// A regular meeting of the Council of the City of Lynchburg was held on the 12th day of July, 2011, at 4:00 P.M. in the Council Chamber, City Hall, Joan F. Foster, President, presiding. The following Members were present:

Present:	Gillette, Helgeson, Nelson, Perrow, Foster	5
Absent:	Cary, Johnson	2

// Vice Mayor Johnson arrived at 4:19 P.M.

// City Manager Kimball Payne gave an overview of the Police Department Additional Duties Bonus Program. Mr. Payne stated for the second year the Lynchburg Police Department (LPD) would like to use funds unspent in its annual budget to provide additional compensation to officers. Funds remaining from FY 2010 were used to fund a mid-year bonus last December. Mr. Payne went on to say this year the proposal is to implement an additional duties bonus program similar to the certification pay program in the Fire Department. Mr. Payne further stated the issue of a bonus for additional duties has been of continuing concern in the LPD with the bonus being seen as a mechanism to reward those officers who perform essential duties that are outside of the regular job description. Because those officers typically have some tenure, the additional duties bonus is also seen as an incentive to enhance retention. After Council discussion, on motion of Council Member Gillette, seconded by Council Member Helgeson, Council by the following recorded vote adopted Resolution #R-11-080, as presented, to fund the implementation of an Additional Duties Bonus Program in the Lynchburg Police Department:

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

// City Manager Kimball Payne gave a summary of the Reduction of State Aid to Local Government. Mr. Payne stated for the fourth year local governments across the Commonwealth are being required by the Appropriations Act adopted by the General Assembly to choose a mechanism to facilitate a $60 million reduction in State funding for State-mandated, locally-delivered services commonly referred to at the Capital as “State Aid to the Localities.” Mr. Payne passed out a Resolution for Council’s consideration. After discussion of the resolution, Council Member Nelson made a motion to adopt the Resolution, seconded by Vice Mayor Johnson. Council Member Perrow made a friendly amendment to the motion. Council Member Nelson accepted the friendly amendment, seconded by Vice Mayor Johnson. City Council unanimously adopted a resolution calling to submit, and the General Assembly to approve, a budget amendment to eliminate the $60 million reduction in “Aid to Local Government” contained in the Fiscal Year 2012 budget. On motion of Council Member Nelson, seconded by Vice Mayor Johnson, Council by the following recorded vote adopted Resolution #R-11-081, as presented, to eliminate the $60 million reduction in “Aid to Local Government” contained in the Fiscal Year 2012 budget:

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

// City Manager Kimball Payne gave an oral presentation of the Downtown Revitalization. Mr. Payne stated that Council Member Helgeson had requested to discuss the information that he provided in June regarding real estate assessments in the City and downtown.

// During Roll Call Council Member Perrow referenced an email he had received from a member of the Wyndhurst/Heritage Court Homeowners Association referencing the replacement of several trees along the sidewalk in that area. Council Member Perrow asked for more information regarding the sidewalks. City Attorney Walter Erwin responded that his office had received several phone calls regarding this in the past couple of weeks and after looking into this matter it was discovered that when you look at the plats when those streets were dedicated there are no sidewalks shown. Mr. Erwin went on to say that all of the plats were dedicated before the sidewalks were constructed, therefore, you cannot tell which streets are public and which streets are private. Mr. Erwin further stated the City's Public Works Department is involved in this and a new master plat will have to be created to show city-owned sidewalks, which would be the City's responsibility, or private sidewalks, which would be the responsibility of the homeowners association. Council Member Helgeson asked the City Attorney to keep Council informed on this matter. Mayor Foster read a letter from Areva congratulating the City of Lynchburg on being named in the Forbes Top 50 Best Places For Business and Careers. Mayor Foster also stated that a youth group from Germany was visiting the Trinity Holy Lutheran Church and the City. The Pastor and youth from Trinity Holy Lutheran Church had shared with the youth from Germany the Random Acts of Kindness challenge and on July 15th the youth were going to do a Random Act of Kindness on one of the streets in Lynchburg. Mayor Foster said the Random Acts of Kindness challenge has gone international and wanted everyone to know this.

// On motion of Council Member Nelson seconded by Council Member Perrow, Council by the following recorded vote elected to hold a closed meeting to consider appointments to Council-appointed Boards and Commissions, i.e., Central Virginia Community College Board, Museum Advisory Board and Lynchburg Business Development Centre; pursuant to Section 2.2-3711(A)(1), Code of Virginia (1950), as amended:

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

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

// Vice Mayor Johnson made the following motion:

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

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

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

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

Ayes: Gillette, Johnson, Nelson, Perrow, Foster	5
Noes:	0
Absent: Cary, Helgeson	2

// In the matter of Appointments, and on nomination of Vice Mayor Johnson, seconded by Council Member Gillette, Council by the following recorded vote appointed Lloyd Tannenbaum, to serve on the Central Virginia Community College Board for a term to expire June 30, 2015:

Ayes: Gillette, Johnson, Nelson, Perrow, Foster	5
Noes:	0
Absent: Cary, Helgeson	2

On nomination of Vice Mayor Johnson, seconded by Council Member Gillette, Council by the following recorded vote appointed Marvin E. Tinsley to serve on the Museum Advisory Board for a term to expire June 30, 2014:

Ayes: Gillette, Johnson, Nelson, Perrow, Foster	5
Noes:	0
Absent: Cary, Helgeson	2

// City Council recessed the meeting at 5:41 p.m.

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

The following Members were present:

Present: Cary, Gillette, Helgeson, Johnson, Nelson, Perrow, Foster	7
Absent:	0

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

// Mayor Foster and Vice Mayor Johnson presented a Certificate of Recognition to the Lynchburg Police Department for receiving the 2010 Virginia Law Enforcement Challenge Award from the Virginia Association of Chiefs of Police (VACP) for having the best Traffic Safety Program among Virginia law enforcement agencies staffed by 126-300 officers and for also receiving a special Child Passenger Safety Award.

// Mayor Foster and Vice Mayor Johnson presented a Certificate of Recognition to Social Services Department for continuing commitment to excellence and service to the Lynchburg community and being recognized by the State Board of Social Services for being a top five Level III local Department of Social Services in Child Welfare Performance, and the U. S. Department of Agriculture for outstanding payment accuracy in Supplemental Nutrition Assistance Program (SNAP) eligibility determinations.

// Copies of the minutes of the June 28, 2011 meeting, having been previously furnished Council, reading was dispensed with, and on motion of Council Member Perrow, seconded by Council Member Gillette, Council by the following recorded vote approved the minutes as amended:

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

Noes: 0

// In the matter of Police – General, City Council Report # 7 was considered. On motion of Council Member Perrow, seconded by Council Member Gillette, Council by the following recorded vote adopted Resolution #R-11-082, as presented, to approve the submittal of an application for a 2011 Edward Byrne Memorial Justice Assistance Grant in the amount of $51, 224, fully reimbursable, to purchase replacement digital in-car video recording equipment and computer tablets:

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

Noes: 0

// In the matter of Housing Authority, a public hearing was held regarding City Council Report #8 regarding a request from the Lynchburg Redevelopment and Housing Authority for authorization to pursue acquisition of blighted property at 70 Federal Street under Section 36-19.5 of the Code of Virginia. Mr. Robert Vincent, Manager of Community Development with Lynchburg Redevelopment and Housing Authority gave a summary of the request. There was no one else present who wished to speak to this item, and the public hearing was closed. On motion of Council Member Cary, seconded by Council Member Perrow, Council by the following recorded vote adopted Resolution #R-11-083, as presented to pursue acquisition of blighted property at 70 Federal Street under Section 36-19.5 of the Code of Virginia:

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

Noes: 0

// In the matter of Community Planning - Zoning, a public hearing was held regarding City Council Report #9 outlining the petition of KLM Properties, Inc., for a Conditional Use Permit (CUP) at 616 Court Street to allow two (2) residential apartments in addition to the permitted office use in a B-1, Limited Business District. Planner II Kevin Henry gave a summary of the request and stated the Planning Commission recommended approval of the CUP petition. 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 Nelson, Council by the following recorded vote adopted Resolution #R-11-084, as presented, granting the Conditional Use Permit:

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

Noes: 0

// In the matter of Public Works – Street Vacation, a public hearing was held regarding City Council Report #10 regarding the adoption of an Ordinance to vacate a portion of an alley between 121 and 131 Linden Avenue. Planner II Kevin Henry 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. Council Member Perrow, Chair of the Physical Development Committee (PDC), stated that this item was heard by PDC and made a motion to vacate a portion of an alley between 121 and 131 Linden Avenue. The motion did not require a second, and Council by the following recorded vote adopted Ordinance #O-11-085, as presented, vacating a portion of an alley between 121 and 131 Linden Avenue:

Ayes: Cary, Gillette, Helgeson, Johnson, Nelson, Perrow, Foster 7
Noes: 0

// In the matter of Public Works – Street Vacation, a public hearing was held regarding City Council Report #11 regarding the adoption of an Ordinance to vacate a portion of the public right-of-way of the cul-de-sac at Creekview Court. Planner II Kevin Henry 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. Council Member Perrow, Chair of the Physical Development Committee (PDC), stated that this item was heard by PDC and made a motion to vacate a portion of the public right-of-way of the cul-de-sac at Creekview Court. The motion did not require a second, and Council by the following recorded vote adopted Ordinance #O-11-086, as presented, vacating a portion of the public right-of-way of the cul-de-sac at Creekview Court:

Ayes: Cary, Gillette, Helgeson, Johnson, Nelson, Perrow, Foster 7
Noes: 0

// In the matter of Public Works – Water/Sewer, a public hearing was held regarding City Council Report #12 to receive comments and approve a Resolution for the Region 2000 Regional Water Supply Plan, the "Plan". Utilities Director Timothy Mitchell provided a summary of 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 Vice Mayor Johnson, Council by the following recorded vote adopted Resolution #R-11-087, as presented, approving the Region 2000 Regional Water Supply Plan:

Ayes: Cary, Gillette, Helgeson, Johnson, Nelson, Perrow, Foster 7
Noes: 0

// In the matter of Economic Development – General, City Council Report #13 was considered. On motion of Council Member Perrow, seconded by Council Member Cary, Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-11-088, as presented, amending the FY 2012 City/Federal/State Aid Fund budget and appropriating $100,000, with resources from the Commonwealth of Virginia's Governor's Opportunity Fund to provide Delta Star, Inc. with an incentive to expand its operation in Lynchburg:

Ayes: Cary, Gillette, Helgeson, Johnson, Nelson, Perrow, Foster 7
Noes: 0

// In the matter of City Code, City Council Report #14 was considered. On motion of Council Member Gillette, seconded by Vice Mayor Johnson, Council by the following recorded vote adopted Ordinance #0-11-089, as presented, to amend the City Code relating to conducting criminal background checks on applicants for employment:

Ayes: Cary, Gillette, Helgeson, Johnson, Nelson, Perrow, Foster 7
Noes: 0

// In the matter of City Code, City Council Report #15 was considered. On motion of Council Member Nelson, seconded by Council Member Gillette, Council by the following recorded vote adopted Ordinance #0-11-090, as presented, amending the City Code relating to parking in parking spaces that are reserved for persons with disabilities:

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

Noes: 0

// The meeting was adjourned at 8:36 P.M.

Clerk of Council

LYNCHBURG CITY COUNCIL
Agenda Item Summary

MEETING DATE: **August 9, 2011** AGENDA ITEM NO.: 1

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

ACTION: INFORMATION: **X**

ITEM TITLE: **Annual Report on the Activities of the Planning Commission for the Fiscal Year Ending June 30, 2011, including the implementation of the status of the *City of Lynchburg Comprehensive Plan 2002-2020*.**

RECOMMENDATION: Acceptance of the annual report

SUMMARY: The attached annual report is intended to brief the City Council on the activities of the Planning Commission, as well as the status of implementing the City's *Comprehensive Plan 2002-2020*. This report is also intended to supplement the plan by suggesting priorities as City Departments determine Capital Improvement Plan (CIP) project requests for existing and planned projects. While approval of this Annual Report will encourage its use in the CIP and Budget development process, the report does not mandate new funds or projects.

