erosion and protect water quality in such construction. Grading, blasting or earth removal in excess of one acre for the purposes set forth in subparagraphs (i) through (iv) above require 30 days' prior notice to Grantee. Generally accepted agricultural activities shall not constitute a material alteration. Surface mining, subsurface mining, dredging on or from the Property, or drilling for oil or gas on the Property is prohibited.
7. **ACCUMULATION OF TRASH.** Accumulation or dumping of trash, refuse, junk or toxic materials is not permitted on the Property. This restriction shall not prevent generally accepted agricultural or wildlife management practices, such as creation of brush piles, composting, or the storage of farm machinery, organic matter, agricultural products or agricultural byproducts on the Property.
8. **SIGNS.** Display of billboards, signs, or other advertisements is not permitted on or over the Property except to: (i) state the name and/or address of the owners of the Property, (ii) advertise the sale or lease of the Property, (iii) advertise the sale of goods or services produced incidentally to a permitted use of the Property, (iv) provide notice necessary for the protection of the Property, (v) give directions to visitors, or (vi) recognize historic status or participation in a conservation program. Temporary political signs are allowed. No signs visible from outside the Property shall exceed fifteen square feet in size.

SECTION III – ENFORCEMENT

1. **RIGHT OF INSPECTION.** Representatives of Grantee may enter the Property from time to time for purposes of inspection (including photographic documentation of the condition of the Property) and enforcement of the terms of this Easement after permission from or reasonable notice to Grantor or Grantor's representative, provided, however, that in the event of an emergency, entrance may be made to prevent, terminate or mitigate a potential violation of these restrictions with notice to Grantor or Grantor's representative being given at the earliest practicable time.
3. **ENFORCEMENT.** Grantee has the right to bring an action at law or in equity to enforce the Restrictions contained herein. This right specifically includes the

right (i) to require restoration of the Property to its condition prior to the violation, provided that such prior condition was in compliance with the Restrictions and consistent with the purpose of this Easement; (ii) to recover any damages arising from non-compliance; and (iii) to enjoin non-compliance by *ex parte* temporary or permanent injunction. If the court determines that Grantor failed to comply with this Easement, Grantor shall reimburse Grantee for any reasonable costs of enforcement, including costs of restoration, court costs and attorney's fees, in addition to any other payments ordered by the court. Grantee's delay shall not waive or forfeit its right to take such action as may be necessary to ensure compliance with this Easement, and Grantor hereby waives any defenses of waiver, estoppel or laches with respect to any failure to act by Grantee. Notwithstanding any other provision of this Easement, Grantor shall not be responsible or liable for any damage to the Property or change in the condition of the Property (i) caused by fire, flood, storm, Act of God, governmental act or other cause outside of Grantor's control or (ii) resulting from prudent action taken by Grantor to avoid, abate, prevent or mitigate such damage to or changes in the condition of the Property from such causes.

SECTION IV – DOCUMENTATION

Documentation retained in the office of Grantee including, but not limited to, the Baseline Documentation Report ("Documentation Report"), describes the condition and character of the Property at the time of the gift. The Documentation Report may be used to determine compliance with and enforcement of the terms of this Easement; however, the parties are not precluded from using other relevant evidence or information to assist in that determination. Grantor has made available to Grantee, prior to donating this Easement, documentation sufficient to establish the condition of the Property at the time of the gift. The parties hereby acknowledge that the Documentation Report contained in the files of Grantee is an accurate representation of the Property.

SECTION V – GENERAL PROVISIONS

- 1. DURATION.** This Easement shall be perpetual. It is an easement in gross that runs with the land as an incorporeal interest in the Property. The covenants, terms, conditions and restrictions contained in this Easement are binding upon, and inure to the benefit of, the parties hereto and their successors and assigns, and shall continue as a servitude running in perpetuity with the Property. **Provided, however, that if the property becomes abandoned and/or ceases to be used for the purposes for which the Easement was created, the Easement shall also be considered abandoned, will be extinguished at that time and will no longer run with the land.** Grantor's rights and obligations under this Easement terminate upon proper transfer of Grantor's interest in the Property, except that liability for acts or omissions occurring prior to transfer shall survive transfer.

