

// A regular meeting of the Council of the City of Lynchburg was held on the 11th day of September, 2007, at 7:30 P.M. in the Council Chamber, City Hall, Joan F. Foster, President, presiding. Council Member Gillette gave the Invocation, followed by the Pledge of Allegiance. The following Members were present:

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

Absent: 0

// Copies of the minutes of the August 14 (two meetings), 2007 meetings, having been previously furnished Council, reading was dispensed with, and on motion of Council Member Gillette, seconded by Council Member Garrett, Council by the following recorded vote approved the minutes as presented:

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

Noes: 0

// In the matter of City Council, Resolution #R-07-104 amending the FY 2008 General Fund Budget and appropriating \$4,993 to pay the 2007 National League of Cities (NLC) membership dues, laid over from the August 14, 2007 meeting, was again presented and read. Council Member Seiffert stated that the City has deferred millions of dollars of capital improvement projects due to lack of funding and that he could not support spending \$4,993 for NLC membership since you would only save \$265 on the conference registration by being a NLC member. Council Member Seiffert went on to say that this request should have come through the normal budget process and that he could not support taking the funds from the Reserve for Contingencies. Council Member Seiffert did note that he did not have any problem with Council Member Johnson attending the upcoming NLC conference and suggested that the NLC membership request be discussed during next year's budget process. Mayor Foster stated that she contacted previous Council Members who had attended NLC conferences and was told that NLC membership is of benefit to the City, and that she is particularly supportive of the youth component and would like to be able to have a delegation from the Mayor's Youth Council to attend a future conference. Council Member Johnson stated that he has benefited from attending the NLC conferences and has brought back various materials and literature for distribution to City Council. Council Member Garrett stated that the City is a member of the Virginia Municipal League and most of the Council Members do attend the statewide conference to be apprised of statewide and national issues and that he is not sure that it would be of enough benefit to spend almost \$5,000 to save \$265. Council Member Seiffert made a motion, seconded by Council Member Helgeson, to remove the item from the agenda and have it brought back for discussion during next year's budget process, and Council by the following recorded vote defeated the motion:

Ayes: Garrett, Helgeson, Seiffert 3

Noes: Dodson, Gillette, Johnson, Foster 4

On motion of Vice Mayor Dodson, seconded by Council Member Johnson, Council by the following recorded vote adopted Resolution #R-01-104, amending the FY 2008 General Fund Budget and appropriating \$4,993 to pay the 2007 National League of Cities (NLC) membership dues:

Ayes: Dodson, Gillette, Johnson, Foster 4

Noes: Garrett, Helgeson, Seiffert 3

// In the matter of Police - General, Resolution #R-07-105 amending the FY2008 City Federal/State Aid Fund budget and appropriating \$25,000, fully reimbursable, for the purpose of the enhancement and promotion of traffic safety, laid over from the August 14, 2007 meeting, was again presented and read, and on motion of Council Member Gillette, seconded by Council Member Garrett, Council by the following recorded vote adopted the Resolution:

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

Noes: 0

// In the matter of Habitat for Humanity, Resolution #R-07-112 approving the sale of .0621 acre of City-owned property consisting of the rear portion of two lots at 1307 (Tax Map No. 009-24-012) and 1309 (Tax Map No. 009-24-021) Fifth Street to Rose Carter for \$1,000, and approving a request by the Greater Lynchburg Habitat for Humanity for the City to donate approximately .0446 acre of City-owned property consisting of the rear residue of two lots at 1307 and 1309 Fifth Street to be used for the construction of a Habitat home, laid over from the August 14, 2007 meeting, was again presented and read, and on motion of Council Member Gillette, seconded by Council Member Garrett, Council by the following recorded vote adopted the Resolution:

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

Noes: 0

// In the matter of Budget, Resolution #R-07-114 amending the FY 2008 Budget and appropriating funds to reflect the carry forward of FY 2007 appropriations that were unexpended as of June 30, 2007 in the General, Technology, Museum, City Capital Projects, City Federal State Aid, Fleet, Community Development Block Grant, Home Investment Partnership, Asset Forfeiture, Sewer, Solid Waste, Solid Waste Capital Projects and School Capital Projects Funds and amend the FY2007 Budget and appropriating funds in the General Comprehensive Services Act, Solid Waste Management Operating and Capital Funds, laid over from the August 14, 2007 meeting, was again presented and read, and on motion of Council Member Gillette, seconded by Council Member Garrett, Council by the following recorded vote adopted the Resolution:

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

Noes: 0

// In the matter of Public Works - General, Resolution #R-07-118 amending the FY2008 - FY2012 Capital Improvement Program and appropriating \$175,300 from the City Capital Projects Fund as supplemental funding for the replacement of the exterior stairway and stairway structure of the Mid-town Parking Deck at 9th and Commerce Streets, laid over from the August 14, 2007 meeting, was again presented and read, and on motion of Council Member Gillette, seconded by Council Member Garrett, Council by the following recorded vote adopted the Resolution:

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

Noes: 0

// In the matter of Community Planning – Historic District, a public hearing was held regarding City Council Report #7 regarding the appeal by Marty Donovan to a decision by the Historic Preservation Commission (HPC) regarding the denial of a Certificate of Appropriateness (COA) for installation of a black metal fence directly in front of his home at 2021 Rivermont Avenue. HPC Chair Hal Devening along with HPC Secretary Annette Chenault provided an overview regarding the decision by the HPC to deny a COA for the fence in front of 2021 Rivermont Avenue. Mr. Devening stated that the location of the fence is not in compliance with the Residential Historic Districts Guidelines and is not compatible with other fences along Rivermont Avenue. Mr. Marty Donovan provided an overview regarding all of the work that has been done on the house at 2021 Rivermont Avenue and stated that it was his understanding that the design of the fence had been approved and that a permit was not needed for the location of the fence. Mr. Donovan acknowledged that there was some misunderstanding on both sides regarding the location of the fence, but is asking that the fence remain in its current location to provide security for his elderly mother. Mr. Paul Kablick, Good Neighbor Fence Company, explained that it was also his understanding that the fence location had been approved, but now understands that the location approved by the HPC was on a design submitted by another fence company. In response to questioning, Mr. Donovan stated that he did not know of the design submitted by the other fence company and that he did not hire that company to either design or install the fence. There was no one else present who wished to speak to this item, and the public hearing was closed. Council Member Helgeson stated that since Mr. Donovan has spent a considerable amount of money and time in renovating this property and since the fence is very attractive and will provide security for his elderly mother, that he would not like to see Mr. Donovan have to tear up the fence due to a misunderstanding between him and the HPC regarding the location of the fence. Some Council Members stated that although Mr. Donovan has done a great job on renovating this house, the fence was not approved by the HPC and is not in character with other properties along Rivermont Avenue and therefore should either be removed or moved back to the design approved by HPC. Other Council Members recognized that there was some disconnect between Mr. Donovan and the HPC, but that Mr. Donovan should have known that the design and location of the fence would need to adhere to the historic district guidelines. Council Member Johnson stated that he also lives in a historic district and that he is aware of the guidelines and procedure that he would need to follow if he chose to renovate his home. Following discussion, Council Member Helgeson made a motion to reverse the decision of the HPC and grant the Certificate of Appropriateness to Marty Donovan. The motion died for lack of a second. On motion of Vice Mayor Dodson, seconded by Council Member Garrett, Council by the following recorded vote adopted Resolution #R-07-119, as presented, to uphold the decision of the HPC to deny the Certificate of Appropriateness to Marty Donovan concerning property at 2021 Rivermont Avenue:

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

6

Noes: Helgeson

1

// In the matter of City Council, a public hearing was held regarding City Council Report #8 regarding amending the City Code by adding a new section that would require an affirmative vote of a majority of all

of the members elected or appointed to City Council for all appointments to Boards and Commissions. City Attorney Walter Erwin explained that as a general rule a majority of the members of City Council constitute a quorum for the transaction of business, and a majority of a quorum may adopt ordinances and resolutions. Mr. Erwin went on to say that nothing prohibits a local governing body from placing stricter voting requirements upon itself than those imposed by State law and it is his opinion that City Council can adopt an ordinance providing that appointments to boards and commissions shall require a majority vote of all the members of Council. Five individuals spoke in favor of the change while three individuals stated that they did not see a need to change the current process. There was no one else present who wished to speak to this item, and the public hearing was closed. Council Member Gillette stated that the idea stemmed from the June 26 appointment to the School Board by three members of City Council over the objections of Mayor Foster and Vice Mayor Dodson while both he and Council Member Johnson were absent. Council Member Gillette went on to say that the change should apply to all boards and commissions because the appointments are "extraordinarily important" and irreversible, and that the proposed amendment would not impede the appointment process because it does not change how many council members must be present, only how many votes are needed. Council Member Helgeson stated that the change is not necessary and that the June vote on the School Board appointment was done to comply with State law and that maybe the School Board process did need to be moved back to allow more time for City Council to consider these appointments. Council Member Seiffert stated that had he known prior to the closed meeting on June 26 that members of Council had asked for a delay in the School Board appointment, that he would have honored that request. Some Council Members commented that the proposed change might further encumber the appointment process while other Council Members stated that appointments are important enough to require a majority vote of Council. Following discussion, and on motion of Council Member Gillette, seconded by Council Member Johnson, Council by the following recorded vote adopted Ordinance #O-07-120, as presented, amending the City Code by adding a new section that would require an affirmative vote of a majority of all of the members elected or appointed to City Council for all appointments to Boards and Commissions:

Ayes: Dodson, Gillette, Johnson, Foster

4

Noes: Garrett, Helgeson, Seiffert

3

// In the matter of Community Planning - Zoning, a public hearing was held regarding City Council Report #9 outlining the petition of Tree of Life Pentecostal Holiness Church for a Conditional Use Permit (CUP) at 1101 Greenview Drive to allow the expansion of church parking facilities in a R-1, Low-Density, Single-Family Residential District. City Planner Tom Martin provided a brief summary regarding the petition. Mr. Trent Warner, representing the petitioner, provided an overview of the project and asked that the requirement for the petitioner to install a directional island be removed as a condition of the CUP. Mr. Warner explained that the petitioner feels that a directional island at the eastern entrance is not necessary. There was no one else present who wished to speak to this item, and the public hearing was closed. City Planner Martin suggested a six month observance at the site to determine if a directional

island is needed at the entrance. City Manager Kimball Payne stated that it should not be the petitioner's responsibility to install a roadway safety device and therefore the requirement for a directional island should be removed as a condition of the CUP. Mr. Payne went on to say that if staff determines that there is a safety problem at this entrance, then the City will install bollards until Greenview Drive is widened. In response to questioning, Mr. Warner stated that the petitioner is in agreement to complying with the stormwater management requirements outlined in Condition #3. Council Member Garrett suggested that language be added to that condition to clarify that the stormwater management requirements apply to Church property located in the City and County. Following discussion, City Council requested that Condition #2 be revised to read, "2. The eastern driveway shall be a "right in, right out' entrance only." and that Condition #3 be revised to read, "3. All stormwater management systems for any new impervious cover either in the City or in the County shall be designed and built to address both the quantity and quality of water being discharged from the church property to the standards set forth within the City of Lynchburg's Stormwater Management Ordinance." On motion of Council Member Garrett, seconded by Council Member Seiffert, Council by the following recorded vote adopted Resolution #R-07-121, as revised to include changes to Conditions #2 and #3, granting the Conditional Use Permit:

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

7

Noes:

0

// In the matter of Community Planning – Historic Districts, a public hearing was held regarding City Council Report #10 regarding adopting the updated Lynchburg Residential Design Review Guidelines and Lynchburg Commercial Design Review Guidelines. Historic Preservation Commission (HPC) Chair Hal Devening provided a brief summary regarding the request. HPC Secretary Annette Chenault informed of several minor clerical changes that would be made to the final documents. There was no one else present who wished to speak to this item, and the public hearing was closed. Some Council Members stated that they would like to have more time to review the new guidelines. Following discussion, it was the consensus of City Council to schedule this item for the October 9 Council meeting for action.

// In the matter of Airport - General, a public hearing was held regarding City Council Report #11 regarding authorizing the execution of a right-of-way and easement agreement with Appalachian Power Company granting access across City-owned property at the Lynchburg Regional Airport to install and maintain a power line. City Manager Kimball Payne provided a brief summary regarding the request. There was no one else present who wished to speak to this item, and the public hearing was closed. On motion of Council Member Gillette, seconded by Council Member Helgeson, Council by the following recorded vote adopted Resolution #R-07-122, as presented, authorizing the execution of a right-of-way and easement agreement with Appalachian Power Company granting access across City-owned property at the Lynchburg Regional Airport to install and maintain a power line:

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

7

Noes:

0

// In the matter of Public Works - General, a public hearing was held regarding City Council Report #12 regarding approving a request to the Commonwealth Transportation Board for a limited access control change on Route 501 between the Graves Mill Road Interchange and the Route 221/501 Interchange. Project Manager Tom Wilson provided a brief summary regarding the request. Mr. Frank Cox, a member of the project design team, spoke in support of the request. There was no one else present who wished to speak to this item, and the public hearing was closed. Council Member Helgeson stated that he has concerns regarding a single point urban interchange (SPUI) at this location. In response to questioning, Mr. Wilson stated that this is the first step in a thirteen step approval process. On motion of Council Member Seiffert, seconded by Council Member Johnson, Council by the following recorded vote adopted Resolution #R-07-123, as presented, to request the Commonwealth Transportation Board for a limited access control change on Route 501 between the Graves Mill Road Interchange and the Route 221/501 Interchange:

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

6

Noes: Helgeson

1

// In the matter of Community Planning – Zoning Amendments, City Council Report #13 regarding the petition of McKenna Farms, LLC, to amend the Future Land Use Map from Low Density Residential to Office Use, to rezone approximately 2.95 acres from R-1 Low-Density, Single-Family Residential District to B-1C, Limited Business District (Conditional) and for a Conditional Use Permit at 5040 Boonsboro Road to allow the construction of a 4-building Cluster Commercial Development that includes a mix of residential, office and retail units was considered. City Planner Tom Martin provided a brief update regarding the petition, and stated that the petitioner handed him just prior to the meeting some additional proffers:

1. Eliminate 3rd story so that all buildings are 2 story;
2. Reduce size of back building;
3. Required parking in compliance with Code.
4. 12 units limit – 6 to retail and 6 to office;
5. Proffer that each retail/office condo be only 1,800 sq. ft. per business to ensure small businesses.

In response to Council questioning, City Attorney Walter Erwin stated that if City Council wanted to consider the new proffers that they would need to advertise and conduct a new public hearing to allow citizens an opportunity to comment on the additional proffers. Council Members discussed and decided that they were ready to vote on the petition as presented, and on motion of Council Member Gillette, seconded by Council Member Seiffert, Council by the following recorded vote rejected the additional proffers offered by the petitioner at tonight's meeting:

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

7

Noes:

0

Council Members Helgeson and Johnson stated that this is a good project. Other Council Members stated that they could not support the petition, citing concerns regarding density, that the development is

not in character with the neighborhood, that it would not be the best use of the land, concerns regarding the safety of the James River Day School students crossing the road to the shop, and the need to protect the residential character of the neighborhood. On motion of Council Member Gillette, seconded by Council Member Garrett, Council by the following recorded vote rejected the petition of McKenna Farms, LLC, to construct a 4-building Cluster Commercial Development at 5040 Boonsboro Road:

Ayes: Dodson, Garrett, Gillette, Seiffert, Foster 5

Noes: Helgeson, Johnson 2

// In the matter of Commonwealth Attorney, City Council Report #14 was considered. On motion of Council Member Helgeson, seconded by Council Member Garrett, Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-07-124, as presented, amending the FY2008 General Fund budget and appropriating \$2,560, fully reimbursable from the remaining funds from the Lynchburg Exile Foundation, to the Commonwealth's Attorney office for training and mileage:

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

Noes: 0

// In the matter of Public Works - General, City Council Report #15 was considered. On motion of Council Member Seiffert, seconded by Vice Mayor Dodson, Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-07-125, as presented, amending the FY 2008 Solid Waste Management Fund budget and appropriating \$3,713 to reflect the carry forward of unexpended funds for the Department of Environmental Quality Litter Control and Recycling Grant:

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

Noes: 0

// In the matter of Industrial Development Authority, City Council Report #16 was considered. On motion of Council Member Seiffert, seconded by Vice Mayor Dodson, Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-07-126, as presented, amending the FY 2008 General Fund budget and appropriating \$20,000 from the Industrial Development Authority (IDA) to assist with the City's branding initiative:

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

Noes: 0

// In the matter of Parks and Recreation - General, City Council Report #17 was considered. On motion of Council Member Seiffert, seconded by Council Member Garrett, Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-07-127, as presented, amending the FY 2008 Capital Project Fund budget and appropriating \$260,000, fully reimbursable, for improvements to Riverside Park:

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

Noes: 0

// On motion of Council Member Seiffert, seconded by Council Member Johnson, Council by the following recorded vote elected to hold a closed meeting to consider appointments to Council-appointed Boards and

Commissions, to conduct the performance evaluation of the City Manager, and for consultation with legal counsel and briefings by staff regarding probable litigation because consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the City pursuant to Section 2.2-3711(A)(1) and (7), respectively, of the Code of Virginia, 1950, as amended:

Ayes: Dodson, Garrett, Gillette, Helgeson, Johnson, Seiffert, 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 Seiffert, and Council by the following recorded vote adopted the motion:

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

Noes: 0

// In the matter of Appointments, and on nomination of Council Member Seiffert, Council by the following recorded vote re-appointed Thomas M. McGrath to serve on the Social Services Advisory Board for a term to expire September 30, 2011:

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

Noes: 0

On nomination of Council Member Seiffert, Council by the following recorded vote appointed Christina L. Harrison and Nancy S. Coursey to serve on the Social Services Advisory Board for terms to expire September 30, 2011:

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

Noes: 0

On nomination of Council Member Seiffert, Council by the following recorded vote appointed Troy W. Deacon to serve on the City Employees Appeal Board for a term to expire June 30, 2010:

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

Noes: 0

On nomination of Council Member Seiffert, Council by the following recorded vote appointed Deon Seltzer to fill an unexpired term on the City Employees Appeal Board ending June 30, 2009:

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

Noes: 0

On nomination of Council Member Seiffert, Council by the following recorded vote appointed Evette L. Stamps to fill an unexpired term on the Dr. Martin Luther King, Jr./Lynchburg Community Council ending June 30, 2009:

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

Noes: 0

On nomination of Council Member Seiffert, Council by the following recorded vote appointed John M. Perry, Jr., to serve on the Lynchburg Redevelopment and Housing Authority Board for a term to expire September 30, 2011:

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

Noes: 0

On nomination of Council Member Seiffert, Council by the following recorded vote re-appointed Robert L. Bashore, Timothy W. Holt, Leighton S. Houck, Cindy M. Thomas and Stuart J. Turille to serve on the Lynchburg Business Development Centre Board for terms to expire September 30, 2010:

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

Noes: 0

On nomination of Council Member Seiffert, Council by the following recorded vote re-appointed Bonnie Svrcek to serve on the Lynchburg Transit Company Board for a term to expire October 31, 2010:

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

Noes: 0

On nomination of Council Member Seiffert, Council by the following recorded vote appointed Donald W. May and Janice Walker to serve on the Lynchburg Transit Company Board for terms to expire October 31, 2010:

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

Noes: 0

On nomination of Council Member Seiffert, Council by the following recorded vote appointed Lee Beaumont to fill an unexpired term on the Lynchburg Transit Company Board ending October 31, 2009:

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

Noes: 0

// The meeting was recessed at 12:15 A.M. on September 12 to September 25, at 1:00 P.M., to conduct a work session regarding several items.

Clerk of Council

LYNCHBURG CITY COUNCIL

Agenda Item Summary

MEETING DATE: **September 11, 2007**

AGENDA ITEM NO.: **7**

CONSENT:

REGULAR: **X**

CLOSED SESSION:
(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: **Appeal of Historic Preservation Commission Decision Concerning Property at 2021 Rivermont Avenue**

RECOMMENDATION: Uphold the decision of the HPC to deny the Certificate of Appropriateness request

SUMMARY: On February 17 Martin Donovan filed a Certificate of Appropriateness (COA) application with the Historic Preservation Commission (HPC) requesting permission to make several alterations to the property at 2021 Rivermont Avenue. One of the alterations was to install a black metal fence on the property. On February 26 the HPC issued COA #HPC0702-0008 approving the fence design but deferred action on the location until a diagram (site plan) was submitted. Subsequent to HPC's action on February 26, a fence and an arbor were installed without getting prior approval for (1) the arbor design and (2) the fence location. On July 16 HPC issued COA #HPC0707-0012 denying the alterations after-the-fact. By letter dated July 26, Mr. Donovan appealed HPC's decision to City Council.

The Historic Preservation Commission recommended denial of the alterations because in its present location, the fence cuts through the front of the property, giving it a disjointed look. Furthermore, the placement of the fence in its current location is not consistent with the historic district. All other fences on Rivermont Avenue outline their front yards at the public sidewalk. Also, the arbor is not in keeping with the fence style.

- Request does not agree with the Comprehensive Plan's Goals for History, Culture, Education & the Arts:
 - To "ensure that future development, redevelopment and public improvements complement the scale and character, and respect the integrity of, designated historic districts and areas potentially eligible for designation" (Chapter 11, page 11).
- Request does not agree with the Residential Historic Districts Design Guidelines in that "All site improvements and modifications should be compatible with the character of existing adjacent sites in order to reinforce the overall character of the historic district. All site elements should relate to individual features, materials and their arrangement to provide 'walls of continuity' along the street and to enhance the building on the site" (Chapter 9, page 61).
- Request does not agree with the Residential Historic Districts Design Guidelines in that "all modifications to, or the addition of, site features such as garages, other structures, parking areas, drives, fences, etc., should be compatible with the existing adjacent sites and the building. They should contribute to the site's character and not detract from the building or the surrounding area" (Chapter 9.1, page 61). Further, "walls and fences are a consistent and dominant element throughout the districts. Stone walls, hedges, cast and wrought iron fences and gates are the dominant existing materials and their use should be continued where appropriate" (Chapter 9.2, page 62).
- Request does not agree with the proposed Lynchburg Residential Design Review Guidelines "Guidelines for Site and Setting" policy that "fences were used in Lynchburg to separate lots and to outline front yards" (Chapter 8.A, page 95).
- If Council's decision would be to support this appeal, it would set a precedent for future cases. Property owners who buy properties in historic districts often do so because they expect the historic designation to protect their investment. Allowing property owners to deviate from the basic guidelines

of historic preservation undermines the purpose of a historic district, which is to protect real estate investments and stabilize neighborhoods.