PRIOR ACTION(S):
July 13, 2011: Planning Commission unanimously (7-0) recommended forwarding the annual report to the City Council for review.

FISCAL IMPACT: N/A

CONTACT(S):
Laura Hamilton, Planning Commission Chair- 386-3089
Tom Martin, City Planner - 455-3900
Kent White, Director of Community Development – 455-3900

ATTACHMENT(S):
- Annual Report

REVIEWED BY: lkp

123L

Annual Report on the Activities of the Planning Commission Including Implementation of the *City of Lynchburg: Comprehensive Plan 2002 – 2020* For the Fiscal Year Ending June 30, 2011

Approved by the Lynchburg Planning Commission: July 13, 2011

Laura Hamilton, Chair
Andy Sale, Vice Chair
Richard Barnes
James Coleman, Jr.
Ted Hannon
Kevin Hooper
Gerry Swienton

Report Summary

This is the eighth (8th) annual report submitted outlining the implementation of the *Comprehensive Plan 2002-2020*. The report is being submitted at the end of the City's fiscal year, June 30, 2011 and covers the fiscal year 2010/2011.

In addition to a review of the Planning Commission's activities, included is a report on the implementation of the *Comprehensive Plan 2002-2020*. In agreement with the City Manager and the Deputy City Manager are items and programs approved as part of the *Comprehensive Plan* that may be considered for the FY 2011 Capital Improvements Program (CIP) by various departments.

The Planning Commission considered and forwarded to City Council twenty (20) petitions from July 1, 2010 through June 30, 2011.

Petitions considered and forwarded to the City Council:

- Conditional Use Permits - 7
- Rezoning Petitions - 6
- *Zoning Ordinance* Amendments – 2
- *Future Land Use Map* Amendments – 4
- Open-Space Easements - 1

Highlighted petitions:

- October 13, 2010 – Dr. Jeffrey Widmeyer, 7626 Timberlake Road
- October 27, 2010 - Heritage Baptist Church Comprehensive Sign Plan – 219 Breezewood Drive
- December 8, 2010 – Acorn Hill Lodge, 2134 Old Forest Road
- December 8, 2010 – James River Professional Building, 2050 Langhorne Road
- February 23, 2011 – Craft Hyundai, 101 Breezewood Drive

- March 9, 2011 – Amendments to the Cornerstone Traditional Neighborhood Development Design, Landscaping & Screening and Architectural Guidelines
- April 27, 2011 – Virginia University of Lynchburg 224-bed Dormitory – 2057 Garfield Avenue
- June 8, 2011 – Residential apartments in a downtown office building – 616 Court Street

Miscellaneous:

- The Planning Commission recommended revisions to Chapter 35.1-11.1 to add definitions for Commercial Amusement (Temporary) and Commercial Recreation and to allow indoor shooting ranges by conditional use permit in R-C, B-3, B-4, B-5, B-6, I-1 and I-2 districts.
- The Planning Commission drafted an amendment to the *Zoning Ordinance* to create an Institutional 1 district (for institutions located in residential districts) and an Institutional 2 District (for institutions located in commercial districts). This initiative included holding several meetings with a group of stakeholders from various institutions in the City and conducting two (2) public hearings.
- A resolution was adopted by the Planning Commission to endorse the studying of access management opportunities on Old Forest Road by Region 2000.
- Endorsement of an open-space easement at 300 and 304 Overstreet Lane was agreed upon by the Planning Commission.
- The Planning Commission received an update from the Economic Development Authority regarding the Enterprise Zones, the Technology Zones, downtown revitalization and Fifth Street revitalization.
- The Planning Commission discussed the City of Lynchburg's Sustainable City Initiative.
- An amendment to the *Zoning Ordinance* was recommended by the Planning Commission to allow the Zoning Administrator to obtain an inspection warrant for the investigation of possible zoning violations.
- Two alternate landscape layouts were reviewed and approved by the Planning Commission. The landscape ordinance allows the City Planner to approve alternate landscape layouts with the endorsement of the Planning Commission.
- Four street naming petitions were reviewed by the Planning Commission and forwarded to the City Manager for his approval.

Table of Contents

I. Introduction

History & Adoption of the Comprehensive Plan

The City of Lynchburg *Comprehensive Plan 2002 – 2020* was adopted by the City Council on September 10, 2002. The final chapter of the plan outlined a five (5)-year implementation program made up of those tasks that the City needs to implement first in order to reach the vision of the City in the year 2020. This Annual Report gives a status report on the seventh (7th) year of the implementation program.

Five Year Review of the *Comprehensive Plan 2002-2020*.

At the January 8, 2008 City Council work session, Planning Commission Chair, Laura Hamilton presented the Five (5)-Year Review of the *Comprehensive Plan 2002-2020*. The five year review of the Comprehensive Plan was required by §15.2-2230 of the Code of Virginia and was completed by the Planning Commission on December 12, 2007. The following represents a status of the prioritized list of recommendations set forth in the five (5)-year review:

1. Reaffirm the vision of the Comprehensive Plan – February 26, 2008
2. Identify vacant land and land suitable for redevelopment – Complete
3. Conduct analysis of vacant land to determine which areas are suitable for conservation or development. Developable tracts would be identified for traditional neighborhood developments, planned unit developments, commercial, industrial and typical residential developments – Under Development by Staff
4. Develop Transportation Master Plan policies – Chapter 14: Transportation of the *Comprehensive Plan 2002-2020* adopted by City Council on June 8, 2010.
5. Revise Natural Systems chapter of the *Comprehensive Plan 2002-2020* – Chapter 12: Natural Systems of the *Comprehensive Plan 2002-2020* adopted by City Council on October 13, 2009.
6. Revise the *Future Land Use Map* to coordinate with vacant land analysis – Following Completion of the Vacant Land Analysis
7. Complete Housing Plan – Following Completion of Other Priorities
8. Comprehensive rewrite of the *Zoning Ordinance* – Following Completion of Other Priorities

Goals, Objectives & Strategies in the Plan

Each chapter in the *Comprehensive Plan*, beginning with Chapter 5, Citywide Land Use and Development, concludes with a series of Goals, Objectives & Strategies. In addition to Citywide Land Use, these goals address:

- Design, Character & Quality
- Economic Development & Redevelopment
- Downtown & Riverfront Master Plan 2000
- Commercial & Employment Areas

- Neighborhoods & Housing
- History, Culture, Education & the Arts
- Natural Systems
- Parks & Recreation
- Transportation
- Public Utilities
- Public Facilities

The goals outline broad policies for future action to protect, improve and enhance various aspects of the City's character and its quality of life while the objectives identify more detailed initiatives. The strategies are specific actions that need to be taken or policies that need to be followed to fulfill the vision presented in the plan. There are three (3) types of strategies. The first are the sixteen (16) strategies, one from each element of the plan, that have been selected for inclusion in the five (5)-year implementation program. The second type of strategy directs that a certain action be taken but is not included in the five (5)-year program. These strategies will be undertaken if unexpected opportunities, such as grant funding or volunteer efforts arise. The third type of strategy is intended to give overall policy guidance and therefore does not address a specific project.

The Implementation Matrix

Chapter 17 of the *Comprehensive Plan* includes an implementation matrix with the direction that it be revised and completed following adoption of the plan. The matrix was revised and presented to the Planning Commission in January 2003. This Annual Report is based on that revised matrix. Information in this report is on a fiscal year basis, July 1 through June 30.

I. Status of Implementation Matrix Tasks: FY 2011 & FY 2012

Strategy from Implementation Matrix	Completed in FY 2011 July 1, 2010 June 30, 2011	Projected for FY 2012 July 1, 2011 - June 30, 2012
1- Prepare for Plan Implementation	The Planning Commission continues to be involved in plan implementation. The Citizen Steering Committee (CSC) continues to review policies and ordinances identified during the 5-year update to the *Comprehensive Plan 2002-2020* and at the direction of Planning Commission. The City continues to enhance the website to increase public awareness. Planning Commission and City Council meetings, as well as select public forums, are available for on-line viewing.	Continued participation expected. Continued participation expected.
2- Prepare the Tyreeanna/Pleasant Valley Neighborhood Plan	Adopted in July 2003. Continued to work with land owners and developers to implement plan. Focused on "Access Management"	Begin Tyreeanna Gateway Plans.

	along U.S. Route 460.	
3- Implement the Downtown & Riverfront Master Plan 2000	Academy of Fine Arts has started a dialogue with City staff on the design of the rehabilitation of the historic building. Downtown parking management system has been initiated and completed. System includes pay stations, handheld ticket issuance computers and a permit management system. Structural assessment of City Market parking deck complete.	Submission of site plans to occur in Summer 2012. Emergency repairs will be made in FY 12.
4- Revise the Zoning & Subdivision Ordinances	Planning Division is currently preparing to issue Request for Proposals for a Diagnostic Review of the *Zoning Ordinance*. Results of the diagnostic review will be forwarded to the Planning Commission in Fall 2011 and preparation for a comprehensive re-write of the Zoning Ordinance will be started. Planning Commission is currently reviewing the addition of an Institutional Zoning District. Planning Commission approved the use of warrants for the Zoning Administrator to enter a dwelling in order to determine over-occupancy.	The completion of the zoning ordinance re-write is expected for Summer 2012. The institutional ordinance is expected to be adopted in Summer 2011.
5- Prepare Citywide Design Standards.	Design guidelines will be included with *Zoning Ordinance* and *Subdivision Ordinance* revisions, as allowed by the Code of Virginia. The Planning Division has initiated sample policy for gateway signs for the key entry points into the City.	Continuing where applicable. Draft policy to be completed in Fall 2011.
6- Prepared Comprehensive Citywide Economic Development Redevelopment Strategic Plan	Office of Economic Development (OED) continues to engage the local business community to determine their needs. OED sponsored three Business Appreciation Week events in May 2011, Downtown, Fairview Community Center & Business Development Centre OED key partner in creation of downtown festival and packet pickup for Virginia Ten & Four Miler.	Develop and maintain initiatives that engage and assist City businesses. “Fields of Opportunity” Stakeholder Group to be convened to identify next steps. This initiative is in collaboration with the Planning Commission. Update and revamp website and all collateral materials for OED with new brand “City of Opportunity. Great place to learn, live, work and play.