2. **TITLE.** Grantor covenants and warrants that Grantor has good title to the Property, that Grantor has all right and authority to grant and convey this Easement and that the Property is free and clear of all encumbrances (other than restrictions, covenants, conditions, and utility and access easements of record) including, but not limited to, any mortgages not subordinated to this Easement.
3. **ACCEPTANCE.** Acceptance of this conveyance by Grantee is authorized by Virginia Code Section 10.1-1701 and is evidenced by the signature of the City Manager, L. Kimball Payne, III, by authority granted by City Council pursuant to its Resolution approved and signed on _____.
4. **INTERACTION WITH OTHER LAWS.** This Easement does not permit any use of the Property that is otherwise prohibited by federal, state, or local law or regulation. Grantors will not perform, nor knowingly allow others to perform, any act on or affecting the Property that is inconsistent with the purposes of this Conservation Easement or is contrary to the Lynchburg City Zoning Ordinance then in effect. Grantors understand that nothing in this Conservation Easement relieves them of any obligation or restriction on the use of the Property imposed by law. Any activity on or use of the Property inconsistent with the purposes of this Conservation Easement is prohibited. Neither the Property, nor any portion of it, has been or shall be dedicated as open space within, or as part of, a residential subdivision or any other type of residential or commercial development; dedicated as open space in, or as part of, any real estate development plan; or dedicated for the purpose of fulfilling density requirements to obtain approvals for zoning, subdivision, site plan, or building permits. No development rights that have been encumbered or extinguished by this Easement shall be transferred to any other property pursuant to a transferable development rights scheme, cluster development arrangement or otherwise.
5. **CONSTRUCTION.** Any general rule of construction to the contrary notwithstanding, this Easement shall be liberally construed in favor of the grant to effect the purposes of the Easement and the policy and purposes of Grantee. If any provision of this Easement is found to be ambiguous, an interpretation consistent with the purpose of this Easement that would render the provision valid shall be favored over any interpretation that would render it invalid. Notwithstanding the foregoing, lawful acts or uses consistent with the purpose of and not expressly prohibited by this Easement are permitted on the Property. Grantor and Grantee intend that the grant of this Easement qualify as a “qualified conservation contribution” as that term is defined in Section 170(h)(1) of the Internal Revenue Code and Treasury Regulations §1.170A-14, and the restrictions and other provisions of this instrument shall be construed and applied in a manner that will not prevent this Easement from being a qualified conservation contribution.
6. **REFERENCE TO EASEMENT IN SUBSEQUENT DEEDS.** This Easement shall be referenced by deed book and page number, instrument number or other

appropriate reference in any deed or other instrument conveying any interest in the Property.

7. **NOTICE TO GRANTEE.** For the purpose of giving notices hereunder the current address of Grantor is P.O. Box 12039, Lynchburg, VA 24560, and the current address of Grantee is 900 Church Street, Lynchburg, Virginia 24504.

Grantor agrees to notify Grantee in writing (i) before exercising any reserved right that Grantor believes may have an adverse effect on the conservation or open-space values or interests associated with the Property; and (ii) at or prior to closing on any *inter vivos* transfer, other than a deed of trust or mortgage, of all or any part of the Property.

8. **TAX MATTERS.** The parties hereto agree and understand that any value of this Easement claimed for tax purposes as a charitable gift must be fully and accurately substantiated by an appraisal from a qualified appraiser as defined in IRS regulations (see Section 1.170A-13(c)(5)), and that the appraisal is subject to review and audit by all appropriate tax authorities. Grantee makes no express or implied warranties that any tax benefits will be available to Grantor from donation of this Easement, or that any such tax benefits might be transferable, or that there will be any market for any tax benefits that might be transferable. By its execution hereof, Grantee acknowledges and confirms receipt of the Easement and further acknowledges that Grantee has not provided any goods or services to Grantor in consideration of the grant of the Easement.
9. **MERGER.** Grantor and Grantee agree that in the event that Grantee acquires a fee interest in the Property, this Easement shall merge into the fee interest.
10. **ASSIGNMENT BY GRANTEE.** Grantee may not transfer or convey this Easement unless Grantee conditions such transfer or conveyance on the requirement that (i) all restrictions and conservation purposes set forth in this Easement are to be continued in perpetuity and (ii) the transferee then qualifies as an eligible donee as defined in Section 170(h)(3) of the IRC as amended and the applicable Treasury Regulations.
11. **GRANTEE'S PROPERTY RIGHT.** Grantor agrees that the donation of this Easement gives rise to a property right, immediately vested in Grantee, with a fair market value that is equal to the proportionate value that the perpetual conservation restriction at the time of the gift bears to the value of the Property as a whole at that time.
12. **CONVERSION OR DIVERSION.** Grantor and Grantee intend that this Easement be perpetual and acknowledge that no part of the Property may be converted or diverted from its open-space use except in compliance with the provisions of Section 10.1-1704 of the Open-Space Land Act which does not permit loss of open space unless in accordance with the provisions thereof.

~~Provided, however, that if the property becomes abandoned and/or ceases to be used for the purposes for which the Easement was created, the Easement shall also be considered abandoned, will be extinguished at that time and will no longer run with the land.~~