PRIOR ACTION(S):

- February 26, 2007: Historic Preservation Commission approved the design of the fence but deferred action on the location until a diagram (site plan) was submitted (7-0).
- July 16, 2007: Historic Preservation Commission discussed the arbor which had been installed without prior review and the fence location which had been installed without approval of the location. It issued COA #HPC0707-0012 denying the alterations after-the-fact (6-0 with one vacancy)

FISCAL IMPACT: N/A

CONTACTS:

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

ATTACHMENT(S):

- Resolutions (2)
- Background/Overview Report
- HPC Minutes excerpts (3 sets)
- Appendix A COA (HPC0702-0008)
- Appendix B proposed fence location dated 05/31/07
- Appendix C COA (HPC0707-0012)
- Letter of Appeal
- Photographs showing house with fence violation
- Photographs showing fences and hedges
- Vicinity Map

REVIEWED BY: lkp

RESOLUTION "A"

A RESOLUTION TO REVERSE THE DECISION OF THE HISTORIC PRESERVATION COMMISSION

BE IT RESOLVED That the Council of the City of Lynchburg hereby reverses the decision of the Historic Preservation Commission to deny the Certificate of Appropriateness request by Martin Donovan concerning property at 2021 Rivermont Avenue.

Adopted:

Certified:

Clerk of Council

120LA

RESOLUTION "B"

A RESOLUTION TO UPHOLD THE DECISION OF THE HISTORIC PRESERVATION COMMISSION

BE IT RESOLVED That the Council of the City of Lynchburg hereby upholds the decision of the Historic Preservation Commission to deny the Certificate of Appropriateness request by Martin Donovan concerning property at 2021 Rivermont Avenue.

Adopted:

Certified:

Clerk of Council

120LB

**2021 RIVERMONT AVENUE
APPEAL OF HPC DECISION
BACKGROUND/OVERVIEW**

OVERVIEW

- A building's historic character is a combination of its design, age, setting and materials. The relationship between buildings and the landscape features within a property's boundary—or the building site—help define the historic character of the area. They should be considered an important part of any project to be reviewed.
- Private site elements are generally associated with private responsibilities and involve a concern for retaining, preserving and maintaining existing elements as well as the creation of new elements within a given site. These elements can include driveways, walkways, out buildings, garages, lighting, fences, walls, trees and other features.
- The Residential Historic Districts Design Guidelines provides that "all site improvements and modifications should be compatible with the character of existing adjacent sites in order to reinforce the overall character of the historic district. All site elements should relate to individual features, materials and their arrangement to provide 'walls of continuity' along the street and to enhance the building on the site" (Chapter 9, page 61).
- The Residential Historic Districts Design Guidelines stipulates that "that "all modifications to, or the addition of, site features such as garages, other structures, parking areas, drives, fences, etc., should be compatible with the existing adjacent sites and the building. They should contribute to the site's character and not detract from the building or the surrounding area " (Chapter 9.1, page 61). Further, "walls and fences are a consistent and dominant element throughout the districts. Stone walls, hedges, cast and wrought iron fences and gates are the dominant existing materials and their use should be continued where appropriate" (Chapter 9.2, page 62).
- The proposed Lynchburg Residential Design Review Guidelines "Guidelines for Site and Setting" policy provides that "Fences were used in Lynchburg to separate lots and to outline front yards."
- If Council's decision would be to support this appeal, it would set a precedent for future cases. Property owners who buy properties in historic districts often do so because they expect the historic designation to protect their investment. Allowing property owners to deviate from the basic guidelines of historic preservation undermines the purpose of a historic district, which is to protect real estate investments and stabilize neighborhoods.

1. BACKGROUND

- a. February 17, 2007 – Mr. Martin Donovan, 689 Island Way, Clearwater Beach, FL, filed a Certificate of Appropriateness (COA) application with the Historic Preservation Commission (HPC) requesting permission to alter the property at 2021 Rivermont Avenue. He submitted an extensive list of changes, including removing an exterior staircase, replacing a door with a window, adding a deck, painting the shingle siding, new lighting and adding a new black metal fence. He had also requested to install a

- circular driveway and replace the existing slate roof with a new slate roof but later withdrew those items.
- b. February 26, 2007 – HPC reviewed the COA application and issued COA (HPC0702-0008, see Appendix A). The HPC deferred action on several items including the fence request. HPC requested Mr. Donovan to “submit a diagram showing where the proposed 5’ black iron fence would be installed.” It had approved the Regal style design. At this time, there was no mention of an arbor.
 - c. May 31, 2007 -- Ms. Chenault e-mailed the HPC updating them on recent actions. According to an e-mail she sent on May 31, Mr. Paul Kablick, Good Neighbors Fence Company, submitted a diagram showing the proposed fence location. The diagram showed the fence to extend from the middle of the house on each side to the back of the property, enclosing the back yard (see Appendix B). Mr. Donovan had also decided to use the ‘Maine’ style, which was similar to the ‘Regal’ style design.
 - d. June 25, 2007 -- At its meeting, the HPC discussed another alteration which it had deferred action in February. A 10’ x 17’ deck had been built at the right, rear corner without HPC’s review. The railing system, including the pickets, was found to be inappropriate according to the Residential Design Guidelines. The HPC requested that the railing system be changed, and Mr. Donovan agreed to submit a new design for review.
 - e. July 16, 2007 – HPC discussed the fence issue. The fence and an arbor had been installed without HPC’s review of (1) the arbor design and (2) the fence location. HPC found the fence location and the arbor to be inappropriate and issued COA (HPC0707-0012, see Appendix C) denying the alterations. The COA stipulated that the fence be relocated and a more traditional gate be installed in place of the arbor. The COA also stipulated that a diagram (site plan) be submitted showing the proposed new location of the fence and a new gate design.

II. ANALYSIS

1. History

- A. The house at 2021 Rivermont Avenue is located on the south-east corner of Rivermont Avenue and Loudon Street in the central portion of the Rivermont Historic District. The house was built in 1913. It is a two-story, three-bay Colonial Revival style with a one-story, one-bay porch with paired Corinthian columns. It has a hipped slate roof Georgian style with corner pilasters, dentilled cornice, gable-roofed dormers with wood-shingled exterior. It is an excellent example and well-preserved example of the Colonial Revival style by architect Stanhope Johnson. The house has individual touches such as craftsman-style sash and wood shingled exterior that show the transitional nature of this design. The house is a contributing resource to the historic and architectural character of the Rivermont Historic District.
- B. The Rivermont Historic District contains fences of various designs and materials. It also contains privet hedges and other vegetation that serve as barriers or boundaries. The District has twelve (12) wrought iron and metal fences, including the one at 2021 Rivermont Avenue. It contains fifteen (15) stone walls and thirteen (13) brick walls of varying heights. There are also fourteen (14) concrete and parged block walls. Seventeen (17) vegetative hedges are found along Rivermont Avenue. There is one (1) chain-link fence at 1015 Rivermont Avenue and one (1) picket fence at 1304 Rivermont Avenue. All of these fences, walls and hedges are located at the front, outlining the properties at the public sidewalk on Rivermont

Avenue. Attached are photographs showing examples of Rivermont's fences, walls and hedges.

2. The Residential Historic Districts Design Guidelines "Guidelines for Private Site Elements," Pages 61-63, provides that a building's historic character is a combination of its design, age, setting and materials. The relationships between buildings within the historic district and the site features within a property's boundary help define the historic character of the area. They should be considered an important part of any project to be reviewed. All site improvements and modifications should be compatible with the character of the existing adjacent sites in order to reinforce the overall character of the district. All site elements should relate to individual features, materials and their arrangement to provide 'walls of continuity' along the street and to enhance the building on the site. The Guidelines recommends that "all modifications to, or the addition of, site features... should be compatible with the existing adjacent sites and the building. They should contribute to the site's character and not detract from the building or the surrounding area." The Guidelines also provides that "walls and fences, including gates, are a consistent and dominant element throughout the districts. Efforts should be made to relate what is done on one site with that of its neighboring sites.
3. Lynchburg's Residential Design Review Guidelines "Guidelines for Site and Setting," Page 95, provides that 'fences were used in Lynchburg to separate lots and to outline front yards.' The fence at 2021 Rivermont Avenue neither separates the lot from its neighbor nor outlines the front yard. It cuts through the property, giving it a disjointed look.
4. The *Historic Districts Ordinance* of the City Code charges the HPC with protecting and preserving historic buildings as well as maintaining appropriate settings and environments for such buildings (Section 35.1-44.1a). The location of the fence at 2021 Rivermont Avenue compromises and detracts from the setting of this historically-significant property.

3. **ACTION: Request of Martin Donovan for a COA to Alter the Property at 2021 Rivermont Avenue**

Vice Chair Glass served as Mr. Donovan's advocate and referred to his COA application dated February 16, 2007. He noted that there were three other houses with cedar shingles on Rivermont Avenue that had been painted and referred to information from Western Red Cedar Lumber Association manufacturers for treating and painting cedar shingles. Commissioners were concerned about painting the cedar shingles white. White trim would be appropriate. They referred to Section 4.11 Painting and Color Selection of the Guidelines.

Regarding the request for a circular driveway, Commissioners asked for a layout and identify the type of stone. There was concern that there was not enough room for a circular drive.

Commissioners were concerned about the request to replace the slate roof with grey slate and requested that Mr. Donovan inquire into repairing the existing roof.

After further discussion, Vice Chair Glass made the following motion which was seconded by Commissioner Fogleman and passed by the following vote:

MOTION: "That the HPC hereby approves the request of Martin Donovan for a COA (HPC0702-0008) to alter the property at 2021 Rivermont Avenue with the following clarifications and/or conditions:

- Defer Action:** Stain or paint the shingle siding with a color other than white--a contrasting color must be submitted to the HPC for review and approval;
- Remove exterior staircase at the back of the house and replace door with a window;
- Remove side staircase off the kitchen and **Defer Action:** replace with an approximate 10' x 11' wood deck to be painted a color consistent with the color of the house; submit drawing of layout;
- **Defer Action:** Submit site plan showing proposed circular driveway and type of stone; Recommend repair rather than replace existing slate roof; if replacement is necessary, replace with slate, in-kind and color to match existing;
- Paint front porch floor grey; **Defer Action:** Submit type/design of wood spindle and railing for review;
- **Defer Action:** Submit diagram showing where proposed 5' black iron fence will be installed ('Regal' style is appropriate);
- Install black iron light fixtures according to 'Progress Lighting' Coventry diagram on each side of and over front door;
- Repair gutters using like materials and design
- HPC does not review landscaping."

AYES: Calhoun, Devening, Fischer, Fogleman, Harvey, Glass, Mundy

7

NOES:

0

ABSTENTIONS:

0

ABSFNT:

0

HPC Meeting
June 25, 2007

b. DISCUSSION: 2021 Rivermont Avenue

Ms. Chenault discussed the history of the project. The HPC had deferred action on the proposed 10' x 17' wood deck request in order to see a design. Subsequently, the deck was built without HPC's review.

Marty Donovan was present to speak to the matter. He said there was an old metal staircase which he removed. He planned to paint or stain the treated deck white after seasoning.

Commissioner Calhoun complained that the deck should be been set back within the trim work at the corner rather than coming out to the edge of the building.

Commissioner Harvey commented that the deck's railing system was inappropriate according to the Design Guidelines. He said square pickets, rail to rail, and decorative top and bottom railings should be used. Mr. Donovan agreed to submit a new design for the deck.

Mr. Donovan said he would like to replace the concrete sidewalk with red brick. HPC Members said to file a COA with Ms. Chenault for administrative approval.

OLD/NEW BUSINESS

a. DISCUSSION: 2021 Rivermont Avenue - Fence

(At its meeting on February 26, 2007, HPC had approved the style ('Regal') of a black metal fence but deferred action on the location until Mr. Donovan 'submitted a diagram showing where the proposed fence would be installed.')

Paul Kablick, Good Neighbor Fence Company, was present to represent the request. He said the issue was the location of the fence. He said he had told Ms. Chenault the fence and an arbor would be installed in front of the property but apparently this was misunderstood as the fence is in the front yard but near the house rather than at the public street. Ms. Chenault said a diagram was not submitted showing the location of the fence in the front. She also said she did not recall the request for an arbor or she would have asked to see a design.

Commissioner Harris said as you drive down Rivermont Avenue, all stone walls and fencing are along the public right-of-way. She said the fence location cuts the property in half. She also had issue with the arbor which was not requested in the original COA. She said these typically are found on the side or in backyards. She said the style of the fence is not the issue. Commissioner Calhoun said the arbor is too spindly for the massing of the house. She said Mr. Donovan has a history of not following through on HPC's decisions and mentioned the problems with the new deck.

Vice Chair Glass said he would not approve the location of the fence.

Mr. Kablick said Mr. Donovan's original plan was to install the fence off the two front wings of the house and then extend it to the backyard. Commissioner Calhoun said that would have been more appropriate than its current location. He said the fence was installed in the front to contain the pets; otherwise, Mr. Donovan's mother would have to leash them. He said the fence is in concrete. Commissioner Calhoun said the fence should be relocated to the street.

HPC Members complained that since the time of Mr. Donovan's original request in February, at almost every meeting since, there have been problems with adhering to HPC's decisions. Mr. Kablick said Good Neighbor Fence Company did not get involved in this project until May. He said the fence was installed in late June or early July.

After discussion, Commissioner Harvey made the following motion which was seconded by Commissioner Harris and passed by the following vote:

MOTION: "That the HPC hereby denies the request of Marty Donovan for a COA (HPC0707-0012) to alter the property at 2021 Rivermont Avenue by installing a black metal fence directly in front of the house after-the-fact. A diagram showing the proposed location of the fence in the front yard was not submitted to the HPC as stipulated in its COA (HPC0702-0008). The fence must be relocated and a diagram submitted showing the proposed location for HPC review and approval. A more traditional gate must be installed in lieu of the arbor. The outstanding issue of inappropriate rails and pickets on the rear deck must also be addressed."

AYES: Calhoun, Devening, Fogleman, Glass, Harvey, Mundy

6

NOES:

0

ABSTENTIONS:

0

ABSENT:

0



THE CITY OF LYNCHBURG, VIRGINIA

Appendix A

Historic Preservation Commission

Notice of Approval

CERTIFICATE OF APPROPRIATENESS (COA)

COA Number: HPC0702-0008

Historic District/Property: **Rivermont**

Applicant: Mark Donovan

Date of Application: 2/17/2007

Location: 2021 RIVERMONT AVE

ACTION REQUESTED:

Alteration to Building

Pursuant to Section 35.1-44.1 et seq. of the Code of the City of Lynchburg, the Historic Preservation Commission (HPC) has received an application for review of the foregoing requested action which affects the external appearance of a landmark, building, or structure, or part thereof, in a designated historic district. This is to certify that the HPC has considered said application together with the accompanying pertinent materials, and does hereby **Approve** such proposed action as being appropriate and architecturally compatible with the historic landmark, building or structure, or such historic district so affected. Copies of the following relevant documents are attached hereto:

Application/Letter of Request; Photographs; Diagrams of Lights and Fence

This COA shall expire of its own limitation **six (6) months** from the date of issuance, if work authorized hereby is not commenced within that time, and shall also expire and become void if such authorized work is suspended or abandoned for a period of **ninety (90) days**. The work authorized by the COA shall be completed **within twelve (12) months** of the date of issuance unless, for good cause show, the HPC determined that a longer period is warranted. The HPC and the Zoning Official shall be notified of completion of the requested action.

Opponents to the granting of this COA shall have the right to appeal and to be heard before the City Council, provided there is filed with the Clerk of the City Council within fifteen (15) days after the decision by vote of the HPC, a written petition signed by at least twenty-five (25) registered voters of the City, indicating their intention to appeal. **The Applicant may commence work at his/her own risk during this fifteen (15) day appeal period.**

COA Specifics:

The parcel is located in a historic district.

MOTION: "That the HPC hereby approves the request of Martin Donovan for a COA (HPC0702-0008) to alter the property at 2021 Rivermont Avenue with the following clarifications and/or conditions:

- Defer Action: Stain or paint the shingle siding with a color other than white- a contrasting color must be submitted to the HPC for review and approval;
- Remove exterior staircase at the back of the house and replace door with a window;
- Remove side staircase off the kitchen; Defer Action: replace with an approximate 10' x 17' wood deck to be painted a color consistent with the color of the house; submit drawing of layout;
- Defer Action: Submit site plan showing proposed circular driveway and type of stone;
- Repair rather than replace existing slate roof; if replacement is necessary, replace with slate, in-kind and color to match existing;
- Paint front porch floor grey; Defer Action: Submit type/design of wood spindle and railing for review;
- Defer Action: Submit diagram showing where proposed 5' black iron fence will be installed ('Regal' style is appropriate);
- Install black iron light fixtures according to 'Progress Lighting' Coventry diagram on each side of and over front door;

- Repair gutters using like materials and design
- HPC does not review landscaping."

AYES: Calhoun, Devening, Fischer, Fogleman, Harvey, Glass, Mundy 7

NOES: 0

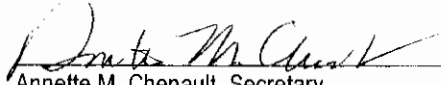
ABSTENTIONS: 0

ABSENT: 0

Date Approved: February 26, 2007


Henry Devening, Chair

Copy: Applicant
Zoning Official


Annette M. Chenault, Secretary

ISSUANCE OF THIS COA IS STRICTLY IN CONSIDERATION OF THE APPROPRIATENESS OF ALTERATIONS MADE TO A HISTORICALLY DESIGNATED PROPERTY AND DOES NOT RELEASE THE APPLICANT FROM OTHER CITY CODES THAT MAY APPLY.

BLACK
Aluminum
Material List: ~~Split Rail~~ Fence

Qty	Item
1	Roll Split Rail Fence
	End Post
	Corner Post
	Line Post
	Gate posts
1	4 ft. Walk Gate; (1) 5' walk Gate
1	8 ft. Drive Gate
2	Walk Gate Kit
1	Drive Gate Kit
	Rolls -ft. 2x4 Welded Wire
	Rolls -ft.
	-ft. Tension Wire
	Cement Bags

Total = 262 L.F. which includes (3) Gates

Customer Information

Name: Marty Downman
Phone: 727-542-4089
Addr: 689 Clearwater Beach, FLA. 33763

Directions

Job Site = 2021 Rivermont Ave
Fence Installers - Owner's 1st Choice
Contact = Tim Barrett 434-942-8810 Cell
Office = 434-385-5676

Comments: Owner's 1st Choice bidding on Fence job. Needs City Historical Division's Approval

Hours

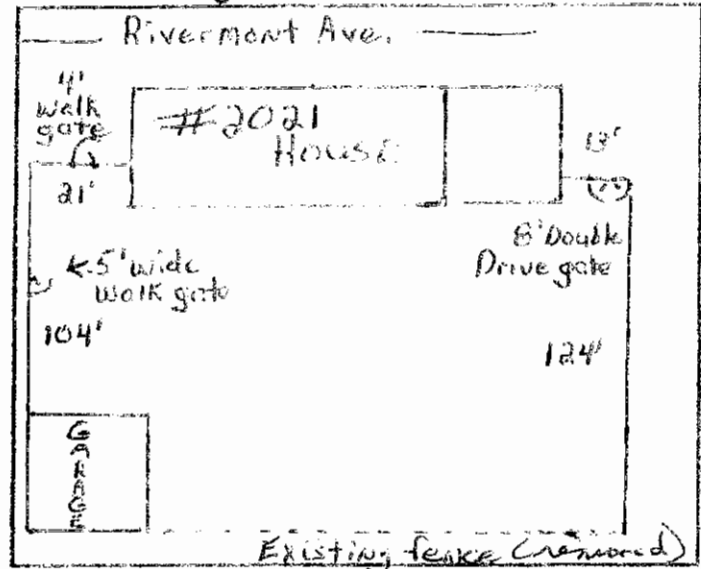
Foreman: _____
Employee 1: _____
Employee 2: _____
Employee 3: _____
Employee 4: _____

Day:	M	T	W	Th	F
Date:					

Grand
Total

Ideal Aluminum (BLACK)
(No) Californian or Maine (styles)
Panels 4' high x 6' wide (spearpoint Pickets)

Work-site Diagram





THE CITY OF LYNCHBURG, VIRGINIA

Historic Preservation Commission

Notice of Denial

Record Number: HPC0707-0012

Historic District/Property: **Rivermont**

Applicant: Marty Donovan

Date of Application: 2/17/2007

Location: 2021 RIVERMONT AVE

ACTION REQUESTED:

Alteration to Property Pursuant to Section 35.1-44.1 et seq. of the Code of the City of Lynchburg, the Historic Preservation Commission (HPC) has received an application for review by the HPC of the foregoing requested action which affects the external appearance of a landmark, building, or structure, or part thereof, in a designated historic district. This is to certify that the HPC has considered said application together with the drawings, plans, photographs and specifications, including color samples submitted, and does hereby **Deny** such proposed action. Copies of the following relevant documents are attached hereto:

Application/Letter of Request; Photographs The HPC **has** found that the issuance of a Certificate of Appropriateness, and the exercise of the rights and privileges granted thereby, will or is likely to materially and adversely affect the property or the value thereof of another.

The applicant shall have the right to appeal to and be heard before the City Council, provided that he/she files with the Clerk of the City Council within **fifteen (15) days** after the decision by vote of the HPC, a notice in writing of his/her intention to appeal.

The parcel is located in a historic district.

MOTION: "That the HPC hereby denies the request of Marty Donovan for a COA (HPC0707-0012) to alter the property at 2021 Rivermont Avenue by installing a black metal fence directly in front of the house after-the-fact. A diagram showing the proposed location of the fence in the front yard was not submitted to the HPC as stipulated in its COA (HPC0702-0008). The fence must be relocated and a diagram submitted showing the proposed location for HPC review and approval. A more traditional gate must be installed in lieu of the arbor. The outstanding issue of inappropriate rails and pickets on the rear deck must also be addressed."

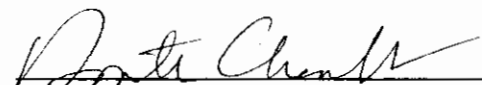
AYES: Calhoun, Devening, Fogleman, Glass, Harvey, Mundy 6

NOES: 0

ABSTENTIONS: 0

ABSENT: 0


Henry Devening, Chair


Annette M. Chenault, Secretary

Date of Action: July 16, 2007

Copy: Applicant
Zoning Official

July 26, 2007

Lynchburg City Council
c/o Patricia Kost, Clerk

Dear City Council,

I, Marty Donovan request an appeal for COA to alter the property at 2021 Rivermont Avenue by installing a black metal fence directly in front of the house.

I would like to request September 11, 2007 for my City Council meeting appeal. No appeal is sought in regard to inappropriate rails and pickets on the rear and rear deck. I will comply to HPC request and direction.

A handwritten signature in black ink, appearing to be 'MD' followed by a long horizontal stroke.

Marty Donovan
2021 Rivermont Avenue
Lynchburg VA 24503

727-542-4089



7200 Richmond Ave





Revermont Ave.



Revermont Ave.



Riverview Ave.