	Developers & Designers Forum held in May 2011 in collaboration with Community Development. Announcement of expansions by J.Crew and Delta Star. $30 million in capital investment and 350 new jobs. Fields of Opportunity Educational Workshop held in January 2011. Represented Virginia at the Economic Redevelopment Forum held during the 2011 Brownfields Conference in Philadelphia. Ranked 35th Best Performing City by the Milken Institute, up from 60th in 2010. OED a partner in the preparation of an application to have 5th Street listed on the historic register. In collaboration with Parks & Recreation and Community Development have initiated NED (Neighborhood Economic Development) in Fairview Heights. Focus areas identified by stakeholders. Based on a call to action by the private sector assisted in creation of TAG (Transportation Advocacy Group). Over 120 members to date. Completed the third amendment of the City's Enterprise Zone #2 & #46 adding an additional 1,300 acres within the City. In 2010, commercial property owners invested over $14 million and applied for $1.2 million in Enterprise Zone grants. Office of Economic Development created the Arts and Cultural District Grant. These grants are funded by the amusement tax collected in the District. Awarded Local Government Challenge Grant by the Virginia Commission for the Arts. GLTC Site Selection Committee	Coordinating with relevant departments for seamless service initiative. New Commercial Property Database scheduled to be launched Summer of 2011 Develop a Redevelopment Investment Grant. Initiate community livability citizen engagement tool "Imagine That". Partner with Community Development to complete an application for 5th Street to be added to the National Historic Register Seek grants and other external funding for economic development initiatives. . 411 Informational Series – Enterprise, Technology, Redevelopment, Tax Credits Fourth amendment planned for Enterprise Zone #2 in 2011. Administer the Arts & Cultural District Grant Program

	City Council voted to deed 863 Church Street (Carter Glass) building to the Economic Development Authority for development. OED held informational meetings for businesses on Enterprise Zone & downtown development Amended the City's Technology Zone to include the entire City. Mailed "welcome" letters to each new business licensee in the City of Lynchburg. Continue Master Partnership with the Lynchburg City Schools for the Workforce Development, sponsored all 8th grade students in LCS the opportunity to attend Future Focus event. EDA is the lead sponsor for Grow One Entrepreneurial Residential Summer Camp held at Lynchburg College for rising 7th graders. Economic Development Authority created a Revolving Loan Fund to assist local businesses with access to capital. Development Coordination Meetings continue to provide valuable information and collaboration between city departments to promote and facilitate development. Downtown Development Meetings begun to promote redevelopment. Held six Pre-TRC meetings to assist with development and business expansion.	Create a Defense Zone within the City Staff pursuing professional Economic Developer Certification Office will pursue formal accreditation as an EDO Assist developers with access to financing and interfacing with City. Initiate community livability citizen engagement tool "Imagine That". Establish a formal short and long term marketing plan to direct resources and track data. Continue Pre-TRC meetings
7- Commercial Areas: Revitalization of Fifth Street	Public meetings held quarterly to update business owners and residences about construction schedule. Lynchburg Economic Development Authority created a Business Assistance Grant during the construction on 5th Street. This grant was	Phase 2 Fifth Street Corridor improvements construction to start September 2011.

	used to provide advertising for businesses during infrastructure & streetscape improvements. The Planning Division initiated the pursuit of State/National Historic designation for Fifth Street. Lynchburg Neighborhood Development Foundation (LNDF) held a charette for Fifth Street in the Winter of 2011 with the hope of producing ideas for Fifth Street revitalization. Fifth Street CDC in partnership with LNDF and the City of Lynchburg will stabilize buildings located at 702 & 708 Fifth Street.	 Nomination to be submitted to the VDHR (Virginia Department of Historic Resources) in Fall 2011. LNDF plans to rehabilitate the west side of the 700 Block of Fifth Street over the next couple years. The CDC (Community Development Corporation) continues to seek private donations for the center feature of the roundabout and will coordinate final design
8- Commercial Areas: Revitalization of Midtown Area	Renovation continues on Kemper Street Mixed Use project. GLTC (Greater Lynchburg Transit Company) presented the design of the new bus terminal station to the Historic Preservation Commission (HPC).	
9- Conduct Midtown Connector Corridor Study	Midtown Connector Phase II on hold, pending outcome of Lakeside Centre project and proposed improvements to surrounding area. Phase II would improve Intersection of U.S. 501 and Lakeside Drive to a one-way pair and widen Lakeside Drive from U.S. 501 to Wyndale Drive.	Phase I design and right-of-way acquisition to be completed in Fall 2011. Phase I scope would widen Kemper Street/Park Avenue from Business 29 to Langhorne Road, improve Langhorne Road and incorporate Context Sensitive Design into the corridor.
10- Establish short and long term priorities through a Transportation Master Plan (TMP)	Breezewood Drive Phase II project on hold, pending outcome of Lakeside Centre project and proposed improvements to surrounding area. Phase II would improve the two-lane alignment of Breezewood Drive and add sidewalk from the Heritage Baptist Church entrance to the end of the road. Greenview Drive Phase II design underway. Phase II would widen Greenview Drive from Hermitage Road to Leesville Road. This project would also include improvements to the intersection of Leesville Road and Greenview Drive by adding turn lanes at all approaches.	Continued improvements to Breezewood Drive are deferred until adequate Virginia Department of Transportation funding is available. Right-of-way acquisition scheduled to begin when adequate Virginia Department of Transportation funding is available.

	Rivermont Bridge under construction. The project involves a major rehabilitation of the driving deck and the upgrade of the lighting and parapet rail system. D Street Bridge construction was completed in Spring 2011. The project involved the re-construction of the bridge. Improvements to the Lakeside Drive/Park Avenue/Memorial Avenue intersection design underway. This project would provide efficient and safer pedestrian and traffic flows through the intersection. Construction of a new traffic signal at the Enterprise Drive and Paulette Circle complete. Wards Road traffic signal retiming study completed. This study analyzed the timings of seven intersections on Wards Road to optimize the efficiency of the system. Design of Phase I Wards Road Pedestrian and Bicycle Study plan 90% complete. City currently discussing alternatives with Liberty University. Kings Drive construction complete. The project included the addition of a full size cul-de-sac at the terminus of the road adjacent to the Areva parking lot as well as the construction of sidewalk and a traffic signal at the intersection of Kings Drive and Old Forest Road. Wards Road Pedestrian Bridge Under Design & Construction. Phase II, Atlanta Avenue to Cracker Barrel in Design	Completion of the Rivermont Bridge is expected in September 2011 Construction is expected to start in 2012. Construction underway of Bridge. Scheduled completion in September 2011. Phase 2 complete by December 2011. Phase III of trail system, Atlanta Avenue to Wards Ferry Road
11- Manage Natural Systems/Maintain comprehensive approach to stormwater management	The Central Virginia Erosion and Sediment Control Committee meets twice a year to gauge regional consistency in inspection and plan review programs. The City was recognized in 2011 as a Green Government through	Continue semi-annual meetings. Continued participation expected.

	VML. (The City was not eligible to place since we had already won the year before). The Virginia Department of Conservation and Recreation (DCR) issued a consistent rating for the City of Lynchburg's Erosion and Sediment Control Program.	
	The City's Non-Point Discharge Elimination System (NPDES) Phase II stormwater permit is in effect until June 2013. Operators of regulated small municipal separate storm sewer systems (MS4s), such as the City of Lynchburg, are required to obtain a NPDES permit and develop a stormwater management program designed to prevent harmful pollutants from being washed by stormwater runoff into local water bodies. The City submits its annual reports to the Department of Conservation and Recreation on the status of the NPDES Phase II permit requirements.	The City will submit its third annual report on the status of the current NPDES Phase II permit requirements in the Fall 2011.
	Representatives of the Stormwater Advisory Committee [SWAC] presented recommendations to City Council related to levels of service and funding mechanisms needed to meet state and federal water quality standards.	SWAC to submit recommendations in Fall 2011.
	As part of the ICLEI initiative, the City has received a draft report from the consultant. Various efforts are underway working with the State and EPA on the Chesapeake Bay TMDL. Work has begun on the Phase II Watershed Implementation Plan (WIP) which will result in reduction goals for each locality. A number of efforts have taken place to engage and educate the public in matters related to stormwater including various presentations and an interactive broadcast on LTV. The City partnered with Randolph College in order to conduct a vacant land analysis.	Staff is currently reviewing the document and the working group aims to meet again in July/August 2011.

12- Establish Neighborhood Task Force	The Code Enforcement Task Force continues to meet quarterly and as needed. The task force meets with neighborhood groups to insure adequate communication between residents and the City.	
13- Preserve City-owned historic buildings and sites	The Lynchburg Museum is making minor repairs to the façade, roof, and columns of the museum. Design for renovation of the Miller Center, formally the Janet Snead School, is complete to 80 % drawings. Renovation of building is eligible for State Historic Tax Credits. The Thornhill Wagonworks building is damaged beyond repair. The City received a Brownfields Pilot Grant to survey and inventory buildings for reusable and recyclable materials. Buildings on the north side of Rutherford were deconstructed with 95% of materials reused or recycled.	Completion of the repairs is expected in Summer 2011. Efforts continue to fund renovation of the building. Construction and bid documents are scheduled for completion in 2012. Deconstruction of the buildings will be completed in FY2012.
14- Plan and implement a greenway program	Regional Greenways/Blueways Advisory Committee continues to meet twice a year. Trails at Ivy Creek Park are complete. The trails in the park are the first phase of the trail connection from Ivy Creek Park to Peaks View Park. The City and Lynchburg College is partnering on a trail from Blackwater Creek Athletic Area (BWCAA) to Sandusky Park. Applied for VDCR, Recreation Trails Program grant.	Work to continue through Summer 2011. City has applied for grant funding. If received, Phase I trail construction will begin in FY 2012. Tinbridge Hill Neighborhood trail connection to BWC Bikeway under design.
15- Provide adequate public facilities to support the City's long-range planning goals	This is a general ongoing strategy. Planning activities related to the City's infrastructure include: Continued implementation of Fire & EMS Department 2015 Plan and the Accreditation Commission. Region 2000 Services Authority began operation in Summer 2008. The authority includes the Counties of Campbell, Appomattox and Nelson and the Cities of Lynchburg and Bedford and provides for the regionalization of solid waste disposal.	

	Post closure uses of existing landfill as identified in Tyreeanna/ Pleasant Valley Neighborhood Plan to be studied in greater detail in the future. Plans have been established and approved for the construction of a pedestrian bridge crossing over Wards Road City staff has begun soliciting consulting services for the study phase of the Juvenile Group Home project.	
16- Support efforts to improve the quality of Lynchburg City Schools	In a series of “Lynchburg is Listening” the City gathered input from citizens regarding the upgrades needed for Heritage High School. Heritage High School roof repair completed in Spring 2011. Replacement of gym floor and new bleachers at Heritage High School. Construction was completed Winter 2011.	This is a continuous dialogue with citizens in order to improve Heritage High School.

III. Other Comprehensive Plan Strategies: Underway or Completed

The following chart lists the strategies that various City departments or other groups are working on. In addition to these strategies, there has been a continued interest expressed in the goals, objectives, and strategies included in the *Comprehensive Plan*.

Comp Plan Page #	Plan Element: Goal/Objective/ Strategy	Department/Group & Activity
5.12-13	**Element: Citywide Land Use & Development** **Objective l.A. Regulations and Guidelines** 3) Incorporate drawings and photographs as references in ordinances to help clarify concepts for the general public, local officials, and the development community. **Objective 1.B. Park & Facility Upgrade.** 7) Renovate City Stadium, at a minimum to comply with the ADA and standards of the National Association of Professional Baseball Leagues.	Drawings and photos included as references in the proposed Institutional Zoning District section of the *Zoning Ordinance.* Baseball complex complete. Funding allocated for an Engineering study of the City football stadium. RFP issued for A&E services, contract negotiations underway.

	Objective 2.B. Integrated Data Systems 3) Coordinate and standardize internal city collection and reporting procedures.	Updates proposed for the Trak-It system currently used by Community Development, Public Works, Utilities, Assessors Office and the Fire Marshal's Office in Spring 2011. Approved site plans, small infrastructure plans and subdivision plats are scanned and attached to TrakIt projects, making them accessible by all departments.
	4) Explore opportunities to build a common base of planning-related data between City departments and regional agencies.	Parcel, street centerline, and address data is shared with adjacent localities.
	6) Expand the City's Geographic Information System (GIS) to incorporate natural systems and environmental data that can be compiled on the small area, neighborhood, citywide and regional basis.	The Assessor's Office and GIS Division continue to make updates to the GIS system that improve the quality of assessment information dispersed to the public.
5.14-5.15	**Element: Citywide Land Use & Development** **Goal 4.** Encourage the improvement of conditions and quality of life along travel corridors and in revitalization areas identified on the Plan Framework Map.	 The City has partnered with Liberty University to improve pedestrian safety along Wards Road by constructing a pedestrian bridge, which will cross over Wards Road.
	Objective 5.A. Regional Collaboration Increase level of coordination between area localities and state agencies.	The City continues to foster regional cooperation where appropriate, with a particular example being the Access Management Needs Assessment for Old Forest Road, which was jointly coordinated with Region 2000. Quarterly meetings between Planning Directors of neighboring localities continue. The Planning Division notifies adjacent locality Planning Departments when *Future Land Use Map [FLUM]* amendments, rezonings or conditional use permit petitions are near jurisdictional boundaries.
6.23	**Element: Design, Character & Quality** **Objective l.H. Property Maintenance** 2) Target code enforcement activities in areas experiencing the highest levels of deterioration and disinvestment.	 In cooperation with the City's Inspection Division, Lynchburg Redevelopment and Housing Authority (LRHA) is continuing the Spot Blight Abatement Program which requires owners to repair properties or face acquisition by the LRHA. Properties acquired within the Fifth Street Corridor will be marketed to private developers.