13. **AMENDMENT.** Grantee and Grantor may amend this Easement to enhance the Property's conservation values or add to the restricted property, provided that no amendment shall (i) affect this Easement's perpetual duration, (ii) conflict with or be contrary to or inconsistent with the conservation purpose of this Easement, (iii) reduce the protection of the conservation values, (iv) affect the qualification of this Easement as a "qualified conservation contribution" or "interest in land" or (v) affect the status of Grantee as a "qualified organization" or "eligible donee". No amendment shall be effective unless documented in a notarized writing executed by Grantee and Grantor and recorded among the land records of the City of Lynchburg, Virginia.
14. **SEVERABILITY.** If any provision of this Easement or its application to any person or circumstance is determined by a court of competent jurisdiction to be invalid, the remaining provisions of this Easement shall not be affected thereby.
15. **ENTIRE AGREEMENT.** This instrument sets forth the entire agreement of the parties with respect to this Easement and supersedes all prior discussions, negotiations, understandings, or agreements relating to the easement.
16. **CONTROLLING LAW.** The interpretation and performance of this Easement shall be governed by the laws of the Commonwealth of Virginia, resolving any ambiguities or questions of the validity of specific provisions in order to give maximum effect to its conservation purpose.
17. **RECORDING.** This Easement shall be recorded in the land records in the Circuit Court Clerk's Office of the City of Lynchburg, Virginia, and Grantee may re-record it any time as may be required to preserve its rights under this Easement.
18. **COUNTERPARTS.** This Easement may be executed in one or more counterpart copies, each of which, when executed and delivered shall be an original, but all of which shall constitute one and the same Easement. Execution of this Easement at different times and in different places by the parties hereto shall not affect the validity of the Easement.
19. **SUBORDINATION.** The Economic Development Authority of the city of Lynchburg, herein the EDA, is the Noteholder under a certain Deed of Trust and Supplemental Deed of Trust dated August 27, 2009 and August 26th, 2010 and recorded in the Clerk's Office of the Circuit Court of the City of Lynchburg, Virginia as Instrument No. 090006705; and _____, which subjects the Property to the EDA's lien. The

EDA hereby consents to the terms and intent of this Easement, and agrees that the lien represented by said Deed and Supplemental Deed of Trust shall be held subject to this Easement and joins in this Deed to reflect its direction to the Trustee to execute this Easement to give effect to the subordination of such Deeds of Trust to this Easement.

WITNESS the following signatures and seals:

[Counterpart signature pages to follow]



LYNCHBURG CITY COUNCIL

Agenda Item Summary

MEETING DATE: **December 14, 2010**

AGENDA ITEM NO.: 11

CONSENT:

REGULAR: **X**

CLOSED SESSION:

(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: **Resolution, Conservation Easement, Lynchburg Grows**

RECOMMENDATION: Adopt a resolution to authorize the City Manager to execute a conservation easement for 6.836 acres of property owned by Lynchburg Grows, parcel number 02807004.

SUMMARY: In September 2008, City Council, at the request of Lynchburg Grows, adopted a resolution agreeing to support placing a conservation easement on the property owned by Lynchburg Grows and for the city to serve as the holder of the easement.

Lynchburg Grows operates an urban farm on approximately 6.8 acres of property, located adjacent to City Stadium and the former Allen Morrison property, consisting of nine glass greenhouses totaling over 70,000 sq. ft. of growing space. The mission of Lynchburg Grows is to assist alternatively challenged persons enjoy the healthy benefits of gardening, implement workforce development programs, while providing a valuable and diversified food source for the community.

The City works in partnership with Lynchburg Grows, Inc. to provide environmental and recreation programs and has a mutual interest in development of the urban farm, remediation of the Allen Morrison property and development of City Stadium Park. Conserving the Lynchburg Grows' property as open space is beneficial to the City and supports efforts to plan for future improvements to City Stadium and development of the Allen Morrison property into a City park.

Attached is the draft Deed of Conservation Easement. Staff is requesting that Council authorize the City Manager to execute the deed once certain technical issues are resolved. The most significant issue is to ensure that the City would have no ongoing obligation to operate the greenhouses or the urban farm should the property ever be abandoned by Lynchburg Grows. The language that has been struck through in the attached draft easement is problematic as it would prevent the receipt of tax credits for the easement. Alternate language to accomplish the same purpose is under review.

PRIOR ACTION(S): September 23, 2008, City Council Regular Meeting

FISCAL IMPACT: None

CONTACT(S):

Kay Frazier, 455-5868

Susan Hartman, 455-3977

ATTACHMENT(S):

Resolution

Draft Conservation Easement

Map

REVIEWED BY: lkp

RESOLUTION

BE IT RESOLVED that the Lynchburg City Council approves and hereby authorizes the City Manager to continue to negotiate and execute a Deed of Conservation Easement between the City of Lynchburg and Lynchburg Grows, a nonprofit and owner of approximately 6.8 acres of property, parcel number 02807004.

Adopted:

Certified:

Interim Clerk of Council

167L

LYNCHBURG CITY COUNCIL

Agenda Item Summary

MEETING DATE: **December 14, 2010**

AGENDA ITEM NO.: 12

CONSENT: REGULAR: **X** WORK SESSION:

CLOSED SESSION:
(Confidential)

ACTION: **X** INFORMATION:

ITEM TITLE: **Fifth Street Roundabout Enhancements**

RECOMMENDATION: Endorsement of fund raising by the Fifth Street Community Development Corporation

SUMMARY: The Fifth Street Community Development Corporation (CDC) conducted a charrette in July 2009. The purpose of the charrette was to understand citizen preferences for features that could be installed in the center of the roundabout located at Fifth and Federal Streets. The results of the charrette indicated that features located in the center of the roundabout should be representative of the entire City. Charrette participants also indicated a desire to recognize the history of Fifth Street.