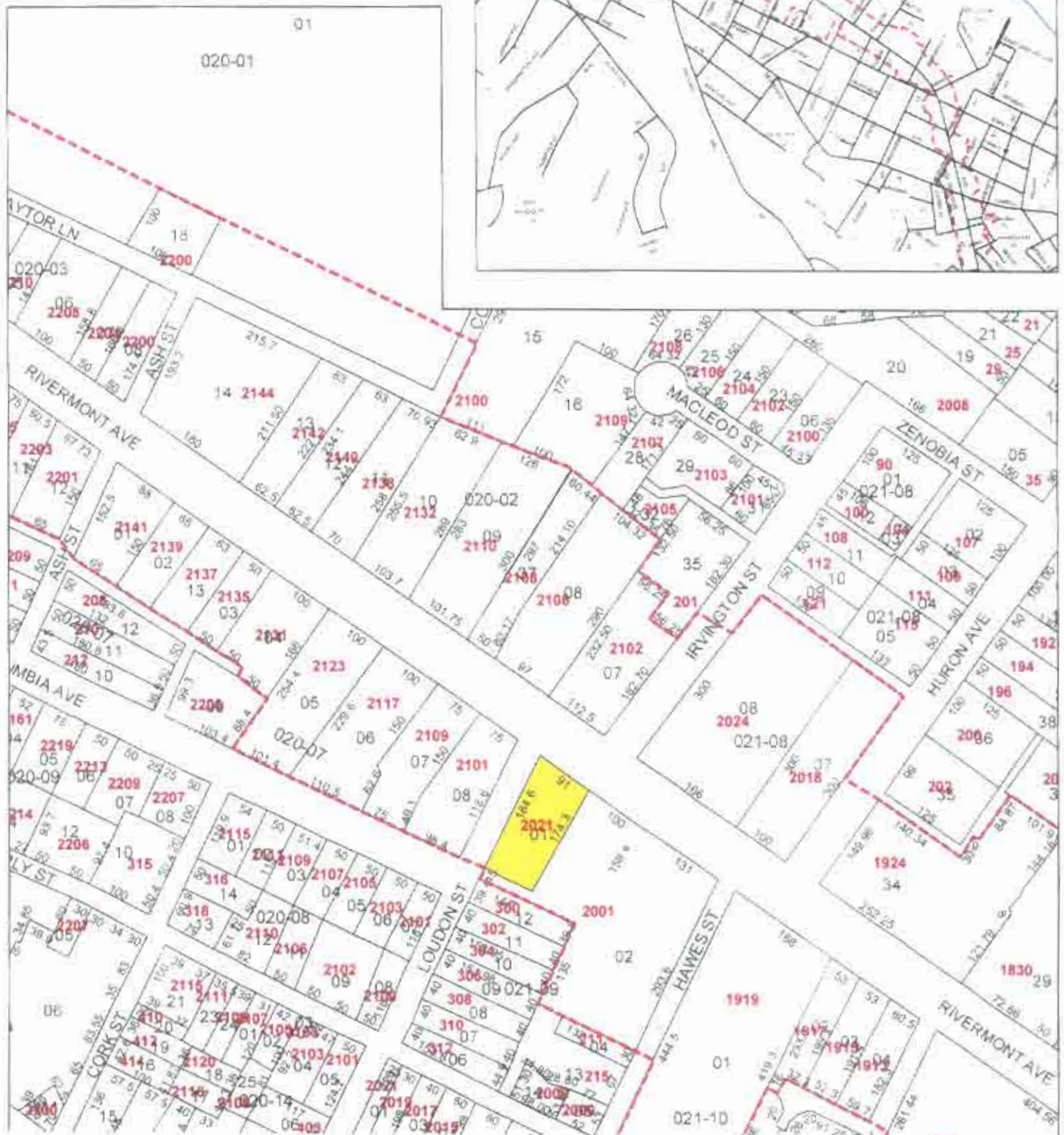
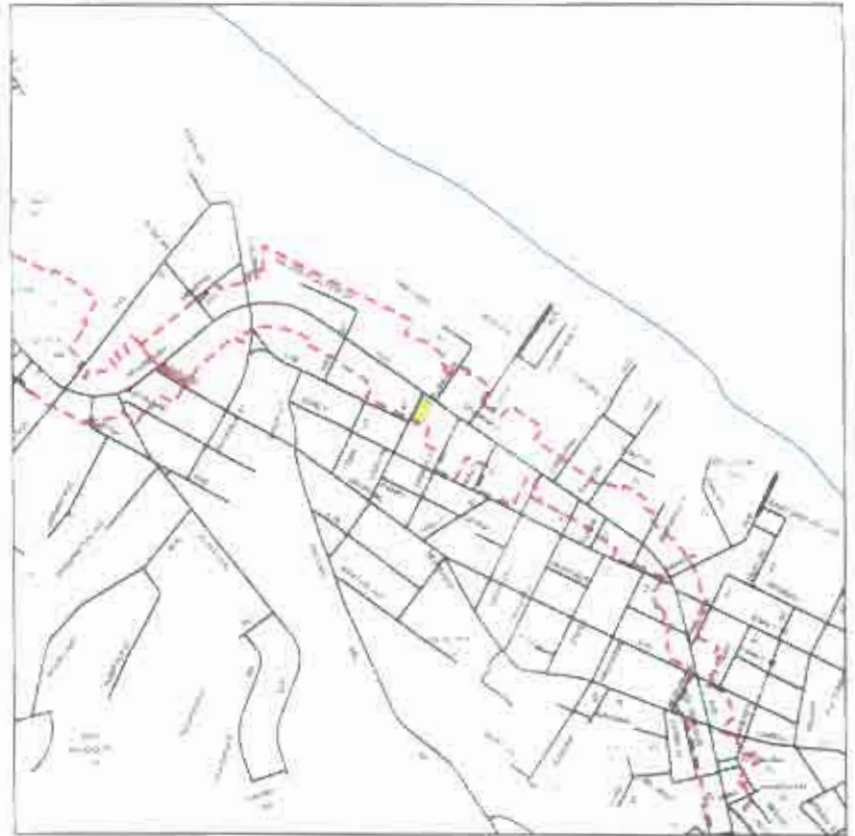
Martin Donovan
2021 Rivermont Avenue
Map # 021-09-001
September 11, 2007

MAP PREPARED BY
THE DEPARTMENT OF COMMUNITY DEVELOPMENT



 Subject Property

 Rivermont Historic District



LYNCHBURG CITY COUNCIL

Agenda Item Summary

MEETING DATE: **September 11, 2007**

AGENDA ITEM NO.: 8

CONSENT:

REGULAR: **X**

CLOSED SESSION:
(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: Proposed Amendment to the City Code Regarding Council Appointments to Boards and Commissions

RECOMMENDATION: After a public hearing, consider adopting a proposed amendment to the City Code that would require a majority of Council (rather than simply a majority of those present) to make appointments to boards and commissions.

SUMMARY: Council Member Gillette asked the City Attorney to prepare the attached proposed amendment to the City Code and asked that it be placed on the August 14 work session agenda for discussion.

The proposed amendment would require an affirmative vote of a majority of all of the members elected or appointed to City Council for all appointments to the City's boards and commissions. Furthermore, it would require a similar majority to amend or repeal the proposed code revision if adopted.

Council discussed the proposed amendment during the August work session and agreed to consider the matter further, after first holding a public hearing, on September 11, 2007.

PRIOR ACTION(S): August 14, 2007 Work Session

FISCAL IMPACT: N/A

CONTACT(S): Walter Erwin, 455-3973

ATTACHMENT(S): Proposed code amendment.
Letter from City Attorney

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 2-47, RELATING TO APPOINTMENTS TO THE CITY'S BOARDS AND COMMISSIONS.

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 2-47 as follows:

Sec. 2-47. Procedure for appointments to board and commissions.

(a) All appointments to the city's boards and commissions shall require an affirmative vote of a majority of all of the members elected or appointed to city council.

(b) This section of the city code shall not be repealed or amended except by an affirmative vote of a majority of all of the members elected or appointed to city council.

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

Adopted:

Certified:

Clerk of Council

122L



THE CITY OF LYNCHBURG, VIRGINIA

CITY HALL, 900 CHURCH STREET, LYNCHBURG, VIRGINIA 24504 • (434) 455-3980
Fax (434) 847-9049

OFFICE OF THE CITY ATTORNEY

WALTER C. ERWIN, III
CITY ATTORNEY

ELEANOR A. PUTNAM DUNN
DEPUTY CITY ATTORNEY

SUSAN L. HARTMAN
ASSISTANT CITY ATTORNEY

HOPE R. TOWNES
ASSISTANT CITY ATTORNEY

July 25, 2007

To the Honorable City Council
Lynchburg, Virginia

Dear Council:

Council Member Gillette asked if City Council can adopt an ordinance requiring that appointments to the City's boards and commissions shall require a majority vote of all of the members of Council. For the reasons outlined in this letter, I believe the City has the authority to adopt such an ordinance.

As a general rule, a majority of the members of City Council constitute a quorum for the transaction of business, and a majority of a quorum may adopt ordinances and resolutions. Section 15.2-1415 of the State Code, Section 10 of the Lynchburg City Charter and Section 2-20 of the Lynchburg City Code provide that a majority of the members of City Council constitute a quorum for the transaction of business. Section 15.2-1427 of the State Code provides that "unless otherwise specifically provided for by the (Virginia) Constitution or by other general or specific law, an ordinance may be adopted by a majority of those present and voting at any lawful meeting." There is nothing in the Virginia Constitution or the State Code that requires appointments to local boards and commissions to be made by a majority vote of all the members of a local governing body.

Under these general rules of law, if a quorum of City Council is present, a majority of the quorum can make appointments to the City's boards and commissions. However, the Virginia Supreme Court and the Virginia Attorney General have issued opinions advising there is nothing in the State Code that prohibits a local governing body from placing stricter voting requirements upon itself than those imposed by State law. *Stendig Development Corporation v. Danville*, 214 Va. 548, 550 (1974) and the 1997 Report of the Attorney General at page 37.

Council Opinion Letter
July 25, 2007
Page 2.

In light of the decision of the Virginia Supreme Court and the opinion of the Attorney General, it is my opinion that City Council can adopt an ordinance providing that appointments to boards and commissions shall require a majority vote of all the members of Council. However, while City Council has the authority to adopt such an ordinance, City Council also has the right to repeal the ordinance any time a majority of City Council votes to do so. If Council wishes to adopt a voting requirement that cannot be repealed, it will have to ask the General Assembly to amend the City Charter to include a provision providing that appointments require a majority vote of all of the members of Council. If such a requirement is included in the City Charter, City Council would not be able to repeal the requirement.

I have enclosed a copy of a draft ordinance that would add a new section to the City Code requiring a majority vote of all of the members of Council for appointments to the City's boards and commissions.

If any of the members of City Council have any questions concerning this matter, please do not hesitate to contact me.

Respectfully,

A handwritten signature in black ink that reads "Walter Erwin". The signature is written in a cursive, flowing style.

Walter C. Erwin
Enclosure

LYNCHBURG CITY COUNCIL Agenda Item Summary

MEETING DATE: **September 11, 2007**

AGENDA ITEM NO.: 9

CONSENT:

REGULAR: **X**

CLOSED SESSION:
(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: **CONDITIONAL USE PERMIT (CUP) – Tree of Life Ministries, 1101 Greenview Drive**

RECOMMENDATION: Approve the requested conditional use permit.

SUMMARY: The Tree of Life Pentecostal Holiness Church Trustees is petitioning for a conditional use permit at 1101 Greenview Drive to allow the construction of a fifty-three (53) space parking expansion in the City of Lynchburg. This parking addition will ultimately allow for the expansion of the Tree of Life Ministries campus, which would include the construction of a three thousand, eight hundred (3,800) seat sanctuary, as well as seven hundred and thirty-six (736) additional parking spaces. The Planning Commission recommended approval of the petitions because:

- Petition agrees with the *Comprehensive Plan* which recommends a Low Density Residential use in this area.
- Petition agrees with the Zoning Ordinance in that church uses are permitted in an R-1, Low Density Single-Family Residential District with approval of a Conditional Use Permit (CUP) by City Council.
- The City Planner, with the concurrence of the Planning Commission, approves an alternative layout of the residentially zoned property buffer that would permit the buffer to supplement the existing buffer at the northeastern corner of the subject property in lieu of planting it along the frontage of the property adjacent to Greenview Drive.
- Although the parking spaces which would be constructed in the City account for only five and three tenths percent (5.3%) of the total proposed parking for the site, the associated traffic will have direct impacts within the City. To mitigate potential traffic conflicts, Planning Commission and staff recommend that a condition be placed on the development that would require the northern driveway be converted to a "right in, right out" entrance and that the applicant construct a directional entrance island to require traffic to adhere to the new traffic pattern.
- Planning Commission and staff also recommend that a condition be placed on the development that any new construction meet the quality requirements set forth within the City's *Stormwater Management* ordinance. Similar conditions were placed on other projects that have crossed jurisdictional boundary lines (i.e. Dolphin Floor Covering, Laxton Square Townhomes, Wards Crossing West projects).

PRIOR ACTION(S):

August 8, 2007

The Planning Commission recommended (5-0 with two members absent, Hamilton and Oglesby) approval of the conditional use permit, subject to the following conditions:

1. The property shall be developed in substantial compliance with the Site Plan dated June 21, 2007, revised July 27, 2007 and received by the Department of Community Development on July 27, 2007.
2. The northern driveway shall be a 'right in, right out' entrance only, and the applicant, at their expense, shall construct a directional entrance island to require traffic to adhere to the new traffic pattern.
3. All stormwater management systems for any new impervious cover shall be designed and built to address both the quantity and quality of water being discharged from the church property to the standards set forth within the City of Lynchburg's *Stormwater Management Ordinance*.

4. Street trees shall be planted along the entire frontage of the property in accordance with the standards provided within the City's *Zoning Ordinance*.

FISCAL IMPACT: N/A

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

ATTACHMENT(S):

Resolution
PC Report
PC Minutes
Vicinity Zoning Pattern
Vicinity Proposed Land Use
Watershed Location Map
Site Plan
Speaker Sign-Up sheet

REVIEWED BY: lkp

RESOLUTION

A RESOLUTION GRANTING A CONDITIONAL USE PERMIT TO TREE OF LIFE PENTECOSTAL HOLINESS CHURCH TRUSTEES TO ALLOW THE CONSTRUCTION OF 53 PARKING SPACES IN A R-1, LOW DENSITY SINGLE-FAMILY RESIDENTIAL DISTRICT LOCATED AT 1101 GREENVIEW DRIVE.

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF LYNCHBURG that the petition of Tree of Life Pentecostal Holiness Church Trustees for a Conditional Use Permit for use of the property at 1101 Greenview Drive to allow the construction of a fifty-three (53) space parking expansion in a R-1, Low Density Single-Family Residential District be, and the same is hereby, approved subject to the following conditions:

1. The property shall be developed in substantial compliance with the Site Plan dated June 21, 2007, revised July 27, 2007 and received by the Department of Community Development on July 27, 2007.
2. The northern driveway shall be a 'right in, right out' entrance only, and the applicant, at its expense, shall construct a directional entrance island to require traffic to adhere to the new traffic pattern.
3. All stormwater management systems for any new impervious cover shall be designed and built to address both the quantity and quality of water being discharged from the church property to the standards set forth within the City of Lynchburg's *Stormwater Management Ordinance*.
4. Street trees shall be planted along the entire frontage of the property in accordance with the standards provided within the City's *Zoning Ordinance*.

Adopted:

Certified:

Clerk of Council

121L

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

To: Planning Commission
From: Planning Division
Date: August 8, 2007
Re: **CONDITIONAL USE PERMIT (CUP): Tree of Life Ministries, 1101 Greenview Drive**

I. PETITIONER

Tree of Life Pentecostal Holiness Church Trustees, 1101 Greenview Drive, Lynchburg, VA 24502
Representative: Trent Warner, Guffey Warner & Associates, Inc., 21 Timber Oak Court – Suite B, Lynchburg, VA 24501

II. LOCATION

The subject property includes one (1) tract totaling approximately six and a half (6.5) acres at 1101 Greenview Drive.

Property Owner: Tree of Life Pentecostal Holiness Church Trustees, 1101 Greenview Drive, Lynchburg, VA 24502

III. PURPOSE

The purpose of this petition is to allow for the expansion of parking facilities within the City of Lynchburg to serve a new three thousand, eight hundred (3,800) seat sanctuary construction to be constructed in Campbell County.

IV. SUMMARY

- Petition agrees with the *Comprehensive Plan* which recommends a Low Density Residential use in this area.
- Petition agrees with the Zoning Ordinance in that church uses are permitted in an R-1, Low Density Single-Family Residential District with approval of a Conditional Use Permit (CUP) by City Council.

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

V. FINDINGS OF FACT

1. **Comprehensive Plan.** The Lynchburg *Comprehensive Plan* recommends a Low Density Residential use in this area. According to the plan, Low Density Residential areas may include public and institutional uses compatible in scale with single-family residential homes. **(page 5.5)** The setbacks for the proposed institutional expansion, the variety of uses in the area, and the buffering between the church and the closest residences ensure its compatibility; as such this proposed use will be in agreement with the *Comprehensive Plan*.
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.
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 June 27, 2006, City Council approved the Conditional Use Permit petition of JBO, LLC at 1207 and 1226 Greenview Drive to allow the construction of a Traditional Neighborhood Development.
- On February 13, 2001, City Council approved the Conditional Use Permit petition of American Legion Post 16 at 1301 Greenview Drive to allow the construction of a building addition.
- On August 10, 1999, City Council approved the rezoning petition of Gerald and Deborah Maxey to rezone eight tenths (0.8) acre at 794 Leesville Road from B-3, Community Business District (Conditional) to B-1, Limited Business District (Conditional) to allow a counseling service.
- On April 13, 1999, City Council denied the rezoning petition of Calla Forlines Mounts and Jo Anne Carter to rezone two and six tenths (2.6) acre at 794 Leesville Road and Greenview Drive from R-1, Low-Density, Single-Family Residential District and B-3, Community Business District (Conditional) to B-3, Community Business District (Conditional) to allow the construction of a convenience store.
- On January 12, 1993, City Council approved the rezoning petition of Lowes Home Centers, Inc. to rezone sixteen (16) acres at 8208, 8216, 8300, 8308 and 8312 Timberlake Road and 1012 Greenview Drive from B-1, Limited Business District and B-3, Community Commercial District to B-5, General Business District (Conditional) to allow the construction of a home improvement center, restaurant and associated parking.
- On September 12, 1989, City Council approved the rezoning petition of Hunter Associates, Inc. to rezone four tenths (0.4) acre at 795 Leesville Road from R-1, Low-Density, Single-Family Residential District to B-1, Limited Business District to allow the construction of an office building.
- On October 13, 1987, City Council approved the rezoning petition of Glenn and Jo Anne Carter to rezone three and five tenths (3.5) acres at 794 Leesville Road from R-1, Low-Density, Single-Family Residential District to B-3, Community Business District (Conditional) to allow a nursery expansion.
- On August 12, 1986, City Council approved the Conditional Use Permit petition of Berean Baptist Church at 1400 Greenview Drive to allow the construction of a church building and parking area.
- On May 14, 1985, City Council approved the Conditional Use Permit petition of CHA Construction Company off Timberlake Road (Golden Pond) to allow the construction of a recreation center and parking area within the 100 year floodway.
- On November 8, 1983, City Council approved the rezoning petition of Andrew Ellett to rezone one and two tenths (1.2) acres at 797 and 799 Leesville Road from R-1, Low Density, Single-Family Residential District to B-3, Community Business District (Conditional) to allow the installation of gasoline pumps and the sale of gasoline.
- On June 28, 1983, City Council approved the Conditional Use Permit petition of Rainbow Church of God at 1227 Greenview Drive to allow the construction of a sanctuary.

5. **Site Description.** The subject property is bound to the west and north by commercial properties and single-family homes, to the east by Cornerstone Traditional Neighborhood Development and Windsor Hills subdivision and to the south by a combination of multi-family apartments and both single-family attached and detached homes.
6. **Proposed Use of Property.** The purpose of this petition is to allow the expansion of an existing parking area to serve a new three thousand, eight hundred (3,800) seat sanctuary that would be constructed in Campbell County; the church use and associated parking are permitted "by right" in

the county. Landscaping for the portion of the site in the City will comply with the requirements of the City's *Zoning Ordinance*; the requirements include street tree planting, parking lot landscaping, parking lot screening, utility area screening and buffering of the adjacent residentially zoned property (across Greenview Drive). However, it is the opinion of Planning staff that the required parking lot screening and street trees will provide a sufficient buffer of the residential properties at Cornerstone and along Frederick Drive from the proposed parking area. Therefore, the City Planner recommends that Planning Commission approve an alternative layout and relocation of the required buffer landscaping to supplement the existing buffer at the eastern corner of the property. The alternative layout would allow for improved vehicle site distance at the entrances to the site, additional buffering of residential properties in Campbell County that are much closer to the site than those across Greenview Drive, improved safety for church patrons by allowing continued surveillance of the site from adjacent properties and roadways as well as a cursory water quality benefit as a vegetative buffer adjacent to Dreaming Creek.

Staff also recommended that the petitioner continue the proposed street trees across the entire frontage of the church property and the parking lot landscaping requirements for the City's portion throughout the entire parking area. The petitioner has reviewed the request and agreed to extend the street trees along the frontage of the property but does not wish to apply the City's parking lot landscaping standard to the Campbell County portion of the lot.

7. **Traffic, Parking and Public Transit.** The City's Transportation Engineer had no comments about the effect of the sanctuary and parking expansion on Greenview Drive traffic. Currently the church uses volunteers and City of Lynchburg police to direct traffic at the close of its services to mitigate conflicts with the merging traffic. Planning staff and the City's Transportation Engineer did review the stipulations associated with the northern driveway as part of a site plan approved on September 16, 2002. The installation of this driveway was contingent upon the church using it as an "exit only" drive or that Tree of Life construct a left-turn lane into the second driveway. During staff's review of the proposed parking expansion project, it was determined that the City might also offer the petitioner the option of converting the driveway to "right-in, right-out" since the future widening of Greenview Drive will provide for a median that will restrict all left turns at this point. The petitioner agreed with this recommendation and has agreed to provide "No Left Turn" signage and right turn arrows on the pavement to encourage this movement. However, staff recommends that Planning Commission recommend a condition that the applicant construct a directional entrance island to require traffic to adhere to the new traffic pattern.

Parking requirements for the proposed church are set at one (1) space for every four (4) seats by Campbell County's *Zoning Ordinance*. The proposed three thousand, eight hundred (3,800) seat sanctuary requires nine hundred and fifty (950) parking spaces. The church's existing parking lot currently includes parking for two hundred and two (202) vehicles and an additional seven hundred and eighty-nine (789) parking spaces are proposed as part of the expansion project; fifty-three (53) of the total nine hundred and ninety-one (991) spaces would be located within the City of Lynchburg.

Public Transit is not currently accessible in this area. The closest service is Greater Lynchburg Transit Company's Route 7 which is available at the intersection of Laxton and Timberlake Road, approximately one half (0.5) mile from the site.

8. **Storm Water Management.** A stormwater management plan will be required since the project will exceed one thousand (1,000) square feet of new impervious cover. Since the property crosses at the City/County boundary line, the City of Lynchburg and Campbell County are conducting a joint review of the project. The City of Lynchburg is classified by the Environmental Protection Agency (EPA) as a "Phase II" community, which requires stormwater management plans to address both quantity and quality of water being discharged into receiving channels. Phase II communities are also required to map commercial discharge points exceeding thirty-six (36) inches in diameter and greater than fifty (50) acres of drainage area. Campbell County is not

classified as a Phase II community by the EPA and is only required to account for the quantity of stormwater discharged into receiving channels.