	4) Develop a program to address the maintenance of properties owned by out-of state, absentee landlords. 5) Develop a citywide Rental Housing Program to address all rental properties that do not meet building code standards.	Community Development staff in both Neighborhood Services and Inspections Divisions are consolidating efforts to cite violations for housing enforcement, weeds, inoperable automobiles and trash.
10.14	**Element: Neighborhoods/Housing** **Objective 2.d. Rental Housing** 1) Establish public/private partnerships to improve the quality of rental housing serving low and moderate income residents. **Objective 2.E. Homeownership Opportunities** 2) Develop a program of incentives and financing to enable low-income households to become homeowners. **Objective 2.F. Special Needs Housing** 5) Work with the Redevelopment and Housing Authority and social service providers to assess the needs of the City's homeless population. **Objective 2.G. Employer-Assisted Housing** I) Encourage major employers to develop programs to help the City inform employees about housing opportunities and housing assistance within the City. Objective 3.A. Residential Mixed-Use Zones Goal 3. Promote the creation or re-creation of mixed-use residential communities that incorporate a mix of housing types with pedestrian-oriented streets, small-scale neighborhood oriented office and commercial uses and neighborhood parks and squares.	The Lynchburg Neighborhood Development Foundation (LNDF) continues to renovate older single-family homes into well designed apartments in older neighborhoods. Lynchburg Housing and Redevelopment Authority (LHRA) continues to administer its public housing apartments along with the Section 8 Housing Choice Voucher program. LRHA is operating a Rental Rehabilitation Program in which matching grants are provided to landlords to improve rental properties in the downtown residential areas. Habitat for Humanity and LNDF continue to build new homes in the City. LNDF Finance and Development Program encouraged the development of single-family homes for re-sale. Several programs, such as Rebuilding Together and LNDF's Lynchburg Supportive Loan Program, continue to renovate homes. LNDF, Rush Lifetime Homes and Lynchburg Community Action Group (LYNCAG) continue to sponsor rental housing assistance programs for homeless disabled households for the City's Shelter Plus Care program, each with a service component provided by Miriam's House. LNDF and Rush also have a site-based, permanent housing project for homeless called Cornerstone. The Homeless and Housing coalition provide a "continuum of care" program. The City conducts periodic homeless street counts and a "point in time" surveys at shelters. The City plans to establish a housing partnership with the six (6) non-profit groups mentioned above in hope of

		creating a focused approach to identifying housing needs.
13.4-6	**Element: Parks & Recreation** **Objective 1.B. Park & Facility Upgrade** 1) Prepare master plans for Miller Park, Riverside Park, City Stadium area and other City parks to guide and appropriately locate needed upgrades and improvements.	Funding for master planning of Blackwater Creek Natural Area deferred. Master Plans complete for Miller Park, Riverside Park, Younger Park, College Park, Perrymont Park and Blackwater Creek Athletic Area. (BWCAA). Renovation of Younger Park is complete. Improvements to Miller Park, Riverside Park, BWCAA continue.
	3) Prepare plans, including cost estimates and schedules, to bring all park facilities into compliance with the Americans with Disabilities Act (ADA).	Schematic design complete for renovation of Miller Center, to include compliance with the ADA. ADA improvements complete at Peaks View Park tennis courts. All renovations or new parks include bringing facility in to compliance with ADA.
	4) Prepare a plan to bring all playgrounds and play equipment into compliance with published national standards for recreation equipment, while offering a diversity of physical experiences for all ages. Seek community and private sector support for improvements.	Yoder Center playground complete. Sprayground at Riverside Park complete. New playground at Riverside Park in design phase.
	Objective 1.D. New Park & Recreation Facilities 2) Master plan and develop a new park as an environmental education center on donated land in the Lynchpin Industrial Center.	The Ivy Creek opened June 2011. Phase I construction is complete. Buildings at Allen-Morrison scheduled for demolition and deconstruction in Summer 2010.
	3) Master plan Schenkel and Allen-Morrison properties, in conjunction with the City Stadium area, for recreational purposes.	Completing deconstruction of buildings scheduled for FY 2012. Environmental remediation scheduled for completion in FY 2012.
	Objective 1.F. Water Recreation 4) Participate in local, regional, and state water quality improvement programs for the James River and regional streams.	U.S. Environmental Protection Agency approved the Region 2000's Total Maximum Daily Load (TMDL) plan and initiated study. Region 2000 hosting meetings with stakeholders.
	Objective 2.B. Indoor & Special Facilities 1) Rehabilitate the current Parks and Recreation Department headquarters building at 30 I Grove Street to meet current codes and to serve as a central facility for classes in the arts and other interests.	Renovation plans complete to 80%. Renovation is contingent on funding.

	Objective 2.A. Community Centers 2) Develop a program to bring all buildings into compliance with the ADA and current fire and building codes, correct mechanical or other system deficiencies and address functional constraints to full programmed use. The program should include the improvement of mechanical systems, interior and exterior finishes, lighting, and furnishings. **Objective 3.B. School Recreation Facilities** 1) Institute a program of field renovation and improvement at all middle school and selected elementary school athletic fields, improving turf and providing adequate fencing, backstops, and other safety features. **Objective 4.D. Private Sector Funding & Assistance** 2) Seek donations from private individuals, businesses, industries and leagues through a trust fund or foundation. 3) Use volunteers to assist staff in the delivery of recreational programs, in staffing special events and in contributing to trail maintenance through the "Adopt a Trail" program.	Aubrey Barbour Park and Aubrey Barbour Education Center (Yoder Center grounds) complete. Renovation of grounds at Diamond Hill Center is complete. Plans (established in 1998) to renovate all centers is complete. Completed addition to the Aubrey Barbour Education Center at the Yoder Center. Fund raising underway for improvements to Riverside Park playground. Fund raising underway for construction of a dog park. Funded full-time Volunteer Coordinator for P&R. Increasing use of volunteers in all recreation programs. Adopt- a-Trail program continues. Added Girls on the Run as a partnered organization.
15.8-10	**Element: Public Utilities** **Objective 1.A. Maintenance & Replacement** 1) Continue the Utility Department's focus on maintenance of the existing water system and replacement of old mains. 2) Continue the replacement of small diameter residential mains coordinated with Combined Sewer Overflow (CSO) projects, while addressing new development needs and resident complaints. **Objective 1.B. Drinking Water** 1) Protect the Pedlar Reservoir as the primary source of drinking water for the citizens of Lynchburg.	The City replaced over 18,000 feet of water mains during the past year. Approximately $5 million annually is budgeted in the Water Fund Capital Improvement Program to fund water line replacements and extensions, water tank and pump station maintenance, and water treatment upgrades. The Utilities Department has completed improvements to the Pedlar Dam to meet VA Dam Safety Regulations during significant flood events. The required Emergency Action Plan has been completed. Utilities has received bids on the next phase of 5th Street which will replace a main water line to the Central Business District area as well as the raw water pump line from the James River. City water rates are over 40% lower than the state average. Despite having one of the highest sewer rates in the State due to the CSO Consent Order, this year for the first time in over a decade the

	Objective 1.C. Water Rates 1) Structure water rates to provide incentives for development within the City as compared to counties, especially for large industrial users.	combined water and sewer rates are lower than the statewide average. The Utilities Department continues to use a "Cost of Service" methodology with adjacent counties to more equally share in the costs of treatment and delivery. Water contracts for the counties served are in place.
	Objective 1.D. City Benefits 2) Prior to entering into additional agreements for service outside the City, assess the impact such provision will have on the long-term water supply and the capacity of water and sewer systems.	The City is participating in a Regional Water Supply Plan involving 15 localities and service authorities. This plan is required by the State in order to develop a state-wide water supply plan. The Plan has been approved by the Department of Environmental Quality. A Public Hearing will be held in July to formally adopt the plan. The City has received for the Virginia Department of Health's Excellence in Waterworks Performance/Operations Award for the 5th consecutive year.
	Objective 1.E. Water System Master Plan 1) Maintain sufficient treatment capacity to sustain City growth, while meeting regulatory water quality requirements. 3) Assess the condition of the raw water transmission line from Pedlar Reservoir and make appropriate recommendations for its ultimate replacement. 4) Implement, to the maximum extent feasible, the Water System Master Plan update recommendations for the long-term maintenance of water supply and transmission capacity.	A study of the Pedlar raw water line is beginning, the goal of which evaluate the condition of the line and make recommendations as to what is needed to extend the life of this very critical asset. The Utility Department is currently studying various options to maximize capacity and redundancy throughout the water system.
	Objective 1.F. Sewer Service Extension 1) Develop a plan for needed extensions of sanitary sewer to un-sewered areas within the City.	The Utility Department continues to study the feasibility of sewer extensions into unserved areas of the City as well as an overall restructuring of the current Sewer Extension Policy. Overall capital costs and implementation policies along with impacts to the City's CSO Special Order are significant issues. Recommendations to City Council and the Planning Commission will be made in the future.
	Objective 2.A. Commitment 1) Continue pursuit of federal and state grant funding related to implementation of the program.	The City is conducting an update to its CSO Long Term Control Plan. Viable options and alternatives to completing the program are the main focus of the update study.

	2) Maximize the utilization of sewer funds for execution of the CSO program.	The City utilized nearly $20 million in ARRA Funding to complete various CSO projects including Divisions 2 and 6 of the James River Interceptor and a CSO separation project. The City continues to apply for no interest long term loans from the state to complete CSO projects as well as pursue sources of grant funding.
	Objective 4.A. Surplus Capacity 1) Actively monitor the need for solid waste facility expansion and proceed with design and implementation at the appropriate time.	The City of Lynchburg has partnered with Region 2000 and the neighboring localities to create a regional solid waste authority. The regional solid waste management plan has been approved by Virginia Department of Environmental Quality and will review opportunities for regional waste disposal.
	Objective 4.C. Recycling 1) Evaluate curbside recycling service and implement such service, if appropriate.	Consideration was given to residential curbside recycling collection; however, due to high cost, the City has decided to continue to provide drop off recycling sites for the collection of residential recycling materials. The City continues to work with Region 2000 regarding regional recycling options and also has partnered with a private business to provide residential curbside collection. (Recycle-Easy).
	2) Actively encourage residential, commercial and industrial participation in recycling programs.	Consideration being given to a regional approach to recycling by the Regional Solid Waste Authority.

IV. *Comprehensive Plan* Activities to be included in the Fiscal Year 2011 CIP

It is the City's intent that all entries in the Capital Improvement Program be based on the City's *Comprehensive Plan*. This Annual Report is the place where items and programs proposed for inclusion in the next fiscal year's CIP are identified. The following items/programs have been identified for consideration for the FY 2011 CIP.

- New Juvenile Detention Center at 1400 Florida Avenue.
- Continue implementation of the Fifth Street Corridor Plan.
- Continue Downtown and Riverfront Master Plan projects.
- Repairs to the Main Street Bridge.
- Continued implementation of the Wards Road Pedestrian / Bicycle Plan.

The following items and programs are requested for inclusion in the FY 2012 CIP or thereafter:

- Conduct crosswalk study to enhance pedestrian safety.