Since the charrette the Fifth Street CDC has worked with Crowther Landscape Architecture, LTD to develop a concept plan that was supportive of input received during the charrette. The resulting plan recalls two (2) of the City's dominant landscape features: the Seven Hills represented by seven (7) river birch trees and the James River. The birch, in addition to representing the Seven Hills, also represents a significant tree species found along the banks of the James River. The James River itself is the second feature proposed in the roundabout represented in a curvilinear arrangement of river jacks flowing over the bermed island. A separate phase of improvements would include four (4) outdoor history tables, one (1) in each plaza area surrounding the roundabout with information related to the history of Fifth Street.

The cost of landscaping features in the center of the roundabout is estimated at \$10,000. The Fifth Street CDC will be raising the funds necessary to install the improvements. Costs for purchase and installation of the history tables have not been determined.

PRIOR ACTION(S):

June 28, 2010: The City Council approved \$100,000 in Community Development Block Grant funds for Phase II, Fifth Street.

May 25, 2010: The City Council adopted the FY 2011 Capital Improvement Program which included \$392,987 (to be funded by Community Development Block Grant Funds) for Phase II, Fifth Street Improvements.

June 9, 2009: The City Council approved \$54,800 in American Recovery and Reinvestment Act funds for Fifth Street streetscape improvements.

June 24, 2008: The City Council approved \$70,000 in Community Development Block Grant funds for Fifth Street streetscape improvements.

May 27, 2008: The City Council adopted the FY 2009 Capital Improvement Program which included \$500,000 for Phase I, Fifth Street Improvements.

December 11, 2007: The City Council adopted the Fifth Street Revitalization Corridor Overlay District.

May 8, 2007: The City Council adopted the FY 2008 Capital Improvement Program which included \$250,000 for Phase I, Fifth Street Improvements.

April 24, 2007: The City Council approved \$50,000 in Community Development Block Grant funds for Fifth Street streetscape improvements.

April 11, 2006: The City Council approved \$49,000 in Community Development Block Grant funds for Fifth Street streetscape improvements.

May 23, 2006: The City Council adopted the *Fifth Street Corridor Master Plan* as part of the City's *Comprehensive Plan 2002-2020*.

FISCAL IMPACT: Ongoing maintenance of landscaping and electricity costs

CONTACT(S): Eddie Claiborne, President Fifth Street CDC – 660-7339; Tom Martin, City Planner - 455-3909; Kent White, Director of Community Development - 455-3900

ATTACHMENT(S):

- North Elevation of Roundabout
- South Elevation of Roundabout
- Plan View of Roundabout
- Proposed resolution of support

REVIEWED BY: lkp

RESOLUTION:

A RESOLUTION ENDORSING THE FUND RAISING EFFORTS OF THE FIFTH STREET COMMUNITY DEVELOPMENT CORPORATION FOR LANDSCAPING IMPROVEMENTS IN THE CENTER OF THE ROUNDABOUT AND FUTURE PLANS TO INSTALL HISTORY TABLES IN THE PLAZA AREAS SURROUNDING THE ROUNDABOUT LOCATED AT FIFTH AND FEDERAL STREETS

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF LYNCHBURG that the City Council endorses the efforts of the Fifth Street Community Development Corporation to raise funds to install landscaping improvements within the center of the Roundabout and future plans to install history tables in the plaza areas surrounding the roundabout located at Fifth and Federal Streets be, and the same is hereby approved.

Adopted:

Certified:

Interim Clerk of Council

160L

FIFTH STREET ROUNDABOUT

VIEW LOOKING SOUTH

1"=10'-0"