The subject property lies at the headwaters of Dreaming Creek and stormwater from the proposed project will ultimately be discharged into a stream flowing through the City limits. Staff is recommending that a condition be placed on the project that the new construction on the site will be required to meet the quality requirements set forth within the City's *Stormwater Management* ordinance. The proposed condition would require the "best management practices" for this site meet the performance or technology based standard requirements based on the percentage of impervious area for the site.

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

The City Police Department and Planning staff both recommended that the petitioner add designated pedestrian walkways/crossings from the outer parking areas to the proposed sanctuary for the safety of the church patrons. Although the petitioner has included sidewalks around the church buildings on the revised site plans, no sidewalks or crosswalks have been designated for the parking area.

The City Police Department also recommended adding painted arrows on the pavement to give direction to drivers entering/exiting the parking lot and lighting for the parking lot. These measures will be incorporated during the final site design stages of the project.

10. **Impact.** The proposed fifty-three (53) space parking expansion in the City of Lynchburg will ultimately allow for the expansion of the Tree of Life Ministries campus which would include the construction of a three thousand, eight hundred (3,800) seat sanctuary as well as seven hundred and thirty-six (736) additional parking spaces. Although the parking spaces which would be constructed in the City account for only five and three tenths percent (5.3%) of the total proposed parking for the site, the associated traffic and stormwater will have direct impacts within the City. To mitigate potential traffic conflicts, staff recommends that a condition be placed on the development that would require the northern driveway be converted to a "right-in, right-out" entrance and that the applicant construct a directional entrance island to require traffic to adhere to the new traffic pattern. Staff also recommends that a condition be placed on the development that any new construction meet the quality requirements set forth within the City's *Stormwater Management* ordinance. Similar conditions were placed on other projects that have crossed jurisdictional boundary lines (i.e. Dolphin Floor Covering, Laxton Square Townhomes, Wards Crossing West projects).

The petitioner's representative has worked with City staff and agreed to extend street trees along the entire frontage of the property; however, since these trees are not shown on the conceptual plan, staff recommends a final condition that these trees be planted along the entire frontage of the property in accordance with the standards provided within the City's *Zoning Ordinance*. Staff maintains their concerns regarding pedestrian access from the satellite parking areas to the new sanctuary, as well as their hope that additional landscaping would be provided in Campbell County to match the planting scheme in the City. However, staff has chosen not to recommend these items as conditions since the majority of this development lies within another jurisdiction and the resultant impact on the City would be negligible.

11. **Technical Review Committee.** The Technical Review Committee (TRC) reviewed the preliminary site plan on July 17, 2007. Comments related to the proposed use were minor in nature and have or will be addressed by the developer prior to final site plan approval.
-

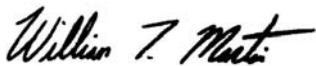
VI. PLANNING DIVISION RECOMMENDATION

The City Planner, with the concurrence of the Planning Commission, approves an alternative layout of the residentially zoned property buffer that would permit the buffer to supplement the existing buffer at the northeastern corner of the subject property in lieu of planting it along the frontage of the property adjacent to Greenview Drive.

Based on the preceding Findings of Fact, the Planning Commission recommends to City Council approval of Tree of Life Pentecostal Holiness Church Trustees' petition for a Conditional Use Permit (CUP) at 1101 Greenview Drive, subject to the following conditions:

- 5. The property shall be developed in substantial compliance with the Site Plan dated June 21, 2007, revised July 27, 2007 and received by the Department of Community Development on July 27, 2007.**
- 6. The northern driveway shall be a 'right in, right out' entrance only, and the applicant, at their expense, shall construct a directional entrance island to require traffic to adhere to the new traffic pattern.**
- 7. All stormwater management systems for any new impervious cover shall be designed and built to address both the quantity and quality of water being discharged from the church property to the standards set forth within the City of Lynchburg's *Stormwater Management Ordinance*.**
- 8. Street trees shall be planted along the entire frontage of the property in accordance with the standards provided within the City's *Zoning Ordinance*.**

This matter is respectfully offered for your consideration.



William T. Martin, AICP
City Planner

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

Mr. Keith Wright, Zoning Official
Mr. Robert S. Fowler, Zoning Administrator
Mr. Kent L. White, Senior Planner
Mrs. Erin B. Hawkins, Environmental Planner
Mr. Trent Warner, Guffey-Warner Associates

VII. ATTACHMENTS

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

MINUTES FROM THE AUGUST 8, 2007 PLANNING COMMISSION MEETING (MINUTES HAVE BEEN APPROVED):

a. Petition of Tree of Life Pentecostal Holiness Church Trustees for a Conditional Use Permit at 1101 Greenview Drive to allow the expansion of church parking facilities in a R-1, Low-Density, Single-Family Residential District.

Mr. Martin addressed the commissioners with the following comments. The majority of this project is located in Campbell County. The proposal is for a 3,800 seat sanctuary addition which will require 789 parking spaces according to the Campbell County Zoning Ordinance. Of those 789 parking spaces, 53 of those spaces are proposed to be located within the city limits. The property is currently zoned R-1, Single-Family Residential. Church uses and their associated uses do require conditional use permits within the city limits.

The major impacts from this development to the city are stormwater and environmental concerns. While the majority of the project and the impervious area are located in Campbell County, all of the stormwater will be channeled into the headwaters of Dreaming Creek and into the city limits. Campbell County does not have a requirement for water quality whereas the city does. City staff is recommending as a condition of approval that all the stormwater that flows into the city limits be treated for quality as well as quantity.

City staff is also recommending that the northeastern entrance be converted to right in, right out, with the construction of some form of a physical separator to encourage that movement. Another recommendation is that arrows be painted on the pavement to facilitate the traffic flow. City staff is also recommending that the vegetative evergreen buffer required along Greenview Drive be moved to the northeastern property line to serve as more of a buffer area to Dreaming Creek. All other landscaping requirements for the city will be in effect for the areas that are within the city. This will mean street trees, parking lot screening and street trees within the parking area. Planning Division does recommend approval of the conditional use permit with the conditions outlined in the report.

Mr. Trent Warner, the representative for the petition, was present to speak in favor of the petition. He explained that around the year 2000, Phase I occurred, which is the present sanctuary. Ninety-five percent of the site is in Campbell County. He remarked that all of the stormwater will go into Campbell County, out of Campbell and then into a tributary which is not the headwaters of Dreaming Creek. It eventually goes into Dreaming Creek after it crosses Greenview Drive into another pond. It does not directly connect into Dreaming Creek or the headwaters of Dreaming Creek.

He also explained that they have worked with city staff on the buffering along the front of the property. Street trees will be planted along there. In fact, street trees were planted from Phase I. Those trees are not on the site plan. The trees that are on the site plan are what they have planned to plant to be in compliance with the city's landscaping ordinance.

Tree of Life does want to have a nicely landscaped property and they do want to do what they have to do for stormwater management. However, Mr. Warner expressed that he feels that the conditions that are being asked of the church go above and beyond what the ordinance requires, especially in terms of what Campbell County requires.

Vice-Chair Barnes asked for anyone else present to speak in favor of the petition or anyone present to speak in opposition to the petition. No one came forward and he opened the discussion for questions from the commissioners.

Commissioner Worthington asked if they had contacted the neighbors. Mr. Warner answered that they were invited to come to a meeting and no one attended. Mr. Warner remarked that sometimes extra conditions are placed on a project because it is a controversial plan, but that is not the case here. He feels that the city is trying to place unreasonable conditions on a project that is mostly in Campbell County. He further remarked that the majority of the parking will be unused during the week and only used on Sunday morning. He feels that making the entire site have to be treated for stormwater is different than some of the other projects that are referenced in the report. He feels that this site will not create the pollution that a commercial site does.

Commissioner Sale asked Mr. Warner what he would like to see changed about the conditions. Mr. Warner said that with regard to condition number two, they were the company that designed the widening of Greenview Drive. They know that part of that plan will be a median. The directional right in and right out was a street connection that was made by a plan that was approved in the early days of Tree of Life. The church

has put up signs that tell people to make a right turn only at that location. He feels that the requirement for them to put in a directional island is excessive, especially since Greenview Drive is to be widened in two years.

With regard to condition three and treating all new impervious areas for stormwater quality seems a little excessive. Mr. Warner remarked that technically all the stormwater all goes into Campbell County first and then into the city. They just did a site plan for an apartment complex that adjoins behind the Tree of Life, and this requirement was not put on them and that drains into Dreaming Creek. The distance may be shorter, but it is still in Campbell County.

With regard to condition four, they had intended to do that by the landscaping plan. So they have no problem with condition four.

Mr. Martin's comment about the stormwater was that it ultimately ends up in Dreaming Creek and flows through the city limits. Obviously there will be an impact from the 789 new parking spaces and the 200 existing parking spaces on the city's stream. We are talking about almost 1,000 vehicles that will be using this parking lot. Whether or not it is Campbell County or whether or not the water takes an indirect route, it comes into the city limits. The city's requirement is to treat stormwater for quantity and quality. This is the same requirement that has been put in place by the city on several projects that have been on the city/county line, such as Dolphin Floor Covering and Wards Crossing West.

Mr. Martin's comment about the street trees was that they can either be planted along the frontage of the road to buffer that parking area from Greenview Drive. A more logical place for those evergreen trees would be further down along the property line to help buffer Dreaming Creek. Obviously the effects on Dreaming Creek are not just from one development. They are from multiple developments that occur in both the city and the county. The city's concern is protecting the environment to the best of its ability.

As far as the parking lot access drive at the northern portion of the property, that was supposed to be exit only. Since we do not know when Greenview Drive is going to be widened, there is a significant enough traffic concern from the Traffic Engineer laid out in the report that there should be some type of divider put there to require right in, right out turning movements.

Commissioner Swienton had a question about the secondary road and when that was approved. Mr. Warner thought it was around 2002 or 2003. Commissioner Swienton clarified that on the left side and the right side of that road there are stormwater drains in the City of Lynchburg. That secondary road has quite an extensive downward slope, so in his opinion, stormwater goes into the City of Lynchburg. Mr. Warner commented that no new stormwater will go down that road. The exact curve in that road and outlets to Dreaming Creek were approved by the laws of 2002/2003. Mr. Martin asked when the road was actually built and Mr. Warner said this year. Commissioner Swienton commented that he has been there when it rains, and there is a substantial amount of water running down it. Mr. Warner said that it was sized correctly.

Commissioner Swienton asked if the stormwater retention pond is in Campbell County and Mr. Warner said that was correct. Commissioner Swienton clarified that it discharges into a tributary of Dreaming Creek and Mr. Warner said that it goes into a pond first and then into the tributary. Commissioner Swienton was concerned if that pond meets the criteria of the city's stormwater ordinance. Mr. Warner said that it will meet the criteria of stormwater quantity but not the criteria of stormwater quality if this entire site were in the city. At this time, Mr. Warner commented that he has done the preliminary construction cost estimate to do the stormwater quality requirement and it is about \$150,000 to have the water treated for the entire site. There are technical reasons why the water cannot be treated in the pond.

Commissioner Swienton commented that the city has a stormwater ordinance in place and it has been enforced on two existing properties. He is in favor of doing it on this project as well.

Commissioner Sale commented that the standards of Lynchburg are high, but that is the direction that Lynchburg is going. He also commented that the church should be a model for the community. He understands that the property is divided, but the big issues of traffic and stormwater are the city's problems. If the standards are applied to one, they should be applied to all.

Commissioner Swienton asked if this site plan takes into consideration the widening of Greenview Drive and Mr. Warner said that it does.

Commissioner Flint clarified that we are not sure when the widening of Greenview Drive will take place, and Mr. Martin said that was correct. Mr. Martin commented that the amount of traffic leaving this site at this exit for a two-year period is not a safe condition. A measure is needed until the median is put in beyond the signs that the church has posted. Mr. Warner commented that the church does hire police staff on Sunday morning to make sure that traffic is flowing correctly and that they intend to continue that practice.

Going back to the stormwater issue, Mr. Warner suggested that the church be required to treat the impervious area that is in the city and not the entire site. Vice-Chair Barnes commented that watersheds do not follow political boundaries. Water quality is something that the Commission has talked at various times about regional planning for water quantity and quality. Obviously, the city has nothing to say about property that is completely in Campbell County, but water treatment has been required of other properties that are partially in the city.

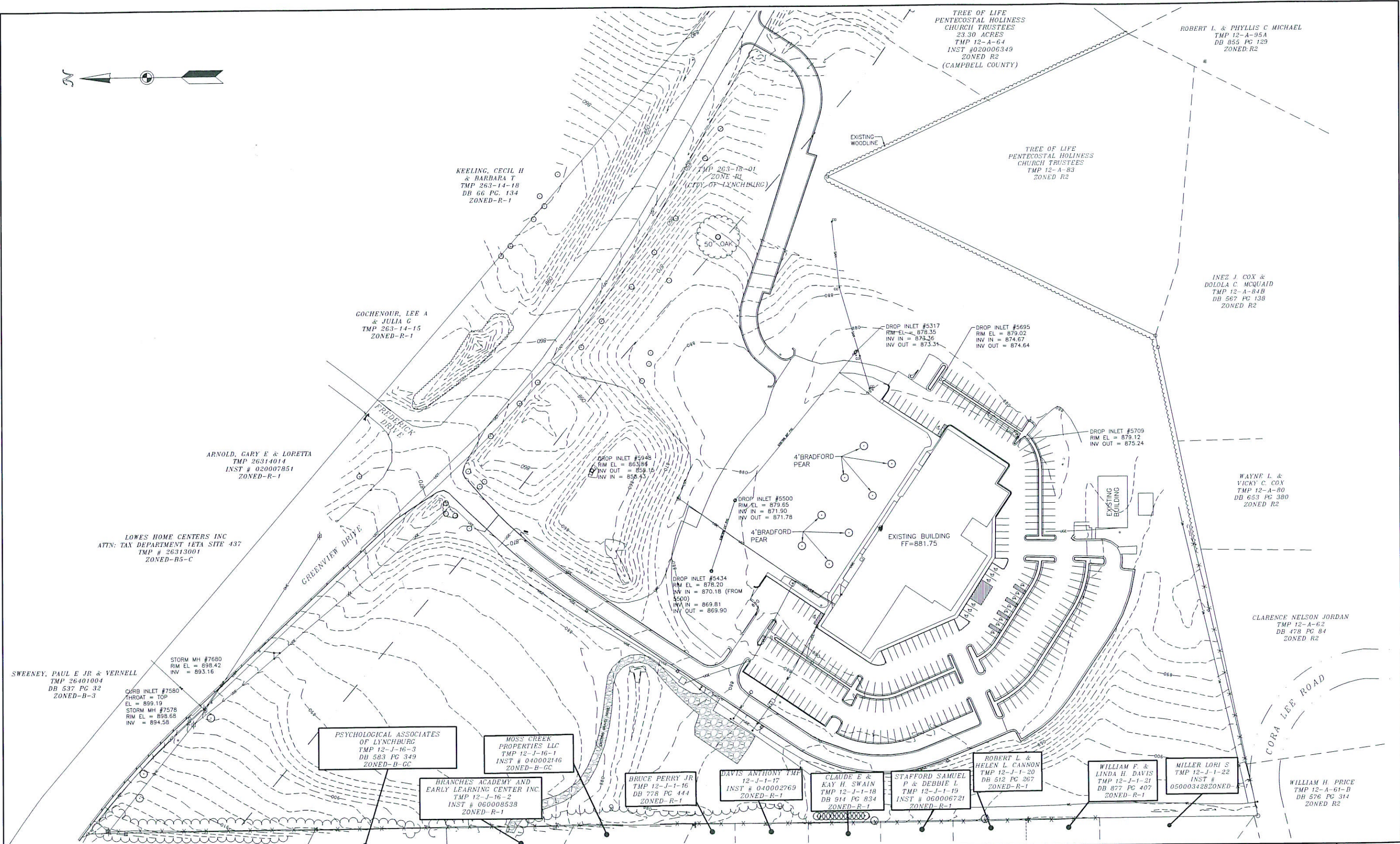
Mr. Warner commented that the plans are in with Campbell County. They are planning to have one of the companies that invented the structures for water quality come in and they have invited the county and city. He did not want it to sound like they were trying not to do it, but at the same time, they are trying to do what is most cost effective.

Commissioner Worthington 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 Tree of Life Pentecostal Holiness Church Trustees’ petition for a Conditional Use Permit (CUP) at 1101 Greenview Drive, subject to the following conditions:

- 9. The property shall be developed in substantial compliance with the Site Plan dated June 21, 2007, revised July 27, 2007 and received by the Department of Community Development on July 27, 2007.**
- 10. The northern driveway shall be a ‘right in, right out’ entrance only, and the applicant, at their expense, shall construct a directional entrance island to require traffic to adhere to the new traffic pattern.**
- 11. All stormwater management systems for any new impervious cover shall be designed and built to address both the quantity and quality of water being discharged from the church property to the standards set forth within the City of Lynchburg’s *Stormwater Management Ordinance*.**
- 12. Street trees shall be planted along the entire frontage of the property in accordance with the standards provided within the City’s *Zoning Ordinance*.**

AYES:	Barnes, Flint, Sale, Swienton and Worthington	5
NOES:		0
ABSTENTIONS:		0
ABSENT:	Hamilton, Oglesby	2



HOOPER DAVID L. & LEVON P. TRS ETALS
TMP 12-A-65A1
DB 860 PG 799
ZONED-B-GC

IF THIS SHEET IS A REDUCTION THE GRAPHIC SCALE MUST BE USED

ADDRESSED TRC COMMENTS		GLM	7-27-07
NO.	REVISION	BY	DATE
1			

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

DRAWN BY: GLM
REVIEWED BY: TJW
PROJECT NO. 7019.00
FILE NAME: 7019C2.DWG
SCALE: GRAPHIC

PROJECT:
TITLE:

**TREE OF LIFE
SITE PLAN**
LYNCHBURG, VIRGINIA
EXISTING CONDITIONS

DATE: REV. 7-27-07
6-21-07
DRAWING NO: C-2
SHEET NUMBER: 2 OF 2

TREE OF LIFE PENTACOSTAL HOLINESS CHURCH
1101 Greenview drive
Map # 263-18-001
Conditional Use Permit Request
Petitioner: Tree of Life Pentacostal Holiness Church Trustees

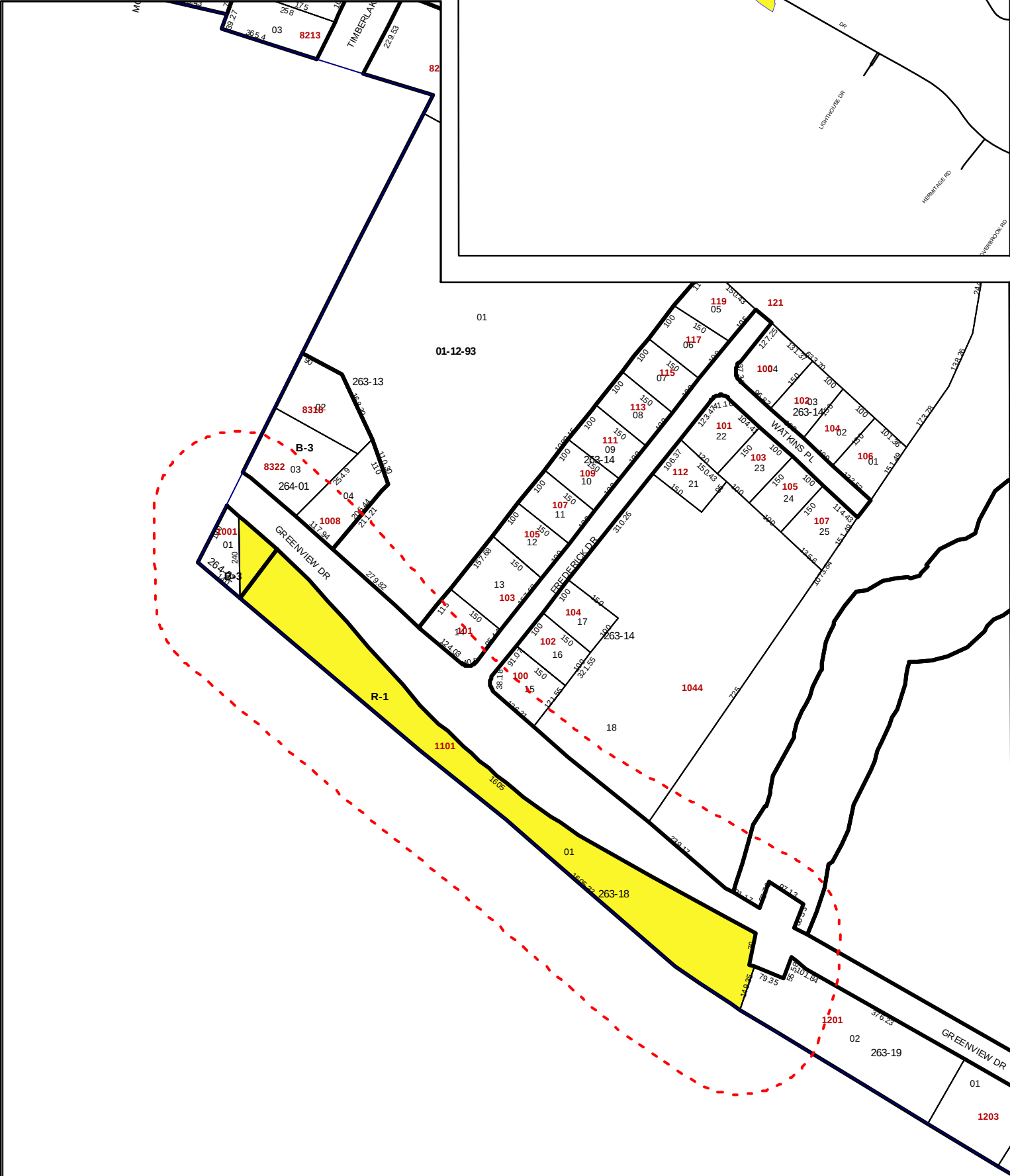
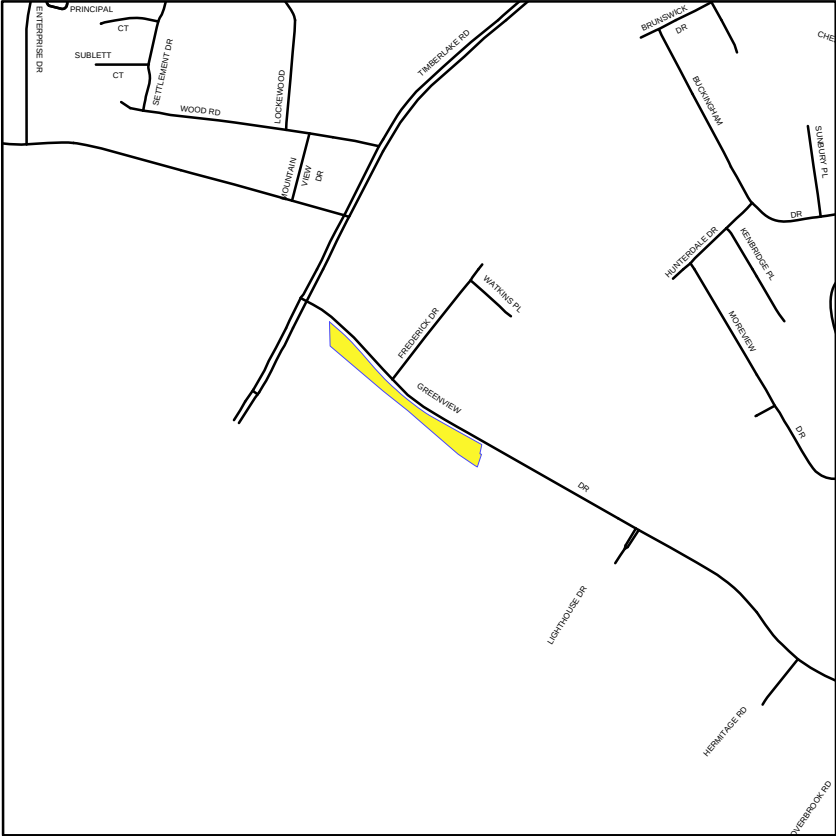
MAP PREPARED BY
THE DEPARTMENT OF COMMUNITY DEVELOPMENT