- Add audible signals as part of the City's ongoing addition and maintenance of pedestrian facilities. The priority area for new audible signals should focus on Downtown, especially along Main and Church streets.
- Implement the Sewer Master Plan.
- Wards Ferry Road Traffic Study.
- Continued implementation of Midtown Area Plan.
- Continued implementation of City's Greenway Program.
- Continued implementation of Downtown and Riverfront Master Plan projects.
- Continued implementation of Fifth Street Corridor Plan projects.
- A comprehensive study and rewrite of the *Zoning Ordinance.*

LYNCHBURG CITY COUNCIL
Agenda Item Summary

MEETING DATE: **August 9, 2011**			AGENDA ITEM NO.: 2
CONSENT:	REGULAR: **X**	WORK SESSION: **X**	CLOSED SESSION: (Confidential)
ACTION:		INFORMATION:	

ITEM TITLE: **Zoning Ordinance Amendments - Section 35.1-38.2, Institutional District (IN-1 – IN-2)**

Landscaping Ordinance Sections - 35.1-25.1.2, Applicability, 35.1-25.1.8, Street trees for multi-family, commercial, institutional and industrial districts, 35.1-25.1.9, Foundation Plantings, 35.1-25.1.11, Buffering, 35.1-25.1.12, Tree canopy requirements,

Sign Ordinance Sections – 35.1-26.5, Temporary signs, Section 35.1-26.9. Signs in B-1, B-2 and IN-1 Districts, 35.1-26.10, Signs in B-3, B-5 and IN-2 Districts

RECOMMENDATION: Conduct work session concerning the proposed *Zoning Ordinance* amendments for the creation of an Institutional District (IN-1/IN-2) and associated revisions to the *Landscaping Ordinance* and *Sign Ordinance* as recommended by the Planning Commission. Authorize the scheduling of the requisite public hearing.

SUMMARY: On February 9, 2010, City Council initiated amendments to the Zoning Ordinance related to institutions. Over the past seventeen (17) months, the Planning Commission and City staff have worked with a group of stakeholders to draft ordinance revisions that would facilitate the development of the City's institutions without the need for obtaining a conditional use permit (CUP), as is currently required. In developing the ordinance revisions, the creation of Institutional Overlay Districts, an Institutional Zoning District, removal of the CUP requirement and maintaining the existing CUP requirement were considered.

The Planning Commission and stakeholder group reviewed the development review process for the following institutions: Averett University, Duke University, Eastern Mennonite, George Mason University, Harvard University. Hollins University, Longwood University, Norfolk State University, Northwestern University, Notre Dame, Old Dominion University, Regents University, Roanoke College, Spelman College, Stanford University, Sweet Briar College, University of Miami, University of Richmond, Virginia Commonwealth University, Virginia Tech, Wake Forest, Washington & Lee University and William & Mary. Specific ordinances regarding institutional districts or overlay districts were reviewed from the following localities: City of Harrisonburg, City of Lexington, City of Norfolk, City of Richmond, City of Roanoke, City of Virginia Beach, City of Williamsburg and the Town of Blacksburg.

After review of other development review processes and ordinances, the Planning Commission directed staff to draft an Institutional Zoning District that would address common themes that resulted from early discussions with stakeholders:

1. Improvements that do not cause off-site impacts should be allowed by right.
2. Primary concern should be related to expansions or incremental growth that results in off-site impacts.
3. A definition of what a substantial impact requiring a more in depth review should be developed.
4. There should be flexibility in requirements for master plans. Planning beyond two (2) years at best is speculative for institutions.
5. An ongoing dialogue between Institutions and the City should be developed.

The resulting draft proposes the creation of two (2) new zoning districts: IN-1 Districts are intended for institutions that are smaller in scale and located primarily within or adjacent to residential areas. IN-2 districts are intended for large scale institutions that are primarily located within or adjacent to non-residential areas.

Development standards for the two (2) districts would provide for a transition between the institutional and residential uses.

Revisions to the *Sign Ordinance* would indicate freestanding, wall and temporary sign standards for each individual district. As proposed, the IN-1 district would be allowed the same signage as a B-1, Limited Business District and B-2, Local Neighborhood Business District and the IN-2 district would be allowed the same signage as a B-3, Community Business District and B-5, General Business District.

Revisions to the *Landscaping Ordinance* would indicate that applicability, street tree, buffering, foundation plantings and tree canopy requirements would apply to the IN-1 and IN-2 Districts.

PRIOR ACTION(S):

February 9, 2010: City Council initiated an amendment to the *Zoning Ordinance* regarding Institutions.

February 9, 2011: Planning Division recommended approval of the *Zoning Ordinance* amendments. Planning Commission moved the *Zoning Ordinance* amendments to a work session for further discussion.

June 8, 2011: Planning Commission directed staff to schedule a new public hearing for the proposed *Zoning Ordinance* amendments.

July 13, 2011: Planning Division recommended approval of the *Zoning Ordinance* amendments. Planning Commission recommended approval (7-0) of the *Zoning Ordinance* amendments.

FISCAL IMPACT: None

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

ATTACHMENT(S):

- Ordinance (including proposed *Landscaping Ordinance* amendments and proposed *Sign Ordinance* amendments)
- Ordinance Development Timeline
- Stakeholder List
- July 13, 2011 Planning Commission minutes
- Statement from Liberty University

REVIEWED BY: lkp

125L

ORDINANCE

AN ORDINANCE TO AMEND THE CODE OF THE CITY OF LYNCHBURG, 1981, BY ADDING THERETO A NEW SECTION NUMBERED 35.1-38.2, THE NEW SECTION RELATING TO INSTITUTIONAL DISTRICTS (IN-1– IN-2); TO AMEND AND REENACT SECTIONS 35.1-25.1.2, 35.1-25.1.8, 35.1-25.1.9, 35.1-25.1.11, 35.1-25.1.12 OF THE CODE OF THE CITY OF LYNCHBURG, 1981, RELATING TO THE LANDSCAPING ORDINANCE; AND, TO AMEND AND REENACT SECTIONS 35.1-26.5, 35.1-26.9, 35.1-26.10 OF THE CODE OF THE CITY OF LYNCHBURG, 1981, RELATING TO THE SIGN ORDINANCE.

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 a new Section numbered 35.1-38.2 as follows:

Sec. 35.1-38.2. Institutional district (IN-1 / IN-2)

(a) Intent. This district is to provide for institutional uses such as schools, colleges, universities, senior living facilities, medical facilities and churches with multiple buildings contained in a campus setting. This district will provide flexibility for institutions while creating development standards to minimize off site impacts such as noise, lighting, traffic and the availability / capacity of water and sanitary sewer infrastructure associated with their development. Off site impacts related to erosion and sediment control / stormwater management will be mitigated by existing city ordinances.

The amount of off site impact related to an institution depends as much on the location as the size and scale of the campus. To ensure that development standards and permitted uses are appropriate to the location of the campus, Institutional Districts will be established based on the following two (2) circumstances:

IN-1 districts are intended for institutional campuses that are smaller in scale and located primarily within or adjacent to residential areas.

IN-2 districts are intended for large scale institutional campuses that are primarily located within or adjacent to non-residential areas. Since these uses may still border residential areas, development standards will provide for a transition between the institutional and residential uses.

Institutions with a campus in either district are encouraged to maintain a dialogue with city staff that will provide a greater understanding of the relationship of the institutions' and the city's future development plans and the availability of adequate water, sanitary sewer and transportation infrastructure.

(b) Definitions.

(1) Campus – A designated area of land including the buildings and grounds of institutional uses such as schools, colleges, universities, senior living facilities, medical facilities and churches.

(2) Concept Plan – A generalized, illustrative plan indicating how off site impacts such as traffic, water and sanitary sewer availability / capacity, lighting and noise are mitigated and providing an assessment of existing and future development of the institution's campus, including buildings, parking areas, recreational facilities, open space and access points to city streets. In addressing off site impacts related to traffic the city encourages the institution to include improvements for sustainable alternatives such as: provisions for bus service, sidewalks and

pedestrian crossings, pedestrian trails and bicycle trails, connected internal site circulation or park and ride lots which could if implemented improve the Level of Service (LOS) standards on city streets serving the institution.

(3) Level of Service (LOS) – A scale that measures the amount of traffic that a roadway or intersection can accommodate, based on such factors as maneuverability, driver dissatisfaction and delay. LOS is graded on a scale of A thru F, where LOS-A is free-flowing traffic and LOS-F is stop-and-go congestion.

(4) Open Space – Any land or area, the preservation of which would: conserve and enhance scenic resources, protect streams, promote conservation of soils or provide for passive or active recreational space. Open spaces may include plaza areas, provided they contain a landscaped component. Setback areas may be included in the computation of required open space.

(5) Residence or residential – the terms “residence” or “residential” shall be as defined in Section 35.1-11.11(s) and for the purposes of determining setback and/or height requirements for IN-1 or IN-2 Districts, shall not include any properties owned, leased, or used by the institution regardless of zoning or land use.

(6) Residential Street – any local city street where the majority of land use on one or both sides of the street within the block is residential.

(c) Establishment of District.

(1) The process for establishing an Institutional District for a campus shall be the same as provided for a change to the Official Zoning Map as outlined in Section 35.1-17(b), Amendments of the Zoning Ordinance.

(2) At the time the Institutional District is established, the institution shall provide to the city:

a. A concept plan with a two (2)-year projection of future development at the campus. The concept plan is intended to be illustrative in nature and should provide an overview of how the campus will develop; how off site impacts such as noise, lighting and traffic will be mitigated and proposed uses that would require an extension or upgrade to water / sanitary sewer infrastructure. The concept plan is not intended to serve as a master plan. Permitted and accessory uses do not need to be indicated on the concept plan provided the development standards of the Institutional District are met and adequate transportation and water / sanitary sewer infrastructure is available to serve the development.

b. A traffic study prepared by a firm qualified to conduct traffic engineering studies. The methodology for the required traffic study shall be as specified in the City’s Manual of Specifications and Standard Details in effect at the date of the adoption of this ordinance. Technical guidelines for traffic studies may be obtained from the city’s transportation engineer. The traffic study shall include the following information:

i. The existing Level of Service (LOS) for city streets serving the campus.

ii. The projected amount of growth of the campus that would result in a Level of Service (LOS) lower than “D” for city streets serving the institution, or

iii. In the case of city streets with a Level of Service (LOS) already lower than “D” the projected amount of growth of the campus that would result in further lowering the Level of Service (LOS).

(3) In considering whether to permit establishment of an IN-1 or IN-2 district for the campus the Planning Commission's and City Council's review shall be restricted to a determination of existing and future land uses, the adequacy of the transportation, water and sanitary sewer infrastructure capacity available to support the institution's future development at such campus and how the impacts of such campus to adjacent residential areas will be addressed.

(d) Uses permitted by right.

Use	IN-1	IN-2
Accessory to the Institution Such as dormitories, visitor and faculty housing, book stores, coffee shops, cafeterias, offices, facilities management, storage and recreational uses	√	√
Churches	√	√
Colleges	√	√
Medical Facilities	√	√
Schools	√	√
Senior Living Facilities	√	√
Medical Facilities	√	√
Uses permitted by right and by Conditional Use Permit in R-1, R-2, R-3, R-4, R-5, B-1, B-2 and B-3 Districts		√

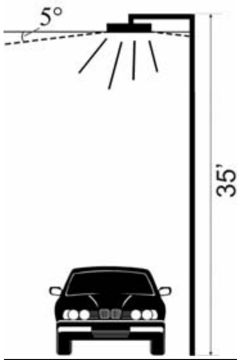
(e) Uses permitted by conditional use permit (CUP)

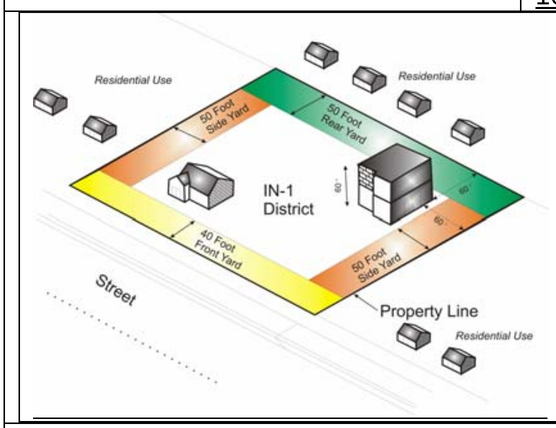
The following conditional uses shall be permitted, if specifically indicated on the approved concept plan; otherwise, they will be conditional uses once the concept plan is approved.