CROWTHER LANDSCAPE ARCHITECTURE, LTD

900 FIFTH STREET, LYNCHBURG VA 24504.

6 OCTOBER 2010

FIFTH STREET ROUNDABOUT

VIEW LOOKING NORTH

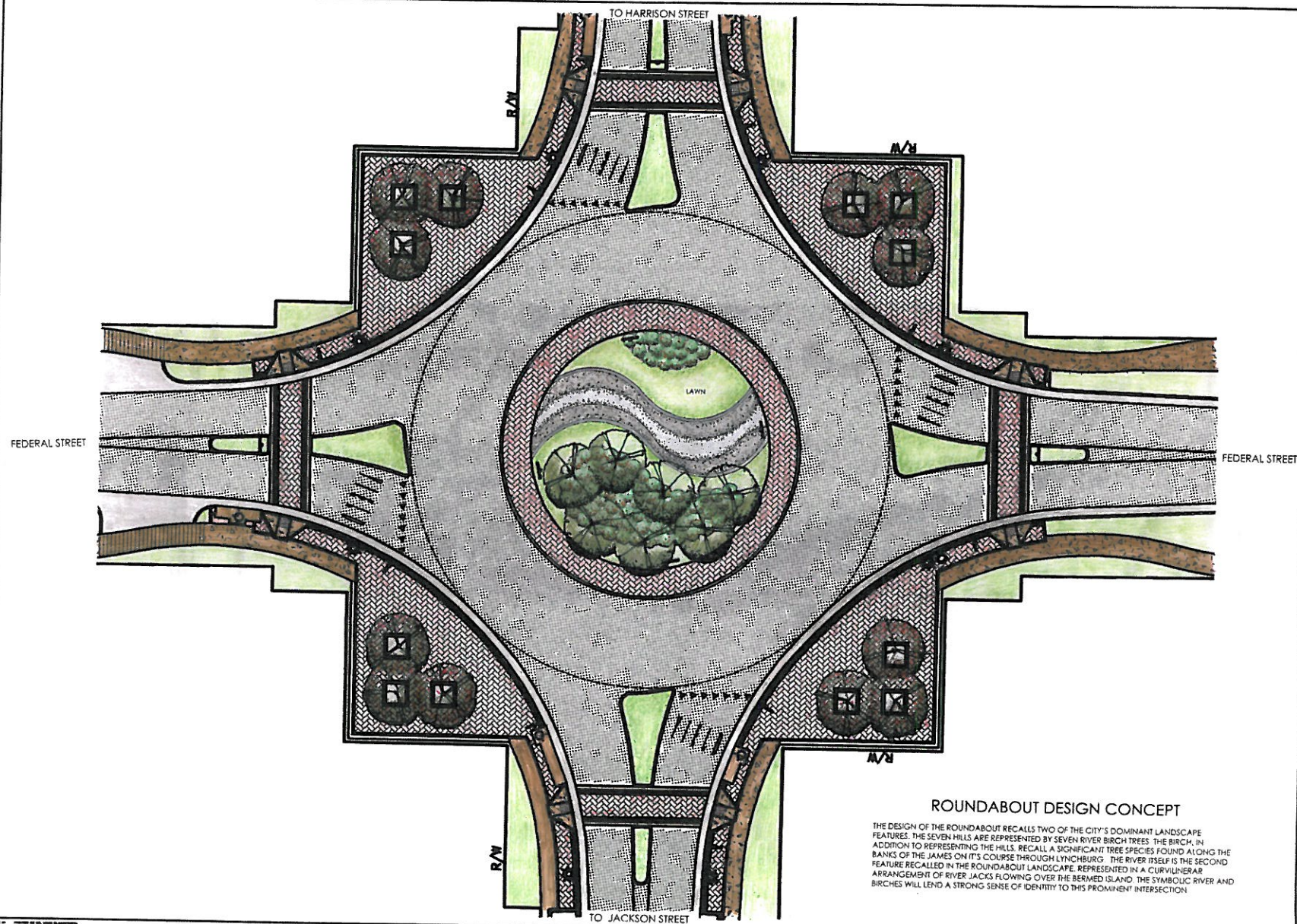
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CROWTHER LANDSCAPE ARCHITECTURE, LTD

900 FIFTH STREET, LYNCHBURG VA 24504.

6 OCTOBER 2010



FIFTH STREET ROUNDABOUT
FIFTH AND FEDERAL STREETS, LYNCHBURG, VIRGINIA

REVISIONS	BY



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ROUNDAABOUT DESIGN CONCEPT

LYNCHBURG CITY COUNCIL

Agenda Item Summary

MEETING DATE: **December 14, 2010**

AGENDA ITEM NO.: 13

CONSENT:

REGULAR: **X**

WORK SESSION:

CLOSED SESSION:

(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: **Ordinance to Amend City Code Section 36-151 to Clarify Enterprise Zone Local Incentives**

RECOMMENDATION: Approve changes to City Code Section 36-151 to clarify the intent of Enterprise Zone local incentives regarding Machinery & Tools Tax abatement.

SUMMARY: Lynchburg has two designated Enterprise Zones that exist to provide incentives for businesses to locate or expand, stimulating economic development within the Zone boundaries. The primary incentives are offered through the State, and they include a Real Property Investment Grant and a Job Creation Grant. Local incentives are provided through the program as well, and they are intended to complement State incentives and/or stimulate targeted investment. Considering Lynchburg's base of advanced manufacturing, a local incentive of Machinery and Tools Tax abatement is offered to incentivize investment in machinery and tools. However, the current wording of this incentive in City Code does not achieve the objective of stimulating new machinery and tools investment due to a lack of clarity.

Therefore, the Office of Economic Development proposes to amend Code Section 36-151 to address this lack of clarity and focus this local incentive on its intent to stimulate machinery and tools investment. This would be achieved by the addition of clarifying language to denote the incentive is available for the value of all net new machinery and tools. The specific changes are outlined in the attached ordinance. Beyond clarifying the intent of this local incentive, this change also aligns local Enterprise Zone incentives with other City investment incentives such as the Real Estate Rehabilitation and Renovation Tax Credit.

PRIOR ACTION(S): None

FISCAL IMPACT: The number of firms qualifying for 2010 Enterprise Zone incentives is not known at this time. However, this clarification may ultimately have a net-positive impact on Machinery & Tools Tax receipts, while ensuring that future machinery and tools investments are stimulated through the Enterprise Zone program.

CONTACT(S): Marjette Upshur, 434-455-4490

ATTACHMENT(S): An ordinance to amend and reenact section 36-151 of the Code of the City of Lynchburg.