Subject Property

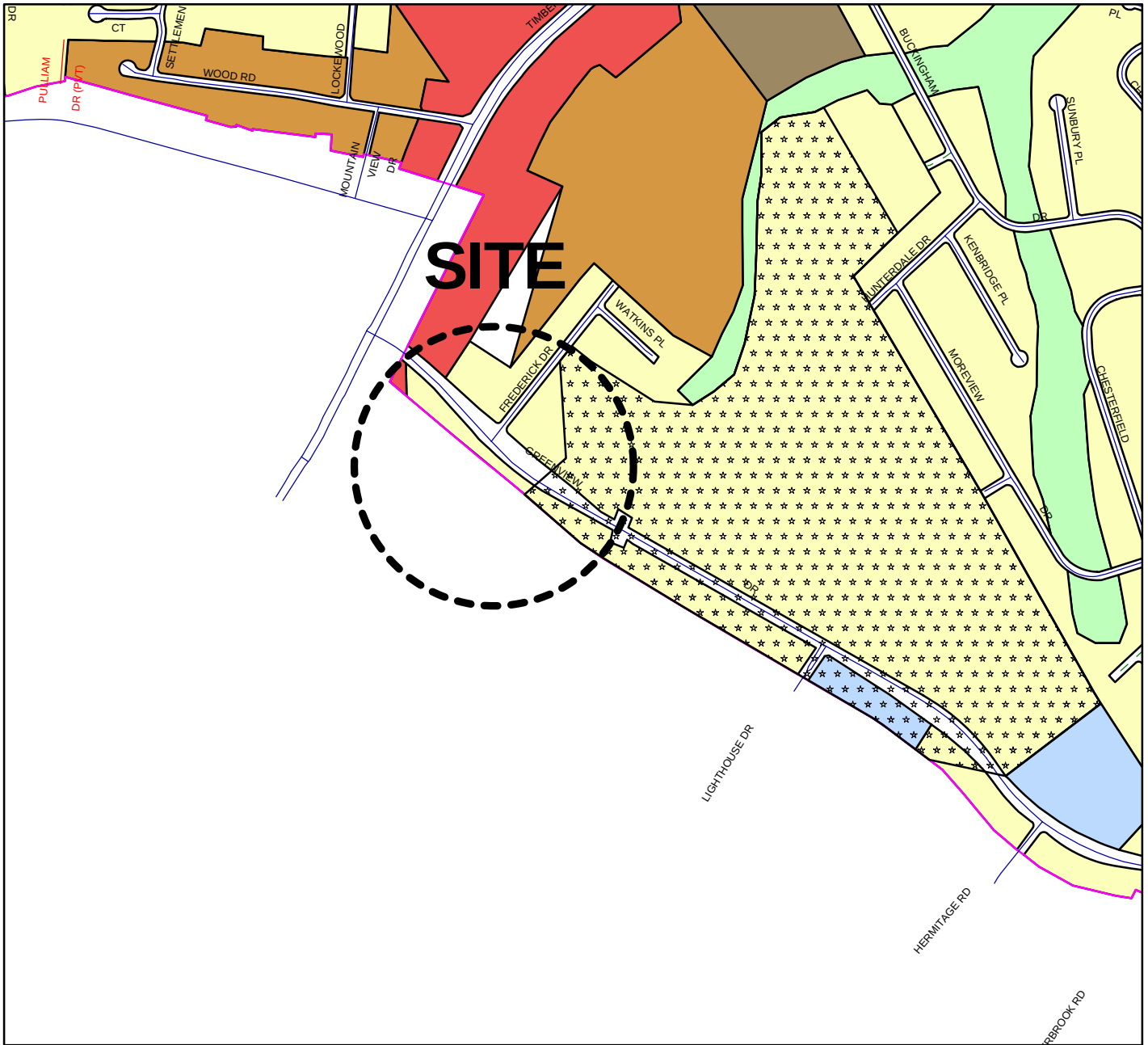


200 ft Radius



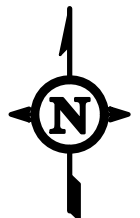
TREE OF LIFE ADJOINING OWNERS

	PIN	OWNER	LOCADDR
	26313001	LOWES HOME CENTERS INC ATTN: TAX DEPARTMENT 1ETA SITE 437	8216 TIMBERLAKE RD
	26314014	ARNOLD GARY E & LORETTA A	101 FREDERICK DR
	26314015	GOCHENOUR LEE A & JULIA G	100 FREDERICK DR
	26314018	KEELING CECIL H & BARBARA T	1044 GREENVIEW DR
	26315001	JBO LLC	1226 GREENVIEW DR
	26318001	TREE OF LIFE PENTECOSTAL HOLINESS CHURCH TRUSTEES	1101 GREENVIEW DR
	26319002	MICHAEL ROBERT L & PHYLLIS C TRS	1201 GREENVIEW DR
	26401003	JRN CHICKEN STORES INC C/O SAVAGE SAVAGE & BROWN	8322 TIMBERLAKE RD
	26401004	SWEENEY PAUL E JR & VERNELL	1008 GREENVIEW DR
	26402001	HOOPER DAVID L & OLIVER F & WATSON FLOYD W	1001 GREENVIEW DR
		CAMPBELL COUNTY OWNERS	
		JAMES RIVER PARTNERS LLC	20304 TIMBERLAKE RD
		BUILDING MEETING CENTRE INC	20334 TIMBERLAKE RD
Owner		TREE OF LIFE PENTECOSTAL HOLINESS CHURCH TRUSTEES	
Petitioner		TREE OF LIFE PENTECOSTAL HOLINESS CHURCH TRUSTEES	
Representative		TRENT WARNER/GUFFEY WARNER & ASSOCIATES	



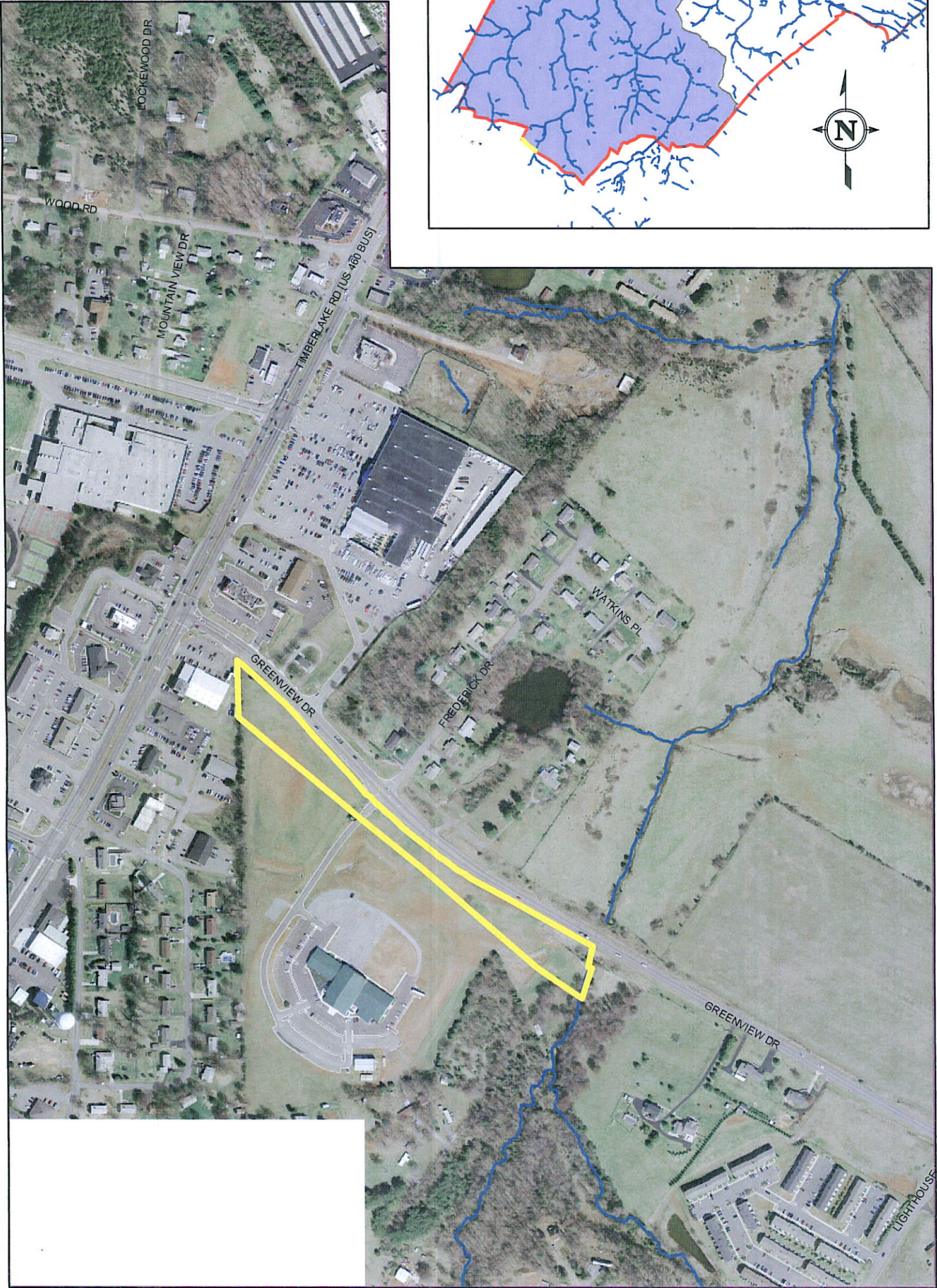
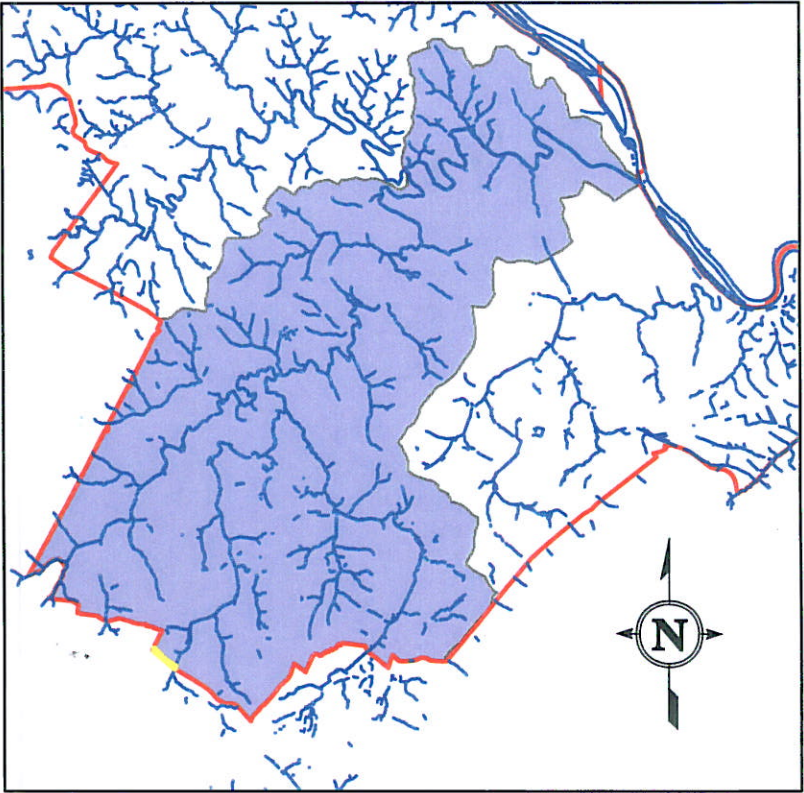
- Public Parks
- Resource Conservation
- Public Use
- Institution
- Downtown
- Office
- Employment 1
- Employment 2
- Neighborhood Commercial
- Community Commercial
- Regional Commercial
- Low Density Residential
- Medium Density Residential
- High Density Residential
- Traditional Residential
- LocalHistoricDistrict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

TREE OF LIFE PENTACOSTAL HOLINESS CHURCH 1101 GREENVIEW DRIVE LAND USE PLAN



Tree of Life Parking Expansion
Watershed Location Map

-  Project Site
-  Corporate Limit
-  Blackwater Creek Watershed



LYNCHBURG CITY COUNCIL

Agenda Item Summary

MEETING DATE: **September 11, 2007**

AGENDA ITEM NO.: 10

CONSENT:

REGULAR: **X**

CLOSED SESSION:
(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: Consideration of Adopting the Updated **Lynchburg Residential Design Review Guidelines** and **Lynchburg Commercial Design Review Guidelines**

RECOMMENDATION: Adopt the Updated Lynchburg Residential and Commercial design guidelines documents.

SUMMARY: The City of Lynchburg Historic Preservation Commission is requesting Council to adopt the Updated Lynchburg Residential Design Review Guidelines and Lynchburg Commercial Design Review Guidelines, as prepared by Thomason and Associates, Preservation Planners, Nashville, TN.

The revised Guidelines will be used in conjunction with alterations that are proposed to historic-designated properties (Section 35.1-44.1 Historic Districts of the Zoning Ordinance), including Court House Hill, Daniel's Hill, Diamond Hill, Federal Hill, Garland Hill, Pierce Street Renaissance, Rivermont historic districts, and sixteen (16) individually-designated historic districts. The Guidelines documents also will be used in conjunction with non-designated historic properties when Federal monies are being used in restorations and alterations.

The Planning Commission and the Historic Preservation Commission recommended adoption because:

- Request agrees with the Comprehensive Plan's Goals for Design, Character & Quality:
 - o Goal 1, "Ensure that development and redevelopment reinforce the City's unique character and sense of place" (Chapter 6, page 21).
 - o Goal 1A, "Expand efforts to improve the quality and character of private development...1) by preparing design guidelines...for Overlay Districts..." (Chapter 6, page 21).
- Request agrees with the Comprehensive Plan's Goals for History, Culture, Education & the Arts:
 - o To "ensure that future development, redevelopment and public improvements complement the scale and character, and respect the integrity of, designated historic districts and areas potentially eligible for designation" (Chapter 11, page 11).
 - o "Continue to update and print web-based material summarizing preservation-related regulations and incentive programs" (Chapter 11, page 10).

Two revisions were made to the Residential Guidelines document as follows:

- On page 19, second paragraph, Randolph-Macon Women's College, the word, "Women's" was changed to "Woman's."
- On page 27, under Oversight and Enforcement, a sentence was added that "The Neighborhood Services Manager shall have the authority to order that work be stopped and that an application for the issuance of a COA be filed."

PRIOR ACTION(S):

June 25, 2007: Planning Division recommended approval
Historic Preservation Commission tabled action in order to show full support to the Planning Commission and City Council (4-0 with three absent—Fogleman, Glass and Mundy).

July 16, 2007: Historic Preservation Commission recommended approval (6-0 with one vacancy).
August 8, 2007 Planning Commission recommended approval (5-0 with two absent—Hamilton and Oglesby).

FISCAL IMPACT: N/A

CONTACTS:

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

ATTACHMENT(S):

- Resolution
- PC Report
- PC Minutes
- HPC Minutes Excerpts (2 sets)
- Speaker Sign-Up sheet
- Lynchburg Residential Design Review Guidelines
- Lynchburg Commercial Design Review Guidelines

REVIEWED BY: lkp

RESOLUTION

A RESOLUTION TO ADOPT THE UPDATED LYNCHBURG RESIDENTIAL DESIGN REVIEW GUIDELINES AND LYNCHBURG COMMERCIAL DESIGN REVIEW GUIDELINES AS PREPARED BY THOMASON AND ASSOCIATES, PRESERVATION PLANNERS, NASHVILLE, TENNESSEE.

WHEREAS, since the initial adoption of the Residential Historic Districts Design Guidelines: Building on the History of Lynchburg and the Commercial Historic Districts Design Guidelines: Downtown Lynchburg in 1986 (hereinafter "1986 Design Guidelines"), the City has established three new historic districts, expanded two historic districts and established six additional locally-designated single properties; and

WHEREAS, the more recently established historic districts include resources that differ from those in earlier districts in dates of construction, historic associations and architectural styles and the 1986 Design Guidelines do not include discussions or recommendations with regard to the resources located within these new districts; and

WHEREAS, the 1986 Design Guidelines do not include recommendations about the use of new materials and the circumstances where they may or may not be used; and

WHEREAS, since initial adoption of the 1986 Design Guidelines, the City has adopted a new Downtown Plan, a sign ordinance, and a landscape ordinance and the 1986 Design Guidelines do not include recommendations with regard to certain elements of the Downtown Plan; and

WHEREAS, the updated Lynchburg Residential Design Review Guidelines and Lynchburg Commercial Design Review Guidelines (hereinafter "updated Design Review Guidelines") documents will be used in conjunction with alterations that are proposed to historic designated properties (Section 35.1-44.1 Historic Districts of the Zoning Ordinance) including Court House Hill, Daniel's Hill, Diamond Hill, Federal Hill, Garland Hill, Pierce Street Renaissance, Rivermont historic districts and sixteen (16) individually designated historic districts and will also be used in conjunction with non-designated historic properties when Federal monies are being used in restorations and alterations; and

WHEREAS, the updated Design Review Guidelines will give more detailed guidance to property owners contemplating changes or additions to their buildings or lots; will assist HPC by providing minimum standards to guide its decision-making and result in more appropriate changes which reinforce the distinctive character of the historic districts; and will assist the local building industry as well as City officials to understand the nature of these historic areas and how to reinforce their special character.

NOW, THEREFORE, BE IT RESOLVED that the updated Lynchburg Residential Design Review Guidelines and Lynchburg Commercial Design Review Guidelines documents as prepared by Thomason and Associates, Preservation Planners, Nashville, Tennessee, be, and are hereby, approved and adopted to be used in conjunction with alterations that are proposed to historic designated properties (Section 35.1-44.1 Historic Districts of the Zoning Ordinance) including Court House Hill, Daniel's Hill, Diamond Hill, Federal Hill, Garland Hill, Pierce Street Renaissance, Rivermont historic districts and sixteen (16) individually designated historic districts and will also to be used in conjunction with non-designated historic properties when Federal monies are being used in restorations and alterations.

Adopted:

Certified:

Clerk of Council

The Department of Community Development

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

To: Planning Commission
From: Historic Preservation Commission
Date: August 8, 2007
Re: **Consideration of Adopting the Updated Lynchburg Residential Design Review Guidelines and Lynchburg Commercial Design Review Guidelines, as prepared by Thomason and Associates, Preservation Planners, Nashville, TN. These Guidelines documents will be used in conjunction with alterations that are proposed to historic-designated properties (Section 35.1-44.1 Historic Districts of the Zoning Ordinance), including Court House Hill, Daniel's Hill, Diamond Hill, Federal Hill, Garland Hill, Pierce Street Renaissance, Rivermont historic districts, and sixteen (16) individually-designated historic districts. The Guidelines documents also will be used in conjunction with non-designated historic properties when Federal monies are being used in restorations and alterations.**

I. PETITIONERS

City of Lynchburg, VA., in care of Annette M. Chenault, Secretary to the Historic Preservation Commission, 900 Church Street, Lynchburg, VA 24504

Representatives: Henry C. Devening, Chair, Historic Preservation Commission, 900 Church Street, Lynchburg, VA 24504
Annette M. Chenault, 900 Church Street, Lynchburg, VA 24504

II. LOCATION

The Design Guidelines documents will be applicable to locally-designated historic districts--Court House Hill, Daniel's Hill, Diamond Hill, Federal Hill, Garland Hill, Pierce Street Renaissance, Rivermont, and sixteen (16) individually-designated historic districts (see Appendix A). The guidelines documents also will be applicable to non-designated historic properties when Federal monies are being used in restorations and alterations. The Design Guidelines will be used in conjunction with districts and individual properties that may be designated as local historic district zones in the future.

III. PURPOSE

The Lynchburg Residential Design Review Guidelines and Commercial Design Review Guidelines are intended to provide specific criteria for appropriate rehabilitation work, new construction, and demolition in Lynchburg's designated historic districts and downtown. Design guidelines assist property owners in maintaining and enhancing the appearance of their properties, maintain property values and improve the livability of historic areas. Design guidelines help property owners understand the value and methods of preserving and maintaining the essential character of their property and methods for preservation and appropriate maintenance.

With locally designated historic districts and the Guidelines, there is a clear commitment, purpose and blueprint as to how the community will evolve in the 21st century.

IV. SUMMARY

- Petition agrees with the Comprehensive Plan's Goals for Design, Character & Quality:
 - Goal 1. "Ensure that development and redevelopment reinforce the City's unique character and sense of place" (Chapter 6, page 21).
 - Goal 1A. "Expand efforts to improve the quality and character of private development...1) by preparing design guidelines...for Overlay Districts..." (Chapter 6, page 21).
- Petition agrees with the Comprehensive Plan's Goals for History, Culture, Education & the Arts

- To “Ensure that future development, redevelopment, and public improvements complement the scale and character, and respect the integrity of, designated historic districts and areas potentially eligible for designation” (Chapter 11, page 11).
- “Continue to update print and web-based material summarizing preservation-related regulations and incentive programs” (Chapter 11, page 10).

The Planning Division recommends adoption of the updated Design Guidelines.