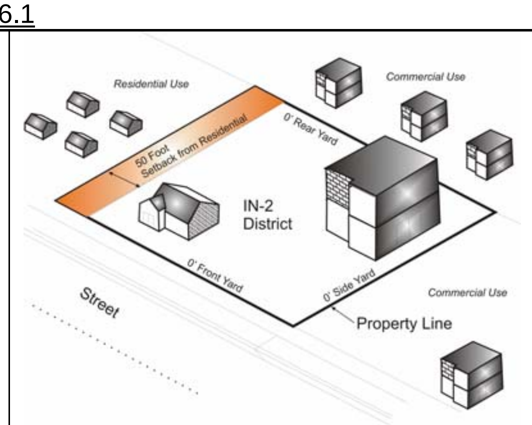
Use	IN-1	IN-2
New access point to Residential City streets	√	√
Lighted Athletic Fields Adjacent to Residential Use	√	√
Private water / sewer treatment facilities when public infrastructure is available	√	√

(f) Standards.

Standard	IN-1	IN-2
Minimum Land Area	5 acres	5 acres
Front Yard	40 feet	None
Side Yard	50 feet	None
Rear Yard	50 feet	None
Setback from Adjacent Residential Use	50 feet	50 feet
Setback for structures and uses existing at the time district is established	Structures and uses with a setback less than required by these standards and existing at the time the district is established shall not be considered nonconforming and may be enlarged or expanded within the existing setback.	Structures and uses with a setback less than required by these standards and existing at the time the district is established shall not be considered nonconforming and may be enlarged or expanded within the existing setback.
Uses permitted within required yards and	None	None

setback		
Height Requirement	Equal to distance of structure from adjacent residential use	Equal to distance of structure from adjacent residential use
Open Space	Twenty Percent (20%) of the campus	
Lighting 	▪ Glare shielded no illumination beyond property line ▪ Shall not radiate above five degrees (5°) below horizontal ▪ Thirty-five feet (35') in height. (Excludes athletic field lighting.)	
Landscaping	See Landscaping Ordinance Section 35.1-25.1 thru 35.1.1-25.1.16	
Signs	IN-1 – See Sign Ordinance Section 35.1-26.9 IN-2 – See Sign Ordinance Section 35.1-26.10	
Stormwater Management	See Stormwater Management - Chapter 16.2	
Erosion and Sediment Control	See Erosion and Sediment Control -Chapter 16.1	





Institutional District Dimensional Standards

(g) New Concept Plan Required. A new concept plan for a campus shall be required when the city's technical review committee (TRC) determines in approving a site plan for the institutional campus:

(1) The cumulative total of the institution's existing and proposed development at the campus would result in a Level of Service (LOS) lower than "D" for city streets serving such campus or in the case of city streets serving such campus that had a Level of Service (LOS) lower than "D" at the time the district was established a further lowering of the Level of Service; or

(2) Adequate water / sanitary sewer capacity or infrastructure, as determined by current engineering standards, is not readily available to serve the institution's existing and proposed development at such campus; or

(3) A period of five (5) years has passed since the review of a concept plan by the Planning Commission for such campus.

(h) The new concept plan shall be prepared as stated in Section 35.1.38.2(c)2a and when the requirement for a new concept plan is based upon LOS standards, a traffic study shall be required as specified in Section 35.1-38.2(c)2b.

(1) Improvements required to maintain a LOS "D" or to prevent a further lowering of the Level of Service when the institutional development itself gives rise to the need for the improvement shall be required to be made by the institution. Only those improvements where there exists a clearly demonstrated nexus between the proposed development of the campus and the need for the improvement shall be required to be made by the institution.

(2) The new concept plan with a two (2)-year projection shall be submitted to the Planning Commission for review and comment. The Planning Commission's review shall be restricted to a determination of the adequacy of the transportation, water and sanitary sewer infrastructure capacity available to support the institution's future development at that campus and how the impacts of the institution at such campus to adjacent residential areas are being addressed.

2. That Sections 35.1-25.1.2, 35.1-25.1.8, 35.1-25.1.9, 35.1-25.1.11, 35.1-25.1.12 35.1-26.5, 35.1-26.9, 35.1-26.10 of the Code of the City of Lynchburg, 1981, be and the same are hereby amended and reenacted as follows:

Sec. 35.1-25.1.2. Applicability.

(a) The provisions of this ordinance are applicable to the development or redevelopment of any property after the effective date of this ordinance and located in an R-4, R-5, B-1, B-2, B-3, B-4, B-5, B-6, **IN-1, IN-2,** I-1, I-2 or I-3 district or to any use requiring conditional use permit approval.

(b) When an existing use is expanded, enlarged, or redeveloped as defined in Section 35.1-11.5, (c) of the zoning ordinance only those portions of the property subject to the expansion, enlargement, or redevelopment are subject to the provisions of the landscaping ordinance.

(c) It is not the intent of this ordinance to regulate landscaping for one or two family dwellings.

Sec. 35.1-25.1.8. Street trees for multi-family, commercial**, institutional** and industrial districts.

(a) For all multi-family, commercial**, institutional** and industrial developments, street trees are required at the rate of one (1) shade tree for each forty (40) feet of street frontage or in the case where overhead utility lines prohibit the planting of shade trees one (1) ornamental tree for each twenty (20) feet of street frontage.

(b) Required street trees shall be planted along the property line that fronts the street and shall not be planted within the public right-of-way or within any utility easements.

(c) Street trees within the site distance triangle may be raised to allow for visibility.

Sec. 35.1-25.1.9. Foundation plantings.

(a) All sides of multi-family, commercial, **institutional** or industrial buildings, which front on a public or private street or are visible from an adjacent residential district, shall be landscaped with foundation plantings as follows:

(1) One (1) ornamental tree per fifty (50) linear feet of building, and

(2) One (1) large shrub per ten (10) linear feet of building, or

(3) One (1) medium shrub and one (1) small shrub per ten (10) linear feet of building, or

(4) Three (3) small shrubs per ten (10) linear feet of building, or

(5) Any combination of 2, 3 or 4 above.

(b) Foundation plantings may be placed in collective groupings along the perimeter of the building for which required.

(c) In the event that the city planner determines that topography or other landscaping would prevent the required foundation plantings from being visible from a public or private street or an adjacent residential district, the only foundation plantings that shall be required are for the wall of the building on which the main entrance is located.

Sec. 35.1-25.1.11. Buffering.

(a) In all instances where a commercial district, **institutional district,** industrial district, or any parking area is located adjacent to any residential district, or a multi-family residential district is adjacent to a one or two family residential district, a vegetative evergreen buffer shall be established on the property for which said buffer is required.

(b) Where required, the planting area for buffering shall be a minimum of twenty (20) feet in width extending along the entire length of the development area and shall generally be required along the property line unless topographic or other considerations would make it more effective located back from the property line.

(c) The vegetative buffer shall consist of a staggered evergreen tree line with a baseline filler of medium height evergreen shrubs. The evergreen tree material shall be a minimum of four (4) feet in height at time of planting. The evergreen tree line shall be planted in rows fifteen (15) feet apart and staggered ten (10) feet on center. In lieu of the baseline filler an earthen berm may be used. The earthen berm shall vary in width and height and shall be curvilinear in form and provide a gentle tie-in with the existing grade. Average height of earthen berms used to satisfy this requirement shall be three (3) feet in height.

(d) Where appropriate existing vegetation may be used to satisfy this requirement. Existing vegetation may be required to be supplemented with additional evergreen material in order to meet the buffering requirements. The need for additional evergreen material shall be determined during the site development plan review process.

Sec. 35.1-25.1.12. Tree canopy requirements.

(a) For purposes of this section, "tree canopy" shall include all areas of coverage by existing plant material exceeding five (5) feet in height, and the extent of planted tree canopy at maturity shall be based on the published reference text, manual of woody landscape plants, fifth edition, 1998, by Michael A. Dirr.

(b) The planting or replacement of trees on a development site shall be required to the extent that, at a twenty (20) years, minimum tree canopies will be provided as follows:

	Minimum Tree Canopy Required
B-1, B-2, B-3, B-4, B-5, B-6, **IN-1, IN-2,** I-1, I-2, I-3	10% of entire development site
R-4, R-5	10% of entire development site
R-3	15% of entire development site

R-C, R-1, R-2	20% of entire development site

(c) Existing trees that are to be preserved may be included to meet all or part of the tree canopy requirements.

(d) Existing trees infested with disease or structurally damaged to the extent that they pose a hazard to person or property, or to the health of other trees on site, shall not be included to meet the tree canopy requirements.

(e) Tree canopy requirements do not replace, or negate full compliance with, the requirements of any other section of the landscaping ordinance. However, if planting of landscaping required by this ordinance meets or exceeds the tree canopy requirement, no further planting of trees or replacement of trees is required by this section.

(f) In areas zoned B-4, central business district, B-6, riverfront business district or where the city planner determines that crime prevention through environmental design (CPTED) principles apply, the city planner, in consultation with the city's urban forester, may allow the off-site planting of up to ninety-nine (99) percent of the required street trees, parking area screening, buffering and foundation plantings. Off-site planting areas shall be within the city limits and in such location as approved by the city planner.

(g) The following shall be exempt from the tree canopy requirements.

(1) Dedicated K-12 school sites.

(2) Playing fields and other non wooded recreation areas

(3) Designated wetlands

(4) Other facilities and uses similar in nature as determined by the city council.

Sec. 35.1-26.5. Temporary signs.

(a) The following banners are permitted in the zoning districts of the City of Lynchburg:

District	*Size*	*Quantity*	*Setback*	*Wall Projection*
R-1, R-2, R-3, R-4, R-5	24 SF	1 Per Street Frontage	8 Feet	3 Inches Max
B-1, B-2, B-4, B-6	24 SF	1 Per Street Frontage	8 Feet	3 Inches Max
B-3, B-5, **IN-1, IN-2**	32 SF	1 Per Street Frontage	8 Feet	3 Inches Max
I-1, I-2, I-3	24 SF	1 Per Street Frontage	8 Feet	3 Inches Max

(b) Banners may be erected only by the occupant of the lot and the advertising matter shall apply only to the nature of the activity occupying the lot on which the banner is erected.

(c) An application and permit for a banner or inflatable item is required as provided in 35.1-26.14. No such permit shall be issued for a period to exceed sixty (60) days. Permits for banner signs and inflatable items shall not be issued for any location during a period of thirty (30) days after the expiration date of a permit for a banner or inflatable item previously issued for the same location, unless the business operated at the location has changed ownership. In no case shall a banner or inflatable item be displayed for more than a total of one hundred and eighty (180) days per calendar year. Said banners and inflatable items shall be securely fastened to the ground or other immovable object and shall be located a minimum of eight (8) feet from the property line.

(d) Temporary construction signs are permitted in the zoning districts of the City of Lynchburg as follows:

District	*Size*	*Quantity*
R-C, R-1, R-2, R-3	6 SF	1
R-4, R-5	16 SF	1
B-1, B-2, B-3, B-4, B-5, B-6, **IN-1, IN-2**	32 SF	1
I-1, I-2, I-3	32 SF	1

One temporary construction sign shall be allowed for each contractor, subcontractor, architect or engineer. Temporary construction signs shall only be allowed on the property on which construction will commence within the next three (3) months, and may be erected on the wall of a construction trailer, construction shed or on the ground. Temporary construction signs shall not be lighted by any means and shall be removed prior to a certificate of occupancy (CO) being granted for said building. A sign permit is not required for the placement of a temporary construction sign.