REVIEWED BY: lkp

ORDINANCE

AN ORDINANCE TO AMEND AND REENACT SECTION 36-151 OF THE CODE OF THE CITY OF LYNCHBURG, 1981, THE AMENDED SECTION RELATING TO THE MACHINERY AND TOOLS TAX INCENTIVE FOR BUSINESSES LOCATED IN THE CITY'S ENTERPRISE ZONES.

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

1. That Section 36-151 of the Code of the City of Lynchburg, 1981, be and the same is hereby amended and reenacted as follows:

Sec. 36-151. Same—Machinery used in certain manufacturing and mining businesses.

~~Provided, however, that on and after July 1, 1984, for the fiscal year beginning July 1, 1984, and ending June 30, 1985, and for each fiscal year thereafter until the year ending June 30, 1995, any business firm which may be designated as a "qualified business firm" pursuant to the provisions of Chapter 22, Title 59.1 of the Code of Virginia, 1950, as amended, the Urban Enterprise Zone Act, shall receive the following tax credits: For the first two tax years for which the firm is assessed this tax, there shall be a one hundred per cent (100%) tax credit; for the third year a seventy five per cent (75%) tax credit; for the fourth year a fifty per cent (50%) tax credit, and for the fifth year a twenty five per cent (25%) tax credit. Thereafter, the tax shall be at the rate provided for in this section.~~ Any business firm which may be designated as a "qualified business firm" on or after July 1, 1995 pursuant to the provisions of Chapter 22, Title 59.1 of the Code of Virginia, 1950, as amended, (the Urban Enterprise Zone Act), shall be entitled to the following tax credits for the value of net new machinery and tools investment: For the first three (3) tax years for which the firm is assessed this tax, there shall be a one hundred per cent (100%) tax credit, and for the fourth and fifth years a fifty per cent (50%) tax credit. Thereafter the tax shall be at the rate provided for in this section.

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

Adopted:

Certified:

Interim Clerk of Council

LYNCHBURG CITY COUNCIL
Agenda Item Summary

MEETING DATE: **December 14, 2010**

AGENDA ITEM NO.: 14

CONSENT:

REGULAR: **X**

CLOSED SESSION:
(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: **Recovering the costs for removing property that was placed in the City's rights-of-way**

RECOMMENDATION: Adopt an ordinance allowing the City to recover the costs and expenses it incurs when landlords fail to fulfill their responsibility to remove their tenants' property that is placed in the public right of way as part of an eviction proceeding.

SUMMARY: The State Code provides that when landlords evict tenants from commercial or residential properties the tenants' personal property shall be placed in the public right of way. The State Code further provides that a tenant has a 24-hour period to remove his personal property from the public right of way. If the tenant fails to remove his personal property from the public right of way within 24 hours the State Code requires the landlord to remove or dispose of any of the tenant's personal property remaining in the public right of way. The Public Works Department advises that in spite of the requirements in the State Code many landlords fail to remove their tenants' remaining personal property from the public right of way. If the landlord fails to remove the tenant's personal property from the public right of way the Public Works Department is forced to do so in order to eliminate a potential nuisance. Each year the Public Works Department incurs expenses for removing tenants' personal property from the public rights of way when landlords fail to do so. It is recommended that City Council adopt an ordinance allowing the City to bill landlords for the costs and expenses incurred by the City in removing tenants' property from the public rights of way. The proposed ordinance does not impose any additional responsibilities on landlords. The State Code already obligates landlords to remove their tenants' personal property from the public rights of way if the tenants fail to do so. The proposed ordinance will simply allow the City to recover the costs and expenses it incurs when landlords fail to fulfill the responsibilities imposed upon them by the State Code.

PRIOR ACTION(S): None

FISCAL IMPACT: Will allow the City to recover the expenses that the City is currently incurring in removing tenants' property from the public rights of way. The exact amount of such expense is unknown.

CONTACT(S): Walter C. Erwin, 455-3973 or David Owen 455-4469

ATTACHMENT(S): An ordinance to amend the City Code by adding Section 21.2-52

REVIEWED BY: lkp

ORDINANCE

AN ORDINANCE TO AMEND AND REENACT THE CODE OF THE CITY OF LYNCHBURG, 1981, BY ADDING THERETO A NEW SECTION NUMBERED 21.2-52, RELATING TO THE DISPOSAL OF PERSONAL PROPERTY THAT HAS BEEN PLACED IN THE PUBLIC RIGHT OF WAY AS PART OF A TENANT'S EVICTION.

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 Section 21.2-52 as follows:

Sec. 21.2-52. Removal of personal property from right-of-way.