V. FINDINGS OF FACT

1. **Comprehensive Plan.** The Lynchburg *Comprehensive Plan’s Goals for Design, Character & Quality*, Goal 1 states to “Ensure that development and redevelopment reinforce the City’s unique character and sense of place.” Goal 1A states to “Expand efforts to improve the quality and character of private development by (1) preparing design guidelines...for Overlay Districts...” (Chapter 6, page 21). The *Comprehensive Plan’s Goals for History, Culture, Education & the Arts*, Goal 2 is to “Increase access to information concerning local history and culture, as well as the value and benefits of preserving sensitive historic resources by “(2) Continuing to update print and web-based material summarizing preservation-related regulations and incentive programs.” Goal 3 states to “Ensure that future development, redevelopment, and public improvements complement the scale and character, and respect the integrity of, designated historic districts and areas potentially eligible for designation” (Chapter 11, pages 10 & 11).
2. **Zoning.** The Design Guidelines documents do not propose to change the existing zoning but are applicable to properties that have a historic district overlay zone (Section 35.1-44.1 of the Zoning Ordinance).
3. **Board of Zoning Appeals (BZA).** N/A
4. **Site Description.** N/A
5. **Proposed Use of Property.** N/A
6. **Development and History.** The City of Lynchburg’s Programmatic Agreement with the Department of Historic Resources (DHR) requires the HPC to make “Determinations of Effect” for properties potentially eligible for historic designation based on its design guidelines according to 36 CFR Part 800 of the National Historic Preservation Act. The City’s Zoning Ordinance requires that conformance with the design guidelines is mandatory in locally designated historic districts. Also, the City’s statue as a Certified Local Government requires that the HPC base its decisions on its design guidelines. The City adopted the Residential Historic Districts Design Guidelines: Building on the History of Lynchburg and the Commercial Historic Districts Design Guidelines: Downtown Lynchburg in 1986 and readopted the Guidelines in 1991 with minor additions.

Since the initial preparation of the Design Guidelines in 1986, the City has established three new historic districts: Court House Hill, Rivermont and Pierce Street Renaissance. Boundaries for both National Register districts--Lower Basin Historic District and the Court House Hill/Downtown Historic District--have been expanded since 1986, and six (6) additional locally-designated single properties have been established. (The City has sixteen (16) individually designated historic properties.)

The historic districts more recently established include resources that differ from those in the earlier districts in dates of construction, historic associations and architectural styles. The current Design Guidelines documents do not include discussions or recommendations with regard to the resources located within these new districts.

In addition to an increase in the number of locally designated districts and properties, the 1986 Design Guidelines do not include recommendations about the use of new materials which have come under much discussion, such as the HPC has recognized a lack of guidance on information about these materials. The new guidelines address new materials and the circumstances where they may or may not be used.

Since 1986, the City also adopted a new Downtown Plan and sign ordinance and developed a landscape ordinance, all of which have impacts on the City's historic districts. The original Design Guidelines do not include recommendations with regard to certain elements associated with the Downtown Plan.

The HPC found the 1986 Design Guidelines documents to be vague with not enough detail and too few examples cited in the explanatory discussions to be useful.

On April 6, 2006 the DHR and the City entered into an agreement to share the cost of updating the City's Design Guidelines documents. On April 25, 2006, City Council approved the appropriation of \$44,000 for the 2006-2007 DHR Survey and Planning Cost Share Program with resources of \$20,000 from the DHR and \$24,000 from the City for the project. In June 2006, the DHR and the City contracted with Phil Thomason, Thomason and Associates, of Nashville, TN. On August 15, 2006, a special 'kick-off' meeting was held with DHR representatives, Mr. Thomason, the HPC and the public to discuss procedures for accomplishing the task. Workshops were held on October 2, 2006, November 13, 2006, January 18, 2007 and May 23, 2007 in which the public participated in the review during various stages of development.

The final versions of the Design Guidelines documents were submitted in June 2007.

7. **Traffic and Parking.** N/A

8. **Storm Water Management.** N/A

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

10. **Impact.** The updated Design Guidelines will be used in conjunction with alterations that are proposed to historic-designated properties (Section 35.1-44.1 Historic Districts of the Zoning Ordinance), including Court House Hill, Daniel's Hill, Diamond Hill, Federal Hill, Garland Hill, Pierce Street Renaissance and Rivermont historic districts and sixteen (16) individually-designated historic district properties. The documents also will be used in conjunction with non-designated historic properties when Federal monies are being used in restorations. The Design Guidelines will be used in conjunction with districts and individual properties that may be designated as local historic districts in the future.

The updated Design Guidelines will give more detailed guidance to property owners contemplating changes or additions to their buildings or lots. The documents will assist the HPC by providing them with minimum standards to guide its decision making and result in more appropriate changes which reinforce the distinctive character of the historic districts. They will assist the entire local building industry, including architects, contractors and suppliers, as well as city officials such as building inspectors to understand the nature of these historic areas and how to reinforce their special character.

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

VI. HISTORIC PRESERVATION COMMISSION PUBLIC HEARINGS – JUNE 25, 2007 AND JULY 16, 2007

The Historic Preservation Commission held a public hearing on June 25, 2007 and continued the matter until July 16, 2007. Excerpts from the minutes of both meetings are attached. The following motion was unanimously approved (6-0):

Based on the preceding Findings of Fact, the Historic Preservation Commission recommends to the Planning Commission and City Council adoption of the updated Lynchburg Residential Design Review Guidelines and Lynchburg Commercial Design Review Guidelines, as prepared by Thomason and Associates, Preservation Planners, Nashville, TN.

PLANNING DIVISION RECOMMENDED MOTION

Based on the preceding Findings of Fact, the Planning Commission recommends to the City Council adoption of the updated Lynchburg Residential Design Review Guidelines and Lynchburg Commercial Design Review Guidelines, as prepared by Thomason and Associates, Preservation Planners, Nashville, TN. .

This matter is respectfully offered for your consideration.

Tom Martin, AICP
City Planner

pc: Mr. L. Kimball Payne, III, City Manager
Ms. Charlene T. Montford, Director of Community Development
Mr. Walter C. Erwin, City Attorney
Mr. J. Lee Newland, Director of Engineering
Ms. Annette M. Chenault, Planner II
Capt. Michael L. Thomas, Fire Marshal
Lt. Danny R. Marks, Lynchburg Police Department Field Operations Bureau
Capt. Todd Swisher, Lynchburg Police Department North Division
Capt. J.P. Stokes, Lynchburg Police Department East Division
Capt. Al Thomas, Lynchburg Police Department South Division
Ms. Cindy Kozerow, Lynchburg Police Department Crime Prevention Bureau
Mr. Gerry L. Harter, Traffic Engineer
Mr. Robert Drane, Building Commissioner
Mr. Keith Wright, Zoning Official
Mr. Robert S. Fowler, Zoning Official
Mrs. Erin B. Hawkins, Environmental Planner
Mr. Phil Thomason, Thomason & Associates
Ms. Susan E. Smead, DHR Cost Share Program Coordinator

VI. ATTACHMENTS

Lynchburg Residential Design Review Guidelines and Lynchburg Commercial Design Review Guidelines
Appendix A Lynchburg's Local Register of Historic Places- Individual Sites and Historic Districts
Minutes from June 25 and July 16, 2007 HPC meetings

MINUTES FROM THE AUGUST 8, 2002 PLANNING COMMISSION MEETING (MINUTES HAVE BEEN APPROVED):

- a. Consideration of Adopting the Updated Lynchburg Residential Design Review Guidelines and Lynchburg Commercial Design Review Guidelines, as prepared by Thomason and Associates, Preservation Planners, Nashville, TN. These Guidelines documents will be used in conjunction with alterations that are proposed to historic-designated properties (Section 35.1-44.1 Historic Districts of the Zoning Ordinance), including Court House Hill, Daniel's Hill, Diamond Hill, Federal Hill, Garland Hill, Pierce Street Renaissance, Rivermont historic districts, and sixteen (16) individually-designated historic districts. The Guidelines documents also will be used in conjunction with non-designated historic properties when Federal monies are being used in restorations and alterations.**

Mr. Martin indicated that this hearing will be handled by Ms. Annette Chenault, the planner that handles historic preservation projects and Mr. Hal Devening, the Chair of the Historic Preservation Commission (HPC). Mr. Martin commented that he is impressed with the guidelines every time he reads them. Ms. Chenault and the HPC did a tremendous job over the past year in putting these together. Mr. Martin believes that they will be beneficial to the city and in helping the HPC make better decisions.

Ms. Chenault commented that the original Design Review Guidelines for both residential and commercial areas were developed in 1986. They were done by Frazier and Associates who were new to producing design guidelines. The HPC has used them extensively in making decisions that are not considered arbitrary and capricious. The guidelines are in the minutes of each meeting. Since 1986 three new historic districts have been designated (Court House Hill, Rivermont and Pierce Street Renaissance). The character and style of housing of these districts is different from the older historic districts. Also, two nationally registered districts have been expanded (Downtown/Court House Hill District and the Lower Basin District). These new guidelines would also cover sixteen (16) individually-designated historic districts.

Earlier this year the Department of Historic Resources and the City contracted to produce the updated set of design guidelines. There have been numerous public meetings with citizens and they have had some input into the development

of these guidelines. Ms. Chenault mentioned that another reason to update these guidelines was the development of new building materials.

Commissioner Worthington asked Mr. Devening how the new design guidelines differ from the current ones. He asked if they address technical changes or if there is something substantive in the changes. Mr. Devening explained that the new guidelines are more detailed. The primary issue the HPC deals with is the use of new building materials. The guidelines are very tailored to Lynchburg. They are helpful to the HPC, but they are also informative to the citizens appearing before the HPC. If they review them, they know what the HPC will be focusing on and what their approach will be. If a person is considering buying a historic house, it helps them know what that will mean for them in terms of maintenance, remodeling, etc.

Commissioner Sale commented that as a resident of a historic district, he knows some of the issues of the application of these guidelines. He referred them to page 22 of the document which talks about the mechanics of making the guidelines operational. He knows of a couple of situations in his neighborhood where Certificates of Appropriateness (COAs) were never obtained. He asked for clarification that a COA is required by city ordinance and Ms. Chenault and Mr. Devening said that was correct. He believes that enforcement of that ordinance was a real issue. On page 27, it talks about deviation from the COA not whether or not someone has done work without getting a COA. He knows of major work that was done in the historic district where a COA was not obtained, and he wanted to know what the HPC has done about that issue. Ms. Chenault commented that there have been instances where they have stopped work on projects where a COA was not obtained. They were required to obtain one after the fact or during the work in some cases. Commissioner Sale asked for clarification that a stop work order would apply to someone who has not obtained a COA and Ms. Chenault said that was correct. Commissioner Sale commented that this is not referenced in the guidelines and he thinks that it should be. He made the suggestion that this should be added to the guidelines. Ms. Chenault agreed that it would be valuable to mention that and she will add it to the guidelines.

Mr. Devening agreed that enforcement is a problem and that it was the job of Inspections to enforce it. Commissioner Swienton and Vice-Chair Barnes got clarification that a COA would be required before getting a building permit. Commissioner Sale pointed out that there are renovations that do not require a building permit such as painting or putting a railing on a porch, but these renovations do require a COA. Commissioner Sale commented that he would like to give the HPC the enforcement tools they need in these guidelines. Mr. Devening said that they have come across deviations from an approved COA or work that was done without a COA and the owners were required to repaint or rebuild. He indicated that the city needs a full-time position specifically designated to historic preservation to be able to implement this ordinance.

Commissioner Sale was concerned how the guidelines would apply to city-owned areas. On page 99 it makes reference to streets and sidewalks. Commissioner Sale said he is trying to get city standards applied to city assets.

Vice-Chair Barnes noted that there are no citizens present to speak in favor or against the matter. He asked Mr. Devening if he could characterize the citizens' comments that they had received at public meetings. Mr. Devening said that he did not recall anything specifically noteworthy. Most had comments that were specific to their own situation.

Commissioner Worthington asked if the guidelines are so tight that it would discourage people. Commissioner Sale gave an example of when he wanted to do some work to his front porch. The HPC was helpful in giving him guidance in how to do the work in character with its architecture. He has found the HPC to be more of a consultative body rather than a legislative body. Commissioner Worthington asked Commissioner Sale if he thought the guidelines were so restrictive that future historic designations would be a problem. Commissioner Sale thought that they were not; in fact, he felt that the guidelines enhance historic district development because they provide protection for a homeowner's investment. Ms. Chenault said that the are guidelines documents are not an ordinance. The HPC can deviate from these guidelines it has specific reasons for doing so.

Vice-Chair Barnes commented that he is impressed with the clarity and comprehensiveness of the guidelines.

Commissioner Flint commented that the guidelines explain how renovation helps the city. Rather than having a new subdivision, you are using infrastructure that already exists. Renovation creates more jobs. It talks about older buildings being likely to last longer than new buildings. He thought that there was a lot of good information in the documents.

Vice-Chair Barnes said he was happy to see some flexibility in the use of materials that are more energy efficient without detracting from the historic quality of a home. Mr. Devening said manufacturers are starting to make windows that look historically accurate and more energy efficient.

Commissioner Swienton asked what communication was used to notify residents that these guidelines were being updated. Ms. Chenault said legal notices were put in the newspaper. She sent notices to each neighborhood organization and other individuals. Public notices were also placed in city hall. Commissioner Swienton said that he was concerned about the sixteen individually-designated historic districts and was curious if they knew about this. Ms. Chenault said that she did not send individual notices, but that they are aware of the existing guidelines. Commissioner Swienton requested that she send them individual notices of the City Council meeting.

On page 25 of the commercial guidelines, Commissioner Swienton noted that these guidelines are voluntary. Ms. Chenault indicated that downtown is not a designated local historic district and these guidelines are voluntary. The Design Review Board oversees those alterations.

Commissioner Worthington asked under what guidelines a commercial property in a historic district would be considered. Mr. Devening clarified that there is overlap between the two guidelines to a certain extent. Commissioner Worthington asked if a Sheetz-type business could be put in a historic district. Ms. Chenault said a Sheetz could be put in a historic district, but it would not look like a regular Sheetz.

Vice-Chair Barnes asked for a minor correction on page 19 of the residential guidelines. Randolph Macon "Women's" College should be Randolph Macon "Woman's" College. He also said they might add that it is now called Randolph College.

Commissioner Sale made the following motion which was seconded by Commissioner Flint and passed by the following vote. Commissioner Sale commented that he would not make an amendment about the COA stop-work order issue, but he assumed they will find a way to say it that is more specific:

"That the Planning Commission recommends to the City Council adoption of the updated Lynchburg Residential Design Review Guidelines and Lynchburg Commercial Design Review Guidelines, as prepared by Thomason and Associates, Preservation Planners, Nashville, TN.

AYES:	Barnes, Flint, Sale, Swienton and Worthington	5
NOES:		0
ABSTENTIONS:		0
ABSENT:	Hamilton, Oglesby	2

Commissioner Sale commented that he did not see Point of Honor listed as an individual historic district. Vice-Chair Barnes commented that he did not see Randolph College either. Ms. Chenault explained that Point of Honor was an individually-designated historic district that was later incorporated into the Daniels Hill historic district. Randolph College is part of the Rivermont historic district.

4. Old/New Business:

Vice-Chair Barnes remarked that the Natural Resources Advisory Committee met recently and talked about the possible joint work session with Planning Commission. They would like to put it off until late September or early October so that they can come up with more specific recommendations. So the Commission needs to think about a time to do this work session. The NRAC had suggested having the meeting after 5:00.

Mr. Martin said that we need to schedule several meetings with the Citizens Steering Committee to do the five-year review of the Comprehensive Plan before the end of the year. They might need to start in September as well.

Vice-Chair Barnes asked if Mr. Martin could talk with Ms. Hawkins, the Environmental Planner, to schedule a work session. Mr. Martin said it would probably be easier to get them to a Wednesday meeting, possibly after the regular Planning Commission meeting.

Commissioner Sale asked if Charlene Montford was coming to a meeting soon and Mr. Martin thought it would be the August 22nd meeting.

Commissioner Sale asked about the Capital Improvement Program process. Mr. Martin said that the time is approaching and Commissioner Sale asked if they could see the timeframe that Finance has to get this done.

Commissioner Worthington commented that a lot of time is spent prioritizing projects knowing that there was not enough money for them. He wondered why we prioritize \$20 million worth of projects when we know there is only \$10 million available and spend all those manhours. Commissioner Sale said that he thought it was still important to prioritize them even if the money is not available for the projects. Commissioner Worthington said that he does not want to stop the process, just not to spend so much time on the prioritization after they have reached the spending limit. Mr. Martin

said that was a good point. Vice-Chair Barnes said that it might impact future fiscal years. Mr. Martin said that it is a very important process and that if it had not been for the Planning Commission coming out in such strong support of Fifth Street, that project would not have received any money.

**LYNCHBURG CITY COUNCIL
Agenda Item Summary**

MEETING DATE: **September 11, 2007**

AGENDA ITEM NO.: //

CONSENT:

REGULAR: **X**

CLOSED SESSION:
(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: **Public Hearing on an Appalachian Power Company Easement at the Lynchburg Regional Airport**

RECOMMENDATION:

Authorize the City Manager to execute a right of way and easement agreement with Appalachian Power Company on airport property to allow the relocation of an overhead power line as part of the Lynchburg Regional Airport's runway extension project.

SUMMARY:

The runway extension project at the Lynchburg Regional Airport will require the relocation of an existing overhead power line. Appalachian Power Company has requested that the City execute a right of way and easement agreement for the installation and maintenance of the relocated power line. State law requires the City to hold a public hearing before granting an easement on public property.

PRIOR ACTION(S):

None

FISCAL IMPACT:

None

CONTACT(S):

Mark F. Courtney 455-6089 Airport Director

ATTACHMENT(S):

Resolution
Easement Agreement

REVIEWED BY: lkp

RESOLUTION

BE IT RESOLVED by the Lynchburg City Council that the City Manager is hereby authorized to execute a right of way and easement with Appalachian Power Company granting access across City-owned property at the Lynchburg Regional Airport to install and maintain a power line on the properties identified as Campbell County, Tax Parcel Number 21-A-177 and 21-A-176.

Adopted:

Certified:

Clerk of Council

114L

TAX PARCEL No. 21 – A – 177
GRW 252-OVHD – VA CORP

The City of Lynchburg _____ Eas. No. _____ R/W Map No. 3779 223 C/3 & C/4
_____ W.O. No. W001546701 Job No. 07 310125 Prop. No. 1
_____ Line Franklin D. and Joseph C. Schmitt

THIS AGREEMENT, made this 19th day of July, 2007, by and between **THE CITY OF LYNCHBURG**, a Municipal Corporation of the Commonwealth of Virginia, herein called "Grantor", and **APPALACHIAN POWER COMPANY**, a Virginia corporation, herein called "Appalachian",

WITNESSETH:

That for and in consideration of the sum of One Dollar (\$1.00), cash in hand paid to Grantor by Appalachian, the receipt whereof is hereby acknowledged, Grantor hereby grants, conveys, and warrants to Appalachian, its successors, assigns, lessees and tenants, a right of way and easement for an electric power line or lines, and communication lines, in, on, along, through, over, and across the following described lands of the Grantor situated in **Flat Creek** District, County of **Campbell**, State of Virginia.

Being a right of way and easement on the property of the Grantors identified as Campbell County, Tax Parcel Number 21 – A – 177.

Said right of way and easement shall be as shown and designated Proposed Overhead Facilities (40') on Appalachian's Drawing No. V-1835 (Sheet 1 of 2), dated 7/2/07 and entitled "PROPOSED RIGHT OF WAY ON THE PROPERTY OF CITY OF LYNCHBURG" attached hereto and made a part hereof.

TOGETHER with the right, privilege and authority to Appalachian, its successors, assigns, lessees and tenants, to construct, erect, install, place, operate, maintain, inspect, repair, renew, remove, add to the number of, and relocate at will, poles, with wires, cables, crossarms, guys, anchors, grounding systems and all other appurtenant equipment and fixtures (hereinafter called "Appalachian's Facilities"), and string wires and cables, adding thereto from time to time, across, through, or over the above referred to premises; the right to cut down, trim and/or otherwise control, and at Appalachian's option, remove from said premises, any trees, overhanging branches, buildings or other obstructions which may endanger the safety of, or interfere with the use of, Appalachian's Facilities; and the right of ingress and egress to and over said above referred to premises, and any of the adjoining lands of the Grantor at any and all times, for the purpose of exercising and enjoying the rights herein granted, and for doing anything necessary or useful or convenient in connection therewith.

It is understood and agreed between the parties hereto, that the Grantor reserves the right to use said lands in any way not inconsistent with the rights herein granted.

It is further understood and agreed between the parties hereto that this right of way and easement is for a period of Forty (40) years, commencing on the _____ day of _____, 2007 and ending on the _____ day of _____, 2047.

TO HAVE AND TO HOLD the same unto Appalachian Power Company, its successors, assigns, lessees and tenants.

THIS INSTRUMENT PREPARED BY APPALACHIAN POWER COMPANY, P O BOX 2021, ROANOKE, VIRGINIA 24022

It is agreed that the foregoing is the entire contract between the parties hereto, and that this written agreement is complete in all its terms and provisions.

NOTICE TO LANDOWNER: You are conveying rights to a public service corporation. A public service corporation may have the right to obtain some or all of these rights through exercise of eminent domain. To the extent that any of the rights being conveyed are not subject to eminent domain, you have the right to choose not to convey those rights and you could not be compelled to do so. You have the right to negotiate compensation for any rights that you are voluntarily conveying.

IN WITNESS WHEREOF, Grantor has caused its corporate name and seal to be hereto affixed the day and year first above written.