(e) Temporary real estate signs are permitted in the zoning districts of the City of Lynchburg as follows:

District	*Size*	*Quantity*
R-C, R-1. R-2, R-3	6 SF	1 per Street Frontage
R-4, R-5	16 SF	1 per Street Frontage
B-1, B-2, B-3, B-4, B-5, B-6, **IN-1, IN-2**	32 SF	1 per Street Frontage
I-1, I-2, I-3	32 SF	1 per Street Frontage

Temporary real estate signs are to be placed only on the property that is for sale or lease. Temporary real estate signs shall be removed within three (3) days of the sale or lease of the property.

(f) One (1) temporary subdivision identification sign not exceeding thirty-two (32) square feet in area may be erected during construction at an entrance to the subdivided property; provided not over two (2) signs shall be erected for any one (1) subdivision. These signs shall be removed upon completion or sale of seventy-five (75) per cent of the lots in the subdivision. No electric or other luminous sign and no sign illuminated by a floodlight or other similar device shall be permitted.

(g) Temporary signs that are permitted by this section may not be placed on utility poles, traffic control signs or within the public rights-of-way.

(h) All temporary signs must be removed within three (3) days after the event or activity being advertised or promoted by the temporary sign has been completed.

Sec. 35.1-26.9. Signs in B-1**,** ~~and~~ B-2 **and IN-1** districts.

Signs pertaining only to the uses conducted on the premises, but not including any roof signs or billboards, will be permitted, subject to the following conditions:

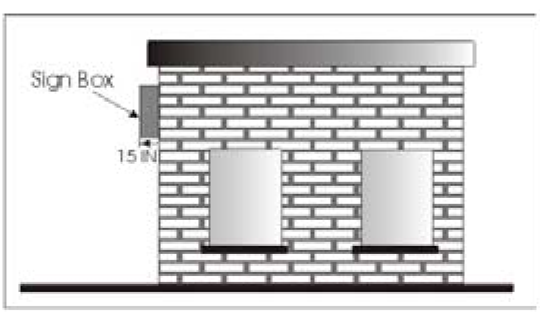
(a) Building mounted signs shall face only upon an abutting street or an abutting parking lot of the same parcel where the sign is located. The aggregate face area of all signs on any one (1) wall of the building shall not exceed twenty-four (24) square feet. Newly constructed groups of buildings shall have unified and coordinated building mounted signs.

(b) One (1) free-standing sign structure, permanently fixed to the ground, may be erected on each street on which a lot occupied by a permitted use abuts, provided such sign structure does not extend beyond the lot line nor shall such sign be located closer to the front property line than two (2) feet. Such sign structure shall be limited to two (2) sign faces, each of which shall not exceed twenty-four (24) square feet in surface area. Any architectural or decorative surrounds to support or enhance the sign face may not exceed twenty-five percent (25%) of the maximum allowable sign face surface area. Sign bases, uprights, or poles located under the sign shall not count toward the architectural or decorative surrounds calculation. The overall height of any such sign structure, including its architectural or decorative surrounds, shall not exceed ten (10) feet above the ground.

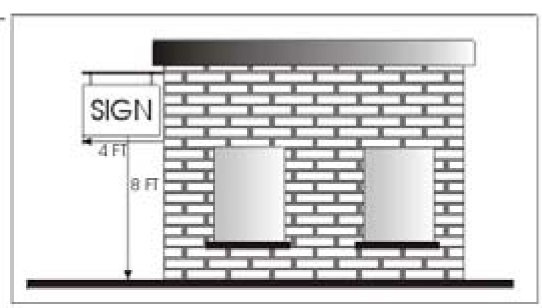
(c) When a group of buildings is coordinated into a business**, institutional campus** or shopping area, one (1) free-standing sign structure, permanently fixed to the ground and designed to identify the area as a whole, may be erected on each street on which the area abuts, provided such sign structure shall not be located closer to the front property line than two (2) feet. Such sign shall be limited to two (2) sign faces, each of which shall not exceed twenty-four (24) square feet in area for the first business tenant, but may be increased incrementally by four (4) square feet for each additional business tenant up to a maximum of thirty-two (32) square feet. Any architectural or decorative surrounds to support or enhance the sign face may not exceed twenty-five percent (25%) of the maximum allowable sign face surface area. The overall height of any such sign, including its architectural or decorative surrounds, shall not exceed ten (10) feet above the ground.

(d) Any pole supporting a freestanding sign shall be in an eighteen (18) inch wide rectangular enclosure. The material and color of the enclosure shall coordinate with the sign and/or building. Any freestanding sign in a historic district shall be monument style, maximum seven (7) feet in height, comply with the historic district guidelines, and receive approval from the secretary of the historic preservation commission. Decisions of the secretary may be appealed to the historic preservation commission.

(e) No building mounted sign shall project more than fifteen (15) inches beyond the face of a building. Signs mounted perpendicular to the building may project a maximum of four (4) feet beyond the face of the building and allow for eight (8) feet of clearance between the bottom of the sign structure and the ground. No sign shall project above the parapet wall of the building.



Building Mounted Signs



Projecting Signs Perpendicular to Building

(f) The provisions of this section do not apply to signs that are further than twelve (12) inches away from the inside face of an exterior window pane.

(g) Sign illumination. When any sign is lighted in these districts, such lights shall be enclosed in the sign, shaded or indirect so that the source of illumination is not visible and in no way interferes with the vision of motorists or with neighboring residents. Only white illumination shall be used, and no flashing (on-and-off) sign simulating movement shall be permitted, except signs indicating time and/or temperature or similar signs erected for the convenience of the public. No fluorescent paint or other preparation shall be used for high reflection.

(h) One sign with the word "open" (neon or otherwise) shall be permitted per use, provided the sign does not exceed four (4) square feet. Said sign shall not count towards the maximum allowable sign square footage.

(i) For visibility regulations at intersections see Section 35.1-23(j). (Ord. No. O-04-074, 6-22-04)

(g) Sign illumination. When any sign is lighted in these districts, such lights shall be enclosed in the sign, shaded or indirect so that the source of illumination is not visible and in no way interferes with the vision of motorists or with neighboring residents. Only white illumination shall be used, and no flashing (on-and-off) sign simulating movement shall be permitted, except signs indicating time and/or temperature or similar signs erected for the convenience of the public. No fluorescent paint or other preparation shall be used for high reflection.

(h) One sign with the word "open" (neon or otherwise) shall be permitted per use, provided the sign does not exceed four (4) square feet. Said sign shall not count towards the maximum allowable sign square footage.

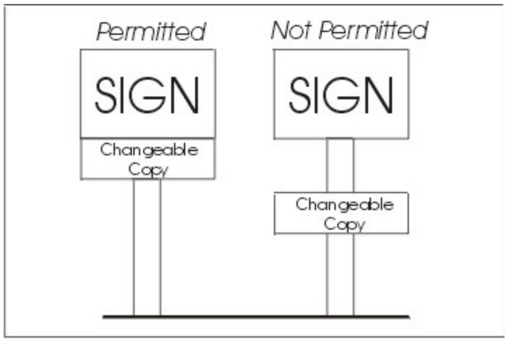
(i) For visibility regulations at intersections see Section 35.1-23(j).

Sec. 35.1-26.10. Signs in B-3, ~~and~~ B-5 **and IN-2** districts.

Signs pertaining only to the uses conducted on the premises, but not including any roof signs or billboards, will be permitted, subject to the following conditions:

(a) Building mounted signs shall face only upon an abutting street or an abutting parking lot of the same parcel where the sign is located. The aggregate sign face surface area of all signs, including trim or embellishment, on any one (1) building wall within two-hundred (200) feet from the abutting street right-of-way shall not exceed twenty-five (25) square feet plus one (1) square foot for each lineal foot of such wall. In no case shall the sign face surface area exceed one-hundred fifty (150) square feet. The aggregate sign face surface area of all signs on any one (1) building wall greater than two-hundred (200) feet from the abutting street right-of-way shall not exceed twenty-five (25) square feet plus two (2) square feet for each lineal foot of such wall. In no case, shall the sign face surface area exceed two-hundred (200) square feet. Newly constructed groups of buildings shall have unified and coordinated building mounted signs.

(b) One (1) free-standing sign structure, permanently fixed to the ground, may be erected on each street on which a lot occupied by a permitted use abuts, provided such sign structure is not located closer to the front property line than two (2) feet. Such sign structure shall be limited to two (2) sign faces, each of which shall not exceed fifty (50) square feet in area. Any changeable copy sign must abut or connect with the sign face and the total square footage for both sign face surface area and changeable copy sign surface area may not exceed sixty-six (66) square feet. The changeable copy sign surface area itself may be no larger than twenty-two (22) square feet. Any architectural or decorative surrounds to support or enhance the sign face and/or changeable copy sign face may not exceed twenty-five percent (25%) of the allowable sign face surface area. The overall height of any such sign structure, including any architectural or decorative surrounds, shall not exceed seventeen (17) feet above the ground.



Changeable Copy Signs

(c) When a group of buildings is coordinated into a business**, institutional campus** or shopping area, one (1) free-standing sign structure, permanently fixed to the ground, designed to identify the area as a whole may be erected on each street on which the area abuts, provided such sign shall not be located closer to the front property line than two (2) feet. For a group of buildings that is between one hundred thousand (100,000) square feet and two hundred thousand (200,000) square feet, such sign shall be limited to two (2) faces, each of which shall not exceed seventy-five (75) square feet in area plus sixteen (16) square feet for a changeable copy sign. The changeable copy sign must be attached to the sign. For a group of buildings that exceeds two hundred thousand (200,000) square feet in area, such sign shall be limited to two (2) faces, each of which shall not exceed one hundred twenty-five (125) square feet in area plus sixteen (16) square feet for a changeable copy sign. The changeable copy sign must be attached to the sign. Any architectural or decorative surrounds to support or enhance the sign and/or changeable copy sign may not exceed twenty-five percent (25%) of the allowable sign area. The overall height of any such sign, including any architectural or decorative surrounds, shall not exceed seventeen (17) feet above the ground.

(d) Any pole supporting a freestanding sign shall be in an eighteen (18) inch wide rectangular enclosure. The material and color of the enclosure shall coordinate with the sign and/or building. Any freestanding sign in a historic district shall be monument style, comply with the historic districts design guidelines and receive administrative approval from the secretary of the historic preservation commission. Decisions of the secretary may be appealed to the historic preservation commission.

(e) No sign applied flat to the wall shall project more than fifteen (15) inches beyond the face of a building. Signs mounted perpendicular to the building may project a maximum of four (4) feet beyond the face of the building and allow for eight (8) feet of clearance between the bottom of the sign structure and the ground. No sign shall project above the parapet wall of the building.

(f) The provisions of this section do not apply to window signs on the inside of buildings that are further than twelve (12) inches away from the inside face of an exterior window pane, nor to small signs on outdoor merchandise display racks, cases and vending devices.

(g) Traffic direction signs, each not exceeding four (4) square feet in area, and four (4) feet in height may be displayed on any lot zoned as B-3 or B-5 as follows: Signs identifying vehicular entrance to and exit from the lot and signs of the type generally used for traffic control necessary for the safe and proper control of vehicular and pedestrian traffic within the lot.

(h) Sign illumination. When any sign is lighted in this district, such lights shall be enclosed in the sign, shaded or indirect so that the source of illumination is not visible and in no way interferes with the vision of motorists or with neighboring occupants. Only white illumination shall be used, and no flashing (on-and-off) sign, nor any sign simulating movement shall be permitted, except signs indicating time and/or temperature or similar signs erected for the convenience of the public. No fluorescent paint or other preparation shall be used for high reflection.

(i) Neon tubing of any color is permitted on a sign, provided the neon is installed within a channel enclosure.

(j) One sign with the word "open" (neon or otherwise) shall be permitted per use, provided the sign does not exceed four (4) square feet. Such a sign shall not count towards the maximum sign square footage.

(k) For visibility regulations at intersections see Section 35.1-23(j).

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

Adopted:

Certified: ______________________________
Clerk of Council

125L

Timeline of the development of an Institutional Ordinance

February 9, 2010: City Council passes a resolution to initiate an amendment to the *Zoning Ordinance* regarding the establishment of an Institutional Overlay District.