When personal property is removed from any leased or rented commercial or residential premises pursuant to an action of unlawful detainer or ejectment, or pursuant to any other action in which personal property is removed from the premises in order to restore such premises to the person entitled thereto, and the personal property is placed in the public right of way the tenant shall have the right to remove his personal property from the public right of way during the 24-hour period after eviction. Upon the expiration of the 24-hour period after eviction, the landlord of the leased or rented commercial or residential premises shall remove, or dispose of, any such personal property remaining in the public right of way. If the landlord fails to remove the remaining personal property from the public right of way within a 48-hour period, the city shall remove the personal property and the costs or expenses incurred by the city in removing the personal property shall be chargeable to and paid by the landlord. The charges authorized by this section which are charged to the landlord and which remain unpaid shall constitute a lien against the property from which the personal property was removed, ranking on a parity with liens for unpaid taxes and may be collected by the city in the same manner in which delinquent taxes are collected.

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

Adopted:

Certified:

Interim Clerk of Council

LYNCHBURG CITY COUNCIL

Agenda Item Summary

MEETING DATE: **December 14, 2010**

AGENDA ITEM NO.: 15

CONSENT: REGULAR: **X**

WORK SESSION:

CLOSED SESSION:
(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: **City Council Support of Deputy City Manager for President-Elect of the International City/County Management Association**

RECOMMENDATION: Adopt a resolution supporting Bonnie Svrcek, Deputy City Manager for the position of President-Elect of the International City/County Management Association (ICMA).

SUMMARY: Each year, ICMA invites members that have previously served as an ICMA Vice President to be considered for election as President-Elect. This year, the City's Deputy City Manager is one of 47 members eligible to serve as ICMA President-elect beginning in September 2011. Serving as President-Elect begins a three-year term. If successful, she will take office as President at the ICMA Annual Conference in Phoenix, Arizona in October, 2012 and will complete the term as Immediate Past President in Boston, Massachusetts in September 2013.

Ms. Svrcek is committed to the profession of local government management and desires to give back to a profession that has provided her with opportunities and experiences that make communities better places to live, work, play, and visit. She is a leader that believes in continuous improvement. Ms. Svrcek is an advocate for strong financial management, diversity, accountability, sustainability, and ethics. She strongly believes that professional local government managers have a responsibility to seek out and develop the "next generation" of local government professionals.

As a former ICMA Vice President for three years (2006-2007 through 2008-2009), Ms. Svrcek balanced her Deputy City Manager responsibilities with her ICMA-related responsibilities. She is a consummate professional who will do whatever it takes to balance her dual roles should she be successful in the election to President-Elect in June 2011. In addition, she has the complete support of the City Manager in this endeavor.

If elected, Ms. Svrcek would serve as only the second female President of ICMA and the first female non-manager/administrator.

The deadline for receipt of expressions of interest and letters of support are due to ICMA no later than January 21, 2011.

PRIOR ACTION(S): None

FISCAL IMPACT: None

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

ATTACHMENT(S): Resolution Supporting the Deputy City Manager for the Position of President-Elect of the International City/County Management Association (ICMA)

Attachment A: Letter from ICMA dated October 25, 2010 and Expectations of Service as ICMA President-Elect

REVIEWED BY: lkp

RESOLUTION

BE IT RESOLVED that the Lynchburg City Council wholeheartedly supports the election of Bonnie Svrcek, Deputy City Manager, City of Lynchburg to the position of President-Elect of the International City/County Management Association (ICMA) for a three-year term beginning in September 2011.

Adopted:

Certified:

Interim Clerk of Council

168L

*Leaders at the Core of Better Communities*

October 25, 2010

Bonnie Svrcek
City of Lynchburg
900 Church St
City Manager's Office
Lynchburg, VA 24504

Dear Bonnie:

You are one of **47** members who are eligible to serve as ICMA President-elect in 2010-2011. The President - elect serves a year as a board member before he or she assumes the responsibility as president. The purpose of this is to give the successful candidate a year to fully prepare for the role and to help shape the strategic initiatives that he or she will lead as president. This means that all potential candidates can be confident that they will have the opportunity to familiarize themselves with the board and current issues, irrespective of when they were last on the board.

The ICMA Executive Board would like to hear from any of you who are interested in being considered for election. The deadline for receipt of expressions of interest and letters of support is Friday, **January 21, 2011**. This communication should include the following:

1. A statement of no more than four pages on why you believe you should be selected as ICMA President-elect and what you think are the most important issues facing ICMA.
2. An indication that you have the support of the mayor, governing body, or manager, as appropriate, in seeking this honor.
3. A commitment that if you are selected as a finalist, you will come to Lake Tahoe, NV to be interviewed by the board on June 3, 2011, at your own expense.
4. A current resume.
5. Up to twenty letters of support from members as noted in the guidelines on the next page.

Please address communications to me via letter or email as follows: Dave Childs, Assistant County Manager, County of Washoe, PO Box 11130, Reno, NV 89520-0027; email to dchilds@washoecounty.us. We will share the responses with the entire board.

An outline of the current duties and responsibilities of the ICMA President is attached for your information.

If no more than three applicants respond by January 21, the board will interview all three in June. If there are more than three applicants, a pre-selection process will be conducted at the February 24-27, 2011 board meeting. Following the board meeting, candidates will be notified of the board's decision.