Accepted pursuant to the Code of Virginia (15.2 - 1803) on behalf of The City of Lynchburg by authority granted by City Council, approved as to form:

By: _____
Walter C. Erwin, III
City Attorney

By: _____
L. Kimball Payne, III
City Manager

STATE OF _____)

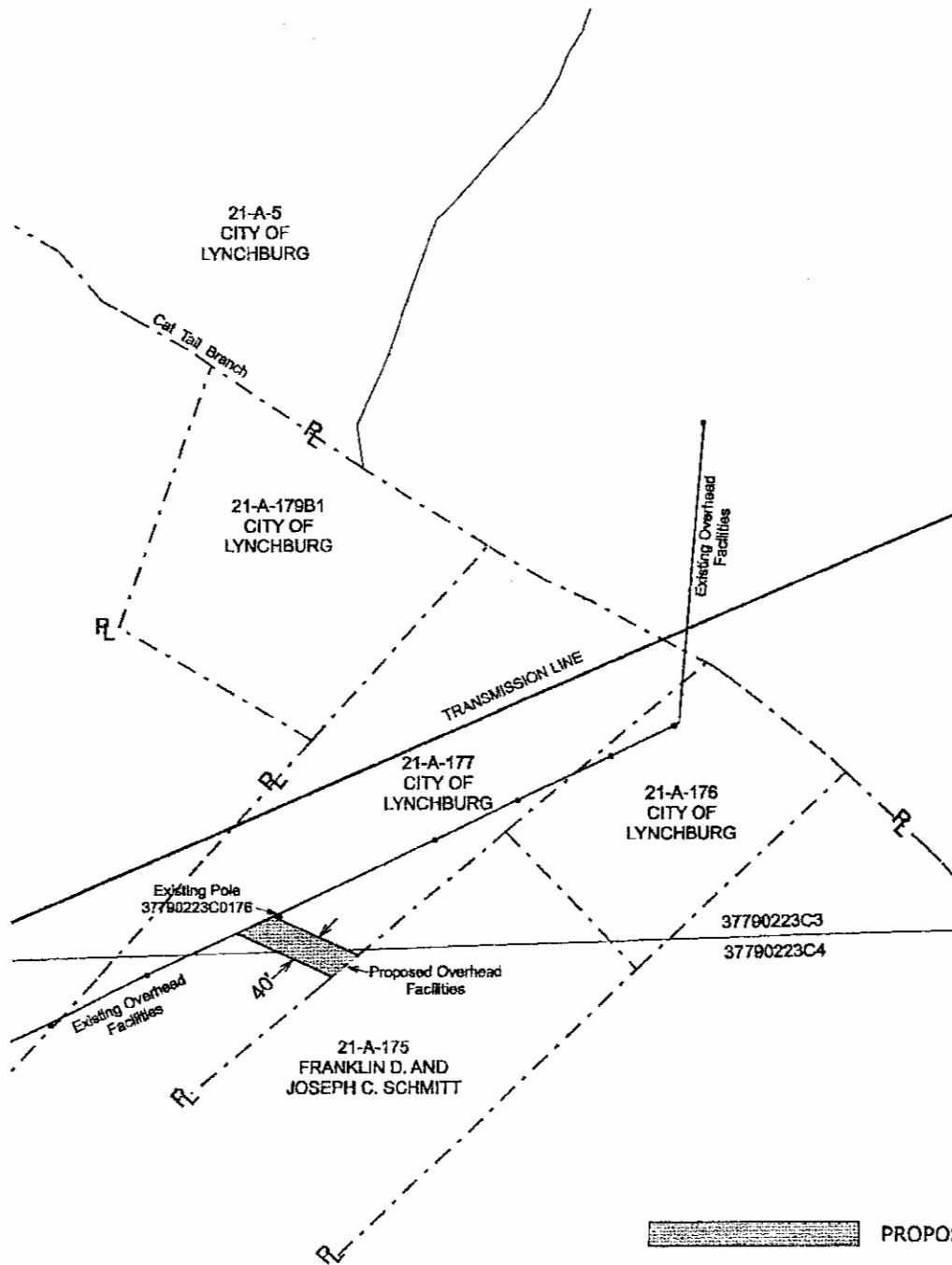
CITY OF _____)

To-wit:

The foregoing instrument was acknowledged before me this _____ day of _____, 2007, by Walter C. Irwin, III, City Attorney and L. Kimball Payne, III, City Manager on behalf of The City of Lynchburg, a Municipal Corporation of the Commonwealth of Virginia.

Notary Public/Commissioner

My Commission expires:



CAMPBELL COUNTY, VIRGINIA
T.D. 670000
Map Sections 37790223 C3&C4

APPALACHIAN POWER COMPANY	
CHARLESTON REGION-ROANOKE DISTRICT- CAMPBELL COUNTY, VIRGINIA	
PROPOSED RIGHT OF WAY ON THE PROPERTY OF CITY OF LYNCHBURG	
DRAWN BY: KJW	DATE: 7/2/07
APP BY: CPH	SCALE: NONE
SHEET 1 OF 2	
DRAWING NO.	V-1835



MEMORANDUM

The Department of Community Development

Planning Divisions

455-3900

To: City Council
From: Tom Martin, AICP, City Planner
Subj: McKenna Place, 5040 Boonsboro Road
Date: September 11, 2007

The development proposed at 5040 Boonsboro Road would include fourteen (14) residential units and thirteen (13) commercial spaces with associated parking. The development as proposed would require a Future Land Use Map amendment from Low Density Residential to Mixed Use, a rezoning from R-1, Single-Family Residential to B-1, Limited Business (Conditional) and a conditional use permit to allow a "cluster commercial development".

Prior actions on the petitions include:

- May 23, 2007: The Planning Division recommended approval of the petitions to the Planning Commission.
- May 23, 2007: The Planning Commission voted against approval of the petitions (1-5, with 1 abstention – Barnes)
- June 12, 2007: The City Council conducted a public hearing on the petitions and placed them on the July 10, 2007 work session agenda.
- July 10, 2007: The City Council conducted a work session on the petitions. At the request of the petitioners, the items were placed on the September 11, 2007 agenda. The purpose of the request was to determine if there was any interest from the opposition to purchase the property.

Planning staff contacted the petitioners on September 5, 2007 to inquire about any interest expressed to purchase the property. The petitioners stated that no one has inquired about purchasing the property and there has been no changes in the development proposal previously presented to the City Council.

LYNCHBURG CITY COUNCIL
Agenda Item Summary

MEETING DATE: **September 11, 2007**

AGENDA ITEM NO.: **13**

CONSENT:

REGULAR: **X**

CLOSED SESSION:
(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: FUTURE LAND USE MAP AMENDMENT: Low Density Residential to Mixed Use at 5040 Boonsboro Road.

REZONING: R-1, Low Density Single-Family Residential District to B-1C, Limited Business District (Conditional) at 5040 Boonsboro Road.

CONDITIONAL USE PERMIT (CUP) – Cluster Commercial Development, McKenna Farms, LLC

RECOMMENDATION: The Planning Commission recommended denial of the requested *Future Land Use Map [FLUM]* amendment, rezoning and conditional use permits. Staff recommended approval.

SUMMARY: McKenna Farms, LLC is petitioning to amend the *FLUM*, rezone one (1) tract totaling approximately two and ninety-five hundredths (2.95) acres at 5040 Boonsboro Road and for the approval of a conditional use permit to allow a Cluster Commercial Development that would include the construction of a four (4) building office park, with a total of twenty-seven (27) units; thirteen (13) of the units are designated for retail/office spaces and fourteen (14) units will be provided as residential spaces. The Planning Division recommended approval of the petitions because:

- Petition proposes to change the *FLUM* designation for this area from a Low Density Residential to a Mixed Use. The *Comprehensive Plan* provides that land use decisions made by the City will take into account not only the *FLUM* but the *Plan Framework Map* and the policies presented within the text of the plan. Since the project would lie within an area designated as part of the Boonsboro Road Corridor Study Area (pg 4.14), the interim policies of the plan (pg 4.11) indicate that the "City will entertain mixed use and/or TND development/redevelopment proposals along the corridors".
- Petition agrees with the *Zoning Ordinance* in that a Cluster Commercial Development is a use permitted in an B-1C, Limited Business District (Conditional) with approval of a conditional use permit (CUP) by City Council.
- The Design Review Board determined that the proposal meets the objectives of Section 35.1-43.5b of the *Zoning Ordinance*.
- The petitioner has requested a reduction in the required parking for the project due to non-coinciding hours of operation for shared use of the residential and commercial uses, which is permitted by Section 35.1-25(f) of the *Zoning Ordinance*. The twenty-three thousand four hundred square feet of office/commercial uses would require one (1) space per three (300) square feet and the fourteen (14) residential units would require two and a half (2.5) spaces per unit for a total of one hundred and thirteen (113) total spaces. The proposed ninety-four (94) spaces would require a seventeen percent (17%) reduction of the off-street parking requirement. Staff supports this reduction due to the proposed shared use and overall reduction of impervious cover.
- The petitioner voluntarily submitted the following proffer(s) with the rezoning application:
 1. The property will be developed as professional offices and small upscale retail shops on the main level with residential on the second floor. This project will be in substantial compliance with the Conceptual Site Plan for Rezoning for "McKenna Place" prepared by Hurt and Proffitt, Inc.: dated 3/16/07; received by Community Development on 5/18/2007. It is understood that the site plan is conceptual in nature and [the] full intention is to build per site plan, although market conditions may affect the size of buildings but not to exceed what is shown on site plan.
 2. The existing mature hardwoods will be preserved as well as extensive landscaping to provide screening along adjacent properties as noted on the site plan.
 3. The developer agrees to abide by the new landscape ordinance (Section 35.1-25.1) for this development.

4. All buildings will be custom built with brick, stone, stucco, HardiPlank or wood exteriors, architecturally designed and well-planned for an upscale development to enhance the Boonsboro Road corridor and the surrounding residences.
5. The development proposes that the following uses will not be allowed within the property: Boarding houses or lodging homes; care centers; churches and other places of worship; convalescent and nursing homes; convents and monasteries; funeral homes and undertaking establishment; group homes; halls or theaters for music, drama, lectures, or other civic or amateur presentation of the arts; libraries, museums and similar institutions of non-commercial nature; parking of passenger automobiles not including trailers, trucks, or buses, on open lots for transient occupancy, for which fees may be charged; rooming houses; telecommunications towers and facilities; telephone exchanges and dial centers; tourist homes or bed and breakfast; cemeteries and columbariums; hospitals and sanitariums.
6. The developer proposes to install outdoor lighting and to enhance the security and attractiveness of the property.
7. The developer will regulate and require attractive signage for the streets and buildings within this project consistent with its upscale nature.
8. Road frontage along Boonsboro Road will be improved according to the standards of the City of Lynchburg to include curb, gutter, and sidewalks. Sidewalks will be installed in the green spaces in between buildings to connect to sidewalks (as shown on the site plan) to provide walkability.
9. The main access to McKenna Place will be Scenic Drive with no direct access from the property onto Boonsboro Road.
10. Scenic Drive will be improved on development side of the road including curb and gutter.
11. The two existing billboards will be removed.

PRIOR ACTION(S):

May 23, 2007: The Planning Division recommended approval of the FLUM amendment, rezoning, parking reduction and CUP with the voluntarily submitted proffers and the following conditions:

1. Buildings shall be constructed in substantial compliance with renderings prepared by Calloway, Johnson, Moore, West (CJMW) dated May 2007.
2. A right turn lane with storage for at least three (3) vehicles shall be constructed on Scenic Drive.
3. A right turn taper shall be constructed from Boonsboro Road to Scenic Drive.

Planning Commission voted against approval (1-5 with 1 abstention - Barnes).

FISCAL IMPACT: N/A

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

ATTACHMENT(S):

Resolution
PC Report
PC Minutes
Vicinity Zoning Pattern
Vicinity Proposed Land Use
Interim Policies for Corridor Study Areas
Site Plan
Architectural Rendering
Proffers
Zoning/Aerial Overlay of the Boonsboro Corridor
Petition of Residents
Letters of Opposition
Request for Study Information by Commissioner Sale
Speaker Sign-Up sheet

REVIEWED BY: lkp

FUTURE LAND USE MAP AMENDMENT:

ORDINANCE:

AN ORDINANCE AMENDING THE FUTURE LAND USE MAP FOR THE PROPERTY LOCATED AT 5040 BOONSBORO ROAD, FROM LOW DENSITY RESIDENTIAL TO MIXED USE.

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 5040 Boonsboro Road, from Low Density Residential to Mixed Use.

The area embraced within the following boundaries

Beginning in the northeastern corner of the intersection of Boonsboro Road (U.S. 501 Business) and Scenic Drive, thence along Scenic Drive N 36°59'46" W 77.62', thence N 82°24'38" W 38.27' to a VDOT monument, thence along the eastern right-of-way margin of Scenic Drive on a curve having a delta of 21°59'53", radius of 241.21', arc length of 92.61', and chord of N 42°29'24" W 92.04' to a point in the southeastern corner of the intersection of Scenic Drive and Old Boonsboro Road, thence along the southern right-of-way margin of Old Boonsboro Road N 53°01'44" E 323.09', thence continuing along Old Boonsboro Road N 65°27'02" E 243.85', thence S 17°41'53" E 276.68' along the western margin of a right-of-way not maintained by the City to a point on the northern margin of the right-of-way of Boonsboro Road (U.S. 501 Business), thence along Boonsboro Road S 67°56'07" W 388.06', thence S 69°48'10" W 61.37' to the point of beginning and containing approximately 2.86 acres.

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

Adopted:

Certified:

Clerk of Council

077LA

Revised to include new proffers

ORDINANCE

REZONE A CERTAIN AREA FROM R-1, LOW DENSITY SINGLE-FAMILY RESIDENTIAL DISTRICT TO B-1C, LIMITED BUSINESS DISTRICT (CONDITIONAL), THE AREA CONTAINING APPROXIMATELY 2.95 ACRES AND LOCATED AT 5040 BOONSBORO ROAD.

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.____. Change of a certain from R-1, Low Density Single-Family Residential District to B-1C, Limited Business District (Conditional).

The area embraced within the following boundaries . . .

Beginning in the northeastern corner of the intersection of Boonsboro Road (U.S. 501 Business) and Scenic Drive, thence along Scenic Drive N 36°59'46" W 77.62', thence N 82°24'38" W 38.27' to a VDOT monument, thence along the eastern right-of-way margin of Scenic Drive on a curve having a delta of 21°59'53", radius of 241.21', arc length of 92.61', and chord of N 42°29'24" W 92.04' to a point in the southeastern corner of the intersection of Scenic Drive and Old Boonsboro Road, thence along the southern right-of-way margin of Old Boonsboro Road N 53°01'44" E 323.09', thence continuing along Old Boonsboro Road N 65°27'02" E 243.85', thence S 17°41'53" E 276.68' along the western margin of a right-of-way not maintained by the City to a point on the northern margin of the right-of-way of Boonsboro Road (U.S. 501 Business), thence along Boonsboro Road S 67°56'07" W 388.06', thence S 69°48'10" W 61.37' to the point of beginning and containing approximately 2.86 acres.

. . . is hereby changed from R-1, Low Density Single-Family Residential District to B-1C, Limited Business District (Conditional) subject to the conditions set out hereinbelow which were voluntarily proffered in writing by the owner, namely: John H. McKenna and Wallace McKenna Jr., to wit:

1. The property will be developed as professional offices and small upscale retail shops on the main level with residential on the second floor. This project will be in substantial compliance with the Conceptual Site Plan for Rezoning for "McKenna Place" prepared by Hurt and Proffitt, Inc.: dated 3/16/07; received by Community Development on 5/18/2007. It is understood that the site plan is conceptual in nature and [the] full intention is to build per site plan, although market conditions may affect the size of buildings but not to exceed what is shown on site plan.
2. The existing mature hardwoods will be preserved as well as extensive landscaping to provide screening along adjacent properties as noted on the site plan.
3. The developer agrees to abide by the new landscape ordinance (Section 35.1-25.1) for this development.
4. All buildings will be custom built with brick, stone, stucco, HardiPlank or wood exteriors, architecturally designed and well-planned for an upscale development to enhance the Boonsboro Road corridor and the surrounding residences.
5. The development proposes that the following uses will not be allowed within the property: Boarding houses or lodging homes; care centers; churches and other places of worship; convalescent and nursing homes; convents and monasteries; funeral homes and undertaking establishment; group homes; halls or theaters for music, drama, lectures, or other civic or amateur presentation of the arts; libraries, museums and similar institutions of non-commercial nature; parking of passenger automobiles not including trailers, trucks, or buses, on open lots for transient occupancy, for which fees may be charged; rooming houses; telecommunications towers and facilities; telephone exchanges and dial centers; tourist homes or bed and breakfast; cemeteries and columbariums; hospitals and sanitariums.

6. The developer proposes to install outdoor lighting and to enhance the security and attractiveness of the property.
7. The developer will regulate and require attractive signage for the streets and buildings within this project consistent with its upscale nature.
8. Road frontage along Boonsboro Road will be improved according to the standards of the City of Lynchburg to include curb, gutter, and sidewalks. Sidewalks will be installed in the green spaces in between buildings to connect to sidewalks (as shown on the site plan) to provide walkability.
9. The main access to McKenna Place will be Scenic Drive with no direct access from the property onto Boonsboro Road.
10. Scenic Drive will be improved on development side of the road including curb and gutter.
11. The two existing billboards will be removed.
12. Any freestanding commercial establishment other than site plan. (No Big Box Developments)
13. Adjacent Lot Parcel # 20309004 will be landscaped and maintained by the McKenna Property Owners Association.

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

Adopted:

Certified:

Clerk of Council

077LB

Revised to include new proffers

RESOLUTION:

A RESOLUTION GRANTING A CONDITIONAL USE PERMIT TO MCKENNA FARMS, LLC TO ALLOW THE CONSTRUCTION OF A CLUSTER COMMERCIAL DEVELOPMENT IN A B-1C, LIMITED BUSINESS DISTRICT (CONDITIONAL) LOCATED AT 5040 BOONSBORO ROAD.

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF LYNCHBURG that the petition of McKenna Farms, LLC for a Conditional Use Permit for use of the property at 5040 Boonsboro Road to construct a Cluster Commercial Development that would include the construction of a four (4) building office park, with a total of twenty-seven (27) units; thirteen (13) of the units are designated for retail/office spaces and fourteen (14) units will be provided as residential spaces in a B-1C, Limited Business District (Conditional) be, and the same is hereby, approved subject to the following conditions:

1. The property will be developed as professional offices and small upscale retail shops on the main level with residential on the second floor. This project will be in substantial compliance with the Conceptual Site Plan for Rezoning for "McKenna Place" prepared by Hurt and Proffitt, Inc.: dated 3/16/07; received by Community Development on 5/18/2007. It is understood that the site plan is conceptual in nature and [the] full intention is to build per site plan, although market conditions may affect the size of buildings but not to exceed what is shown on site plan.
2. The existing mature hardwoods will be preserved as well as extensive landscaping to provide screening along adjacent properties as noted on the site plan.
3. The developer agrees to abide by the new landscape ordinance (Section 35.1-25.1) for this development.
4. All buildings will be custom built with brick, stone, stucco, HardiPlank or wood exteriors, architecturally designed and well-planned for an upscale development to enhance the Boonsboro Road corridor and the surrounding residences.
5. The development proposes that the following uses will not be allowed within the property: Boarding houses or lodging homes; care centers; churches and other places of worship; convalescent and nursing homes; convents and monasteries; funeral homes and undertaking establishment; group homes; halls or theaters for music, drama, lectures, or other civic or amateur presentation of the arts; libraries, museums and similar institutions of non-commercial nature; parking of passenger automobiles not including trailers, trucks, or buses, on open lots for transient occupancy, for which fees may be charged; rooming houses; telecommunications towers and facilities; telephone exchanges and dial centers; tourist homes or bed and breakfast; cemeteries and columbariums; hospitals and sanitariums.
6. The developer proposes to install outdoor lighting and to enhance the security and attractiveness of the property.
7. The developer will regulate and require attractive signage for the streets and buildings within this project consistent with its upscale nature.
8. Road frontage along Boonsboro Road will be improved according to the standards of the City of Lynchburg to include curb, gutter, and sidewalks. Sidewalks will be installed in the green spaces in between buildings to connect to sidewalks (as shown on the site plan) to provide walkability.
9. The main access to McKenna Place will be Scenic Drive with no direct access from the property onto Boonsboro Road.

10. Scenic Drive will be improved on development side of the road including curb and gutter.
11. The two existing billboards will be removed.
12. Any freestanding commercial establishment other than site plan. (No Big Box Developments)
13. Adjacent Lot Parcel # 20309004 will be landscaped and maintained by the McKenna Property Owners Association.

Adopted:

Certified:

Clerk of Council

077LC

Proffers for McKenna Place
5040 Boonsboro Road
City of Lynchburg

1. The property will be developed as professional offices and small upscale retail shops on the main level with residential on the second floor. This project will be in substantial compliance with the Conceptual Site Plan for Rezoning for "McKenna Place" prepared by Hurt and Proffitt, Inc.; dated 3/16/07; revised 5/11/07. It is understood that the site plan is conceptual in nature and our full intention is to build per site plan although market conditions may affect the size of buildings but not to exceed what is shown on site plan.
2. The existing mature hardwoods will be preserved as well as extensive landscaping to provide screening along adjacent properties as noted on site plan.
3. The Developer agrees to abide by the new landscape ordinance (Sect. 35.1-25.1) for this development.
4. All buildings will be custom built with brick, stone, stucco, hardiplank, wood, wrought iron metal, and shingle exteriors. Architecturally designed and well-planned for an upscale development to enhance the Boonsboro Road corridor and the surrounding residences.
5. The Developer proposes that the following uses will not be allowed within the property.
 - a. Boarding houses or lodging houses
 - b. Care center
 - c. Churches and other places of worship
 - d. Convalescent and nursing homes
 - e. Convents and monasteries
 - f. Funeral homes and undertaking establishments
 - g. Group homes
 - h. Halls or theaters for music, drama, lectures or other civic or amateur presentation of the arts
 - i. Libraries, museums and similar institutions of non-commercial nature
 - j. Parking of passenger automobiles not including trailers trucks or buses, on open lots for transient occupancy, for which fees may be charged
 - k. Rooming houses
 - l. Telecommunication towers and facilities
 - m. Telephone exchanges and dial centers
 - n. Tourist homes or bed and breakfast
 - o. Cemeteries and columbariums
 - p. Hospitals and sanitariums

6. The Developer proposes to install outdoor lighting and enhance the security and attractiveness of the property
7. The Developer will regulate and require attractive signage for the streets and buildings within this project consistent with its upscale nature
8. Road frontage along Boonsboro Road will be improved according to the standards of the City of Lynchburg to including curb, gutter and sidewalks. Sidewalks will be installed in the green spaces in between buildings to connect to sidewalks (as shown on site plan) to provide walk ability.
9. The main access to McKenna Place will be Scenic Drive with no direct access from property onto Boonsboro Road.
10. Scenic Drive will be improved on development side of the road including curb and gutter.
11. The two existing billboards will be removed.
12. Any freestanding commercial establishment other than site plan. (No Big Box Developments)
13. Adjacent Lot Parcel #20309004 will be landscaped and maintained by the McKenna Property Owners Association.

Respectfully Submitted,

McKenna Farms, LLC

By:  June 7, 2007
Member Date

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

To: Planning Commission

From: Planning Division

Date: May 23, 2007

Re: **FUTURE LAND USE MAP AMENDMENT: Low Density Residential to Mixed Use at 5040 Boonsboro Road.**

REZONING: R-1, Low Density Single-Family Residential District to B-1C, Limited Business District (Conditional) at 5040 Boonsboro Road.

CONDITIONAL USE PERMIT (CUP): Cluster Commercial Development, McKenna Farms LLC, 5040 Boonsboro Rd.

I. PETITIONER

McKenna Farms LLC, 4706 Boonsboro Road, Lynchburg, VA 24503

Representative: Jane Blickenstaff, 4706 Boonsboro Road, Lynchburg, VA 24503

II. LOCATION

The subject property includes one (1) tract totaling approximately two and ninety-five hundredths (2.95) acres at 5040 Boonsboro Road.

Property Owners: John H. McKenna and Wallace Jr. McKenna, 3320 Woodridge Place, Lynchburg, VA 24503

III. PURPOSE

The purpose of this petition is to allow a Cluster Commercial Development that would include the construction of a four (4) building office park, with a total of twenty-seven (27) units; thirteen (13) of the units are designated for retail/office spaces and fourteen (14) units will be provided as residential spaces.

IV. SUMMARY

- Petition proposes to change the *Future Land Use Map* designation for this area from a Low Density Residential to a Mixed Use to that would allow the construction of a cluster commercial development. Adjacent land uses as designated by the Future Land Use Map include a combination of Low Density Residential, Medium Density Residential, and Institutional uses.
- Petition agrees with the *Zoning Ordinance* in that a Cluster Commercial Development is a use permitted in an R-1, Low-Density Single-Family Residential District with approval of a conditional use permit (CUP) by City Council.
- The Design Review Board determined that the proposal meets the objectives of Section 35.1-43.5b of the *Zoning Ordinance*.