In agreeing upon this process the board also established the following communication guidelines for candidate, member and board conduct throughout this time period:

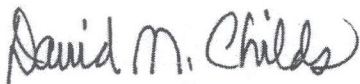
Communication Guidelines for Candidates and Other Members

- Petitions will not be part of this process since there is no provision to qualify independently for nomination.
- Thoughtful letters of support, **no more than twenty**, from ICMA members or groups of members who know the candidate personally, are familiar with the candidate's professional work, and/or have a good understanding of the responsibilities of the ICMA presidency are welcome, but not required. These letters are to be collected by the candidate and submitted in one mailing to me for receipt by the **January 21, 2011** deadline.
- Telephone calls of candidate support to individual board members are discouraged.

Guidelines for Board Members

- Board members will make no public declaration of their preference for a candidate until after the board interviews candidates and final selection is completed in June.
- The board will select the president by secret ballot. A majority (11 members) vote will be required for election.
- Board discussion and voting on selection of the president will remain confidential.

Sincerely,



Dave Childs
ICMA President

EXPECTATIONS OF SERVICE AS ICMA PRESIDENT-ELECT

The board proposed a formal one-year position of President-elect in order to improve the incoming President's ability to become familiar with board issues and with members of the board before serving as President. That will be the President-elect's focus, while also serving as a full voting member of the board. During the year, the President may choose to assign specific responsibilities to the President-elect. This could include representing ICMA when the President has a conflict. In recent years, the President-elect has also attended the March-April Regional Summits along with the President.

Financial commitments for President-elect travel will follow the same guidelines as the President and other board members.

EXPECTATIONS OF SERVICE as icma president

Duties and Responsibilities

Essential:

- Approve board meeting agendas
- Preside at four board meetings and during periodic conference calls
- Preside at annual conference opening session, business meeting, and closing session
- Represent ICMA at a minimum of one state association in each U.S. region and one international meeting presenting a formal presentation to the members. Attend most, if not all, March-April Regional Summits
- Be in regular contact (at least weekly) with the Executive Director as the board's primary contact in overseeing the work of the ICMA staff
- Attend up to four meetings of the ICMA-RC board
- Participate as a member of the ICMA-RC Board's nominating committee and transmit nomination(s) to the ICMA Board for approval

Appoint:

- Members to member committees/task forces and designate chairs
- Board members to board committees and designate chairs
- Three members to serve on the ICMA Nominating Committee

Appoint as needed:

- A member to serve on the board of Public Technology, Inc
- A member to serve on GASAC (Governmental Accounting Standards Advisory Council)
- A member to serve on the board of the Alliance for Innovation
- Members of the Credentialing Advisory Board
-

Desirable:

- Communicate with each board member in the two weeks prior to each board meeting to ensure that individual concerns are incorporated into the board's work
- Communicate with at least a sampling of the members in transition to express condolences and offer support
- Contact one or two state and affiliate presidents each month as a customer service outreach

Financial Commitments

ICMA pays for almost all travel obligations of the ICMA President. The only exceptions are the annual conference and the president's own state/country meeting. It is assumed that board members would be attending those anyway. ICMA does pay the hotel and group meal costs of the two extra days of the pre-conference board meetings. Travel expenses are reimbursed for all assigned travel and for non-conference board meetings.

EXPECTATIONS OF SERVICE ON THE ICMA EXECUTIVE BOARD

Time and Travel Commitments

Board Meetings. The board meets four times a year and board members are expected to attend every meeting. There are meetings the Friday-Saturday before the annual conference and then a Thursday-Saturday schedule in:

- early-November or early-December
- early-February to early-March
- early-mid June

Board members have the opportunity to comment on dates proposed by the President-elect before they are finalized.

Conference call meetings may also be scheduled during the year.

State and Committee/Affiliate Meetings.

Vice Presidents:

- The three vice presidents in each U.S. region share representation responsibilities for state associations. Vice presidents typically attend two or three state meetings, in addition to their own, and attend the Regional Summit in their region in March or April. International vice presidents usually attend one affiliate country's meeting other than their own.
- As liaisons to committees, task forces, or affiliates, vice presidents usually attend only those meetings held at the annual conference.

President: attends approximately 10 meetings including some state and affiliate meetings, ICMA-RC board meetings, and one international meeting.

Other Responsibilities

- In 2004 the board adopted recommendations from the Task Force on Financing ICMA which included engaging in a major membership recruitment and retention effort. The goal is for ICMA to retain its current membership, attract managers and assistants who are currently not members, and encourage the next generation of managers to join the Association. When it adopted the recommendations, the board made a personal commitment to recruit new members in their regions. This commitment has been reaffirmed by each subsequent board. Each board member develops a work plan that is updated annually.
- There is considerable reading and member contact in between these meetings. Examples: monthly board mailings/emails, agenda materials for board meetings, regular phone contact and correspondence with members and with ICMA staff.

Financial Commitments

ICMA pays for almost all travel obligations of board members. The only exceptions are the annual conference and the member's own state/country meeting. It is assumed that all board members would be attending those anyway. ICMA does pay the hotel and group meal costs of the two extra days of the pre-conference board meetings. Travel expenses are reimbursed for all assigned state travel and for non-conference board meetings.