The Planning Division recommends approval of the future land use map amendment, rezoning and conditional use permit petitions.

V. FINDINGS OF FACT

2. **Comprehensive Plan.** The Lynchburg *Comprehensive Plan* recommends a Low Density Residential use in this area. Low Density Residential uses are dominated by single-family detached housing at densities of up to four (4) dwellings per acre. The proposed development would have a density of approximately four and four tenths (4.4) units per acre. The petitioner is requesting an amendment to the *Future Land Use Map* that would designate the subject property for Mixed Use. Mixed Use areas do not fit into any single land use category as they are planned for a mix of uses carefully designed so as to mitigate any potential land use conflicts. (pg. 5.6)

Adjacent land uses as designated by the Future Land Use Map include a combination of Low Density Residential, Medium Density Residential, and Institutional uses. Existing land uses include a combination of single-family detached homes, vacant residences, and an institutional use (James River Day School). The subject property is not likely to develop as single-family detached housing as indicated on the existing zoning map and future land use map. Careful consideration to the design and mix of uses should make the proposed land uses acceptable for the area.

3. **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.
4. **Proffers.** The petitioner voluntarily submitted the following proffer(s) with the rezoning application:
 1. The property will be developed as professional offices and small upscale retail shops on the main level with residential on the second floor. This project will be in substantial compliance with the Conceptual Site Plan for Rezoning for "McKenna Place" prepared by Hurt and Proffitt, Inc.: dated 3/16/07; received by Community Development on 5/18/2007. It is understood that the site plan is conceptual in nature and [the] full intention is to building per site plan although market conditions may affect the size of buildings but not to exceed what is shown on site plan.
 2. The existing mature hardwoods will be preserved as well as extensive landscaping to provide screening along adjacent properties as noted on the site plan.
 3. The developer agrees to abide by the new landscape ordinance (Sect. 35.1-25.1) for this development.
 4. All buildings will be custom built with brick, stone, stucco, HardiPlank or wood exteriors, architecturally designed and well-planned for an upscale development to enhance the Boonsboro Road corridor and the surrounding residences.
 5. The development proposes that the following uses will not be allowed within the property:
 - a. Boarding houses or lodging homes
 - b. Care center
 - c. Churches and other places of worship
 - d. Convalescent and nursing homes
 - e. Convents and monasteries
 - f. Funeral homes and undertaking establishment
 - g. Group homes
 - h. Halls or theaters for music, drama, lectures, or other civic or amateur presentation of the arts.
 - i. Libraries, museums and similar institutions of non-commercial nature
 - j. Parking of passenger automobiles not including trailers, trucks, or buses, on open lots for transient occupancy, for which fees may be charged
 - k. Rooming houses
 - l. Telecommunications towers and facilities
 - m. Telephone exchanges and dial centers
 - n. Tourist homes or bed and breakfast
 - o. Cemeteries and columbariums
 - p. Hospitals and sanitariums
 6. The developer proposes to install outdoor lighting and to enhance the security and attractiveness of the property.
 7. The developer will regulate and require attractive signage for the streets and buildings within this project consistent with its upscale nature.
 8. Road frontage along Boonsboro Road will be improved according to the standards of the City of Lynchburg to include curb, gutter, and sidewalks. Sidewalks will be installed in the green spaces in between buildings to connect to sidewalks (as shown on the site plan) to provide walkability.
 9. The main access to McKenna Place will be Scenic Drive with no direct access from the property onto Boonsboro Road.
 10. Scenic Drive will be improved on development side of the road including curb and gutter.
 11. The two existing billboards will be removed.
5. **Design Review Board.** Section 35.1-42.5, Planned Unit Development, Application and Review requires that the proposed development be reviewed by the City's Design Review Board. The Design Review Board must determine if the proposed plan meets the following objectives of the Ordinance as outlined in Section 35.1-42.5.(3).a. of the Zoning Ordinance:

- a. Aesthetic and architectural relationships with the surrounding communities;
- b. Conclusions regarding on-site amenities and improvements;
- c. On-site arrangement of improvements and structures;
- d. Consistency with the Housing Assistance Plan for Federal and/or State funded projects

The Design Review Board reviewed the proposed development on May 17, 2007 and determined that all objectives of the *Zoning Ordinance* had been met.

6. **Board of Zoning Appeals (BZA).** The Zoning Official has determined that no variances will be needed for the development of the property as proposed.
7. **Surrounding Area.** There have been several items requiring City Council approval in the immediate area:
 - On June 9, 1998, City Council denied Manorhouse Retirement Centers, Inc.'s conditional use permit petition to construct an assisted living retirement center for approximately eighty-five (85) residents on a vacant lot of approximately three (3) acres in an R-1, Single-Family Residential District at the intersections of Scenic Drive, Boonsboro, and Old Boonsboro Roads.
 - On April 14, 1998, City Council approved James River Day School's conditional use permit petition to add a new gymnasium, classrooms, offices, new circular drive, additional parking, food services, and fine arts building as an amendment to the previously approved Mast Development Plan in an R-1, Low Density Single-Family Residential District at 5039 Boonsboro Road.
 - On January 13, 1998, City Council approved Women in Crisis's conditional use permit petition for a group home for up to ten (10) people in an existing building and the installation of a play area on a tract of approximately nine (9) acres in an R-3, Two-Family Residential District at 5077 Boonsboro Road.
 - On April 9, 1996, City Council approved Lynchburg Day School, Inc.'s conditional use permit petition to add to the existing James River Day School a media center, classrooms, gym, new entrance on Boonsboro Road, additional parking, and new playing fields as part of a Master Development Plan in an R-1, Low Density Single-Family Residential District at 5039 Boonsboro Road.
 - On October 11, 1994, City Council approved Nathaniel W. Kellum, Baptist General Association of Virginia's conditional use permit petition for a Master Development Plan to allow the development of a seven-hundred- (700) seat sanctuary, education space and office buildings, a multi-purpose space and classroom building, a play yard, a picnic pavilion, and other related facilities, including ultimate parking for two hundred thirty-four (234) vehicles in an R-3, Medium Density Two-Family Residential District at 5077 Boonsboro Road.
 - On June 12, 1990, City Council approved Dr. Samuel Baum and Dr. Albert Henry's conditional use permit petition to allow the operation of a veterinary hospital with indoor kennels in an existing structure in a B-3, Community Business District at 5006 Boonsboro Road.
 - On July 14, 1987, City Council approved James B. Forehand's petition to rezone approximately one (1) acre of land at 4935 Boonsboro Road from R-4, Multi-Family Residential District, to B-1 (Conditional), Limited Business District, to allow for the construction of professional office buildings.
 - On March 10, 1987, City Council approved Lynchburg Day School, Inc.'s conditional use permit petition to allow the construction of a building addition in an R-1, Low Density Single-Family Residential District at 5039 Boonsboro Road.
 - On May 8, 1984, City Council approved Carriage Associate's conditional use permit petition to allow the construction of a Planned Unit Development for forty (40) single-family condominiums (semi-detached dwelling units) in an R-1, Low Density Single-Family Residential District at 5051 Boonsboro Road.
8. **Site Description.** The subject property is bound to the north across Old Boonsboro Road by single-family residences, to the east by single-family residences, to the south across Boonsboro Road (US 501 Business) by James River Day School, and to the west across Scenic Drive by single-family residences. The subject property is located within the Scenic Corridor Overlay District.
9. **Proposed Use of Property.** The proposed Cluster Commercial Development would provide a four- (4) building office park, with a total of twenty-seven (27) units on approximately two and ninety-five hundredths (2.95) acres at 5040 Boonsboro Road. The proposed buildings will include one (1), three-story structure and three (3), two-story structures with thirteen (13) of the ground-floor units designated for retail/office

spaces and fourteen (14) of the second and third floor units offered as residential spaces.. The development would consist of office, retail, and residential uses. Offices and retail uses would be located on the first floors of each unit and residences would be located on the second floors of each unit. A residence would also be located on the third floor of the first unit.

Building materials will include stone, stucco, brick, HardiPlank, wrought iron, metal, and shingles, with a consistent architectural style throughout the office park. All buildings will have fully covered sloped roofs or parapet screened roofs to enhance appearance. The site would be served by City water, sewer and refuse collection services. Landscaping for the site will comply with the requirements of the City's *Zoning Ordinance*.

10. **Traffic, Parking and Public Transit.** The site is proposed to have one access onto Scenic Drive with no direct access planned for Boonsboro Road. Boonsboro Road currently has approximately fourteen thousand (14,000) vehicles a day. The proposed site will generate approximately seven hundred seventy-eight (778) daily trips and sixty (60) p.m. peak hour trips. Considering directional distribution of traffic, proposed project traffic would constitute approximately two and eight-tenths percent (2.8%) of the total traffic on Boonsboro Road.

Since the project exceeded the five hundred (500) daily trips and fifty (50) p.m. peak hour trips threshold, the City's Transportation Engineer required a traffic study for the project. Hurt and Proffitt completed the traffic study and submitted the first draft on May 14, 2007.

The traffic study looked at the intersection of Scenic Drive and Boonsboro Road and also looked at the intersection of Boonsboro Road and James River Day School. The study reviewed both existing and built-out conditions, the latter based on projections for the year 2011. For all of these conditions, both intersections operated at Level of Service C or better with and without project traffic. A signal warrant analysis was also done at the intersection of Scenic Drive and Boonsboro Road using projected traffic volumes for the development. It was determined that the intersection did not meet any of the signal warrants.

The study recommended a right-turn lane on Scenic Drive to accommodate the additional traffic. This turn lane must be its own specific turn lane with at least three (3) cars of storage length. City staff also recommends a right-turn taper at Boonsboro Road going into Scenic Drive to facilitate traffic. Scenic Drive itself will need to be widened and curb and gutter will need to be installed on the project side of the road. These improvements are necessary to encourage traffic from McKenna Place to use Scenic Drive for ingress/egress and not Old Boonsboro Road. The intersection of Old Boonsboro Road and Boonsboro Road has some safety concerns and should not accommodate this additional traffic.

There is a potential in the a.m. peak hour that traffic from James River Day School will conflict with the McKenna Place traffic. However, only the office uses and the residential uses will conflict as the retail uses do not begin to see traffic until approximately 11:00 a.m. There are approximately twenty-six (26) trips in the a.m. coming from or going to McKenna Place. The total a.m. traffic on Boonsboro Road is one thousand two hundred and thirty-one (1,231); therefore, the McKenna Place traffic would be approximately one (1) percent of all traffic on Boonsboro Road. This additional traffic will have a minimal impact on Boonsboro Road operations. A more significant traffic impact was observed during the p.m. peak at James River Day School where vehicles had to wait in the two-way left-turn lane until the James River Day School site is clear to make a left. All queuing from James River Day School should be done on-site with no queuing on Boonsboro Road.

There is available capacity on Boonsboro Road and at the intersection of Scenic Drive to accommodate the additional traffic from McKenna Place. Although not mentioned in the report, there is a concern about available gaps in traffic for egress from Scenic Drive onto Boonsboro Road (especially left-turns) in the PM peak. If this does become a problem, the City would have to take corrective measures such as modifying the current access points onto Boonsboro Road from Scenic Drive.

Parking requirements for the proposed development are set by the City's Zoning Ordinance at one (1) space per three hundred (300) square feet of gross floor area (exclusive of utility area) for office uses, one (1) space per three hundred (300) square feet of gross floor area (exclusive of utility area) plus one (1) parking space for each three (3) employees on duty at any one time for retail uses, and two and five tenths (2.5) parking spaces per conventional residential unit. The twenty-three thousand four-hundred (23,400) square feet of office/retail uses would require seventy-eight (78) parking spaces, and the fourteen (14) residential units would require thirty-five (35) parking spaces. However, since the subject project is

composed of both office/retail and residential uses, the petitioner has requested a reduction in the required parking for the project due to non-coinciding hours of operation for shared use of the residential and commercial uses, which is permitted by 35.1-25(f) of the Zoning Ordinance. The site plan indicates that fifty-nine (59) spaces will be designated office/retail, sixteen (16) spaces will be designated residential, and nineteen (19) spaces will be designated as shared between office/retail and residential. The proposed ninety-four (94) spaces would require a seventeen percent (17%) reduction of the off-street parking requirement. Staff supports this reduction due to the proposed shared use and overall reduction of impervious cover.

Public Transit is not currently accessible in this area. The closest service is Greater Lynchburg Transit Company's Route 3D at Boonsboro Road and Canterbury Court, approximately one and a half (1.5) miles from the site.

11. **Stormwater Management.** The proposed Cluster Commercial Development would result in an increase in stormwater run off. The petitioner is proposing a combination of grass lined swales, curb & gutter and an underground stormwater management system at the northeast corner of the intersection of Boonsboro Road and Scenic Drive. Water quality will be addressed through a combination of above ground Best Management Practices (BMP's), including bioretention, heavy landscaping and a mechanical device. If during the design phase, it is determined that adequate channel improvements are required, they will be provided. This proposed approach to quantity and quality measures are appropriate to the City's Environmental Planner.
12. **Emergency Services.** The City's Fire Marshal had no comments regarding the proposed development. The City Police Department has stated that there will be a significant need for good lighting in the parking lot and suggested pole lights and wall mounted units on the sides and rear of the buildings. The comments also noted that the fountain area needs special attention as it could be the possible target of vandalism and recommended that tasteful signs designating "No Trespassing after Business Hours" would be beneficial to curb the concerns. The petitioner was made aware of the recommendations and will address the concerns during the final site design.
13. **Impact.** The proposed Cluster Commercial Development would allow the removal of two (2) existing billboards, select grading and filling of the site, and the construction of a mixed use development that would contain office, retail and residential uses. Although the site has been zoned residential since 1978 and designated as Low Density Residential by the *Comprehensive Plan* since 2002, it is unlikely to develop in that fashion. The Design Review Board has determined that all objectives of the *Zoning Ordinance* have been met. Traffic, parking, stormwater management and emergency services concerns have all been addressed to the satisfaction of City staff. Careful site planning and architectural design by the petitioner has resulted in a proposal that should fit into the fabric of the existing neighborhood very well.
14. **Technical Review Committee.** The Technical Review Committee (TRC) reviewed the preliminary site plan on May 1, 2007. Comments related to the proposed use were minor in nature and have or will be addressed by the developer prior to final site plan approval.

VI. PLANNING DIVISION RECOMMENDATION

Based on the preceding Findings of Fact, the Planning Commission does not recommend to City Council approval of an amendment to the Future Land Use Map from Low Density Residential to Mixed Use at 5040 Boonsboro Road.

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

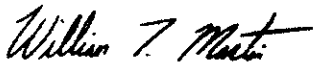
Based on the preceding Findings of Fact, the Planning Commission does not recommend to City Council approval of McKenna Farms LLC's petition to rezone two and ninety-five hundredths (2.95) acres located at 5040 Boonsboro Road from R-1, Low Density Single-Family Residential District

and to B-1C, Limited Business District (Conditional) with the voluntary submitted proffers.

Based on the preceding Findings of Fact, the Planning Commission does not recommend to City Council approval of McKenna Farms LLC's petition for a Conditional Use Permit (CUP) at 5040 Boonsboro Road, subject to the following conditions:

- 1. Buildings shall be constructed in substantial compliance with renderings prepared by Calloway, Johnson, Moore, West (CJMW) dated May 2007.**
- 2. A right turn lane with storage for at least three (3) vehicles shall be constructed on Scenic Drive.**
- 3. A right turn taper shall be constructed from Boonsboro Road to Scenic Drive.**

This matter is respectfully offered for your consideration.



William T. Martin, AICP
City Planner

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

VII. ATTACHMENTS

- 1. Vicinity Zoning Pattern**
- 2. Vicinity Proposed Land Use**
- 3. Site Plan**
- 4. Architectural Rendering**

LYNCHBURG CITY COUNCIL

Agenda Item Summary

MEETING DATE: **September 11, 2007**

AGENDA ITEM NO.: **14**

CONSENT:

REGULAR: **X**

CLOSED SESSION:

(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: **Exile Foundation Dissolution, Appropriation of Remaining Funds**

RECOMMENDATION:

Adopt a resolution to amend the FY 2008 General Fund budget and appropriate \$2,560, with \$2,560 of remaining funds from the Lynchburg Exile Foundation as a result of the dissolution of the same, to the Office of the Commonwealth's Attorney for training and mileage.

SUMMARY:

As noted in the Articles of Incorporation addressing fiscal use of funds, as a result of the dissolution of the Lynchburg Exile Foundation funds may be distributed to a division of local government. Therefore, the Office of the Commonwealth's Attorney requests an adjustment of \$2,560, an amount equal to the remaining funds, to be applied to the FY 2008 General Fund Budget.

PRIOR ACTION(S):

Finance Committee Approval, September 5, 2007

FISCAL IMPACT:

Adoption of the resolution will result in an increase to the FY 2008 General Fund budget in the amount of \$2,560, to be equally distributed between Training and Mileage expenditures, \$1,280 respectively.

CONTACT(S):

Mike Doucette, Commonwealth's Attorney, 455-3762

Kerry McMinn, Office Administrator, 455-3764

ATTACHMENT(S):

Resolution

REVIEWED BY: lkp

RESOLUTION

BE IT RESOLVED that the FY 2008 General Fund budget is amended and \$2,560 is appropriated, with \$2,560 of remaining funds from the Lynchburg Exile Foundation as a result of the dissolution of the same, to the Office of the Commonwealth's Attorney for training and mileage.

Introduced:

Adopted:

Certified:

Clerk of Council

117L

LYNCHBURG CITY COUNCIL

Agenda Item Summary

MEETING DATE: **September 11, 2007**

AGENDA ITEM NO.: **15**

CONSENT:

REGULAR: **X**

CLOSED SESSION:

(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: **Carry Forward of remaining funding of the Department of Environmental Quality Litter Control and Recycling Grant for FY 2007**

RECOMMENDATION: Adopt a resolution to amend the FY 2008 Solid Waste Management Fund budget and appropriate \$3,713 to reflect the carry forward of \$3,713 of unexpended funds in the FY 2007 Solid Waste Management Fund budget for the Department of Environmental Quality Litter Control and Recycling Grant.

SUMMARY:

The following fund is amended to reflect the carry forward of unexpended funds in FY 2007:

	<u>Amended FY 2008*</u>	<u>Recommended Carry Forward</u>	<u>New Amendment FY 2008</u>
Solid Waste Management Fund			
Operations	\$5,772,951	\$3,713	\$5,776,664
Debt Service	1,096,824	0	1,096,824
Reserves	366,270	0	366,270
Transfers	850,000	0	850,000
Ending Balance	<u>7,630,428</u>	<u>0</u>	<u>7,630,428</u>
Total	\$15,716,473	\$3,713	\$15,720,186

* Previous amendments to the FY 2008 Budget were considered by Council on August 14, 2007. This carry forward request was inadvertently left out.

PRIOR ACTION(S): September 5, 2007, Finance Committee approval

FISCAL IMPACT: As noted above

CONTACT(S): Dave Owen, Director of Public Works, 455-4469

ATTACHMENT(S): Resolution

REVIEWED BY: lkp

Resolution

BE IT RESOLVED that the FY 2008 Solid Waste Management Fund budget is amended and \$3,713 is appropriated to reflect the carry forward of \$3,713 of unexpended funds in the FY 2007 Solid Waste Management Fund budget for the Department of Environmental Quality Litter Control and Recycling Grant.

Introduced:

Adopted:

Certified:

Clerk of Council

115L

LYNCHBURG CITY COUNCIL

Agenda Item Summary

MEETING DATE: **September 11, 2007**

AGENDA ITEM NO.: **16**

CONSENT:

REGULAR: **X**

CLOSED SESSION:

(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: **Branding Initiative Funding from the Industrial Development Authority**

RECOMMENDATION:

Adopt a resolution to amend the FY 2008 General Fund budget and appropriate \$20,000 with \$20,000 received from the Industrial Development Authority (IDA) to assist with the branding initiative.

SUMMARY:

The Marketing Partnership was formed in 2005 and is comprised of Communications and Marketing, the Office of Economic Development, the Lynchburg Museum System, Parks and Recreation, Lynch's Landing, Lynchburg City Schools, and the Lynchburg Regional Convention and Visitors Bureau.

The goals of the Partnership are to more effectively, collaborative, and efficiently promote the City of Lynchburg to its various constituencies. Each member of the Partnership agreed to financially contribute to a Council-approved "branding initiative." The Department of Communications and Marketing is to provide oversight and responsibility for this funding throughout the course of this effort. The IDA is contributing \$20,000 toward this effort.

PRIOR ACTION(S): September 5, 2007, Finance Committee approval

FISCAL IMPACT:

None

CONTACT(S):

Donna Witt, Director of Financial Services, 455-3968

JoAnn Martin, Director of Communications and Marketing, 455-3800

ATTACHMENT(S):

Resolution

REVIEWED BY: lkp

Resolution

BE IT RESOLVED that the FY 2008 General Fund budget is amended and \$20,000 is appropriated with \$20,000 received from the Industrial Development Authority to assist with the branding initiative.

Introduced:

Adopted:

Certified:

Clerk of Council

116L

LYNCHBURG CITY COUNCIL

Agenda Item Summary

MEETING DATE: **September 5, 2007**

AGENDA ITEM NO.: **17**

CONSENT:

REGULAR: **X**

CLOSED SESSION:

(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: **Transportation Enhancement Grant – Riverside Park**

RECOMMENDATION:

Adopt a resolution to amend the FY 2008 City Capital Projects Fund budget and appropriate \$260,000 in grant funding, fully reimbursable, received from the Virginia Department of Transportation, SAFETEA-LU funding, for improvements to Riverside Park.

SUMMARY:

The City of Lynchburg applied and received a grant in the amount of \$260,000 for improvements to Riverside Park. This is the second award of SAFETEA-LU funding for this project. This funding will be used for the first phase improvements to the park. Master planning of the park will begin in early fall 2007 and be completed by early winter. A phasing strategy for improvements will be developed as part of the master planning.

This grant requires a 20% match of \$52,000. Matching funds are available in current appropriations and with in-kind services provided by the Lynchburg Historical Foundation, Lynchburg Kiwanis Club, and the Lynchburg Garden Club.

PRIOR ACTION(S):

Finance Committee, September 6, 2005

Council regular session, public hearing and adoption of a resolution, September 13, 2005

Finance Committee, September 5, 2006

Council regular session, September 12, 2006

Finance Committee approval, September 5, 2007

FISCAL IMPACT:

No new funding required

CONTACT(S):

Kay Frazier, 455-5868

Andrew Reeder, 455-5876

ATTACHMENT(S):

Resolution

REVIEWED BY: lkp

RESOLUTION

BE IT RESOLVED that the FY 2008 City Capital Projects Fund budget is amended and \$260,000 is appropriated with full reimbursement from the Virginia Department of Transportation, SAFETEA-LU funding, to provide funding for improvements to Riverside Park.

Introduced:

Adopted:

Certified:

Clerk of Council

118L