March 18, 2010: A meeting is held with stakeholders from City institutions and City staff.

April 14, 2010: The Planning Commission discusses the development of an Institutional Overlay District and decides to expand the stakeholder group.

May 12, 2010: Planning Commission develops the list of stakeholders and plans for a meeting with them.

May 26, 2010: The first joint meeting with the institutional stakeholders and the Planning Commission is held.

July 28, 2010: The Planning Commission discusses the institutional ordinance and decides to develop specific institutional districts as opposed to an overlay district.

August 11, 2010: An outline for the development of an Institutional 1 (IN-1) and Institutional 2 (IN-2) district is presented to the Planning Commission.

September 13, 2010: A second joint meeting with the stakeholders and the Planning Commission is held and the draft outline is discussed.

November 4, 2010: A work session is held by the Planning Commission and the first draft of the Institutional Ordinance is reviewed.

December 15, 2010: The third joint meeting of the institutional stakeholders and the Planning Commission is held and the first draft of the Institutional Ordinance is discussed.

January 12, 2011: The Planning Commission reviews a revised draft ordinance developed from comments received from the stakeholders. The draft receives minor changes, is approved and staff is directed to schedule a public hearing.

February 9, 2011: A Planning Commission public hearing is conducted and a work session for the Planning Commission is scheduled.

February 22, 2011: The Planning Commission conducts a work session to discuss the comments received at the public hearing. Issues arise that need input from the Traffic Engineer and the City Attorney. Legal advice is also sought from an outside attorney.

May 11, 2011: Changes are made to the draft ordinance dealing mainly with the issue of traffic improvements. The Planning Commission decides to conduct another meeting with stakeholders.

May 31, 2011: A fourth joint meeting with the stakeholders and the Planning Commission is held.

June 8, 2011: The Planning Commission directs staff to schedule the issue for another public hearing.

July 13, 2011: The institutional ordinance is scheduled for its second Planning Commission public hearing.

Salutation	First	Last	Suffix	Institution	Mailing Address	City	State	Zip	Phone	E-mail Address
Mr.	George	Dawson		Centra Health	1920 Atherholt Road	Lynchburg	VA	24501	200-4705	george.dawson@centrahealth.com; jan.reger@centrahealth.com
Mr.	Tom	Jividen		Centra Health	1920 Atherholt Road	Lynchburg	VA	24501	200-4705	tom.jividen@centrahealth.com
Mr.	Bill	Varner		Centra Health	1920 Atherholt Road	Lynchburg	VA	24502	200-4705	bill.varner@centrahealth.com
Mr.	Rick	Read		Coldwell Banker	2508 Langhorne Road	Lynchburg	VA	24501	847-7731	rread@realestatelynchburg.com
Mr.	Hank	Creasy		Edmunds & Williams	828 Main Street	Lynchburg	VA	24502	455-9127	hcreasy@ewlaw.com
Ms.	Patti	Culbreth		Holy Cross Regional Catholic School	2125 Langhorne Road	Lynchburg	VA	24501	847-5346	culbreth_p@hcrs-va.org
Mr.	John	Jones		Holy Cross Regional Catholic School	2125 Langhorne Road	Lynchburg	VA	24501	847-5346	jones_j@hcrs-va.org
Mrs.	Susan	Landergan		Jamerson Family YMCA	801 Wyndhurst Drive	Lynchburg	VA	24502	582-1900	susanlandergan@lynchburgymca.org
Ms.	Mary	Riser		James River Day School	5039 Boonsboro Road	Lynchburg	VA	24503	384-7385	riser_m@jamesriverdayschool.org
Mr.	Peter	York		James River Day School	5039 Boonsboro Road	Lynchburg	VA	24503	384-7385	york_p@jamesriverdayschool.org
Mr.	Neal	Askew		Liberty University	1971 University Boulevard	Lynchburg	VA	24502	592-3180	naaskew2@liberty.edu
Mr.	Lee	Beaumont		Liberty University	1971 University Boulevard	Lynchburg	VA	24502	592-3315	lbeaumont@liberty.edu
Mr.	David	Corry		Liberty University	1971 University Boulevard	Lynchburg	VA	24502	592-3366	dcorry@liberty.edu
Mr.	Jerry	Falwell	Jr.	Liberty University	1971 University Boulevard	Lynchburg	VA	24502	582-2957	jlfjr@earthlink.net and copy to ktripp@liberty.edu
Mr.	Scott	Street		Liberty University	1021 E Cary Street	Richmond	VA	23219	804-783-6411	sstreet@williamsmullins.com
Mr.	Steve	Bright		Lynchburg College	1501 Lakeside Drive	Lynchburg	VA	24501	544-8200	bright@lynchburg.edu
Dr.	Kenneth	Garren		Lynchburg College	1501 Lakeside Drive	Lynchburg	VA	24501	544-8200	president@lynchburg.edu
Mr.	John	Lewis		Lynchburg College	1501 Lakeside Drive	Lynchburg	VA	24501	544-8212	lewis@lynchburg.edu
Rev.	John	Heaton		New Covenant Schools	122 Fleetwood Drive	Lynchburg	VA	24501	847-8313	heaton@newcovenantschools.org
Ms.	Charlotte	Morgan		New Vistas School	520 Eldon Street	Lynchburg	VA	24501	846-0301	cmorgan@newvistasschool.org
Ms.	Marianne	Ramsey		New Vistas School	520 Eldon Street	Lynchburg	VA	24501	846-0301	mramsey@newvistasschool.org
Mr.	Hershel	Keller		Petty Livingston Dawson & Richards	725 Church Street	Lynchburg	VA	24504	846-2768	hkeller@pldrlaw.com
Mr.	Jeff	Creekmore		Presbyterian Homes & Family Services	150 Linden Avenue	Lynchburg	VA	24503	455-3656	jcreekmore@phfs.org
Mr.	Robert	Dendy	Jr.	Presbyterian Homes & Family Services	150 Linden Avenue	Lynchburg	VA	24503	455-3656	bdendy@phfs.org
Mr.	Bobby	Bennett		Randolph College	2500 Rivermont Avenue	Lynchburg	VA	24503	947-8000	bbennett@randolphcollege.edu
Mr.	Chris	Burnley		Randolph College	2500 Rivermont Avenue	Lynchburg	VA	24503	947-8112	cburnley@randolphcollege.edu
Mr.	John	Klein		Randolph College	2500 Rivermont Avenue	Lynchburg	VA	24503	947-8722	jklein@randolphcollege.edu
Major	Fred	Thornhill		The Salvation Army	2215 Park Avenue	Lynchburg	VA	24501	845-5939	fred_thornhill@uss.salvationarmy.org
Mr.	Meade	King		Virginia Episcopal School	400 VES Road	Lynchburg	VA	24503	385-3708	mking@ves.org
Ms.	Amy	Seipp		Virginia University of Lynchburg	2058 Garfield Avenue	Lynchburg	VA	24503	528-4674	aseipp@acresofvirginia.com
Mr.	Dave	Evans		Virginia University of Lynchburg	2058 Garfield Avenue	Lynchburg	VA	24501	509-1520 x1006	devans@vul.edu
Dr.	Ralph	Reavis		Virginia University of Lynchburg	2058 Garfield Avenue	Lynchburg	VA	24501	528-5276	rreavis@vul.edu
Mr.	Sean	Huyett		Westminster Canterbury	501 VES Road	Lynchburg	VA	24501	386-3507	shuyett@wclynchburg.org
Mr.	Joe	Payne		Westminster Canterbury	501 VES Road	Lynchburg	VA	24503	386-3507	jpayne@wclynchburg.org

MINUTES FROM THE JULY 13, 2011 PLANNING COMMISSION MEETING (MINUTES HAVE NOT BEEN APPROVED):

c. **Consideration of adopting Section 35.1-38.2, Institutional District (IN-1/IN-2) as part of the Zoning Ordinance. The amendments would establish two (2) new zoning districts for institutional uses such as schools, colleges, universities, senior living facilities, medical facilities and churches with multiple buildings contained in a campus setting. The IN-1 District is intended for smaller scale institutions located primarily within or adjacent to residential districts and the IN-2 District is intended for larger scale institutions located primarily within or adjacent to non-residential areas. The process for establishing an IN-1 or IN-2 District shall be the same as provided for a change to the Official Zoning Map as outlined in Section 35.1-17(b), Amendments of the Zoning Ordinance. In establishing an IN-1 or IN-2 District, the institution shall provide to the city an illustrative concept plan indicating a two (2)-year projection of future development and a traffic study indicating the existing Level of Service (LOS) for city streets serving the institution and the projected amount of growth that would result in a Level of Service below "D" for the city streets serving the institution. A new concept plan and traffic study would be required when the institution's existing and proposed development would result in a Level of Service lower than "D" for streets serving the institution. Improvements required to maintain a LOS "D" or to prevent a further lowering of the Level of Service when the institutional development itself gives rise to the need for the improvement shall be required to be made by the institution and only those improvements where there exists a clearly demonstrated nexus between the proposed development of the campus and the need for the improvement shall be required to be made by the institution. A new concept plan would only be required when adequate public water/sewer capacity is not readily available to serve the institution's development or a period of five (5) years has passed since the last review of a concept plan by the Planning Commission. The new concept plan would be subject to review and comment by the Planning Commission.**

When established as part of a rezoning, the IN-1 District would allow the institutional use and its accessory uses such as dormitories, visitor and faculty housing, book stores, coffee shops, cafeterias, offices, facilities management, storage and recreational uses as a matter of right. When established as part of a rezoning, the IN-2 District would allow the same uses as permitted by right in the IN-1 and those uses permitted by right or by conditional use permit in the R-1, Low Density Single-Family Residential District, R-2, Low-Medium Density Single-Family Residential District, R-3, Medium Density Two-Family Residential District, R-4, Medium-High Density Multi-Family Residential District, R-5, High Density Residential District, B-1, Limited Business District, B-2, Local Neighborhood Business District and B-3, Community Business District. New access points to residential city streets, lighted athletic fields adjacent to residential uses and private water/sewer facilities where public infrastructure is available and not shown on the approved concept plan would require approval of a conditional use permit by the city council.

A minimum land area of five (5) acres is required for the establishment of an IN-1 or IN-2 District and both districts would have a twenty (20) percent open space requirement. Lighting would be required to be glare shielded so that no illumination would occur beyond the property line and lighting height could not exceed thirty-five (35) feet in height (excluding athletic field lighting). Setbacks in the IN-1 District would be established as Front Yard – forty (40) feet, Side and Rear Yard – Fifty (50) feet and in the IN-2 District as Front, Rear and Side Yard – Zero (0) feet. Both the

IN-1 and IN-2 District would require a fifty (50- foot setback from an adjacent residential use not owned or leased by the institution. Height requirements would be established as equal to the distance of the structure from an adjacent residential use. Landscaping requirements would be as provided in Section 35.1-25.1 thru 35.1.1-25.16 as proposed for amendment. Signs would be as provided in Section 35.1-26.9 and Section 35.1-26.10 as proposed for amendment.

If established, institutions could petition to be zoned IN-1 or IN-2 or continue under existing Zoning Ordinance requirements.

Consideration of amending Section 35.1-25.1.2, Applicability, Section 35.1-25.1.8, Street trees for multi-family, commercial and industrial districts, Section 35.1-25.1.9, Foundation plantings, Section 35.1-25.1.11, Buffering and Section 35.1-25.1.12, Tree canopy requirements of the Zoning Ordinance to reference the proposed Institutional Districts (IN-1/IN-2). The proposed amendments would make the requirements of the City's existing landscaping ordinance pertaining to landscaping definitions, landscaping general requirements, landscaping plan required, parking area landscaping, street tree requirements, foundation plantings, utility screening, buffering, tree canopy requirements, installation and maintenance, stormwater quality credit for landscaping and alternate layout of landscaping applicable to the proposed IN-1 and IN-2 Districts.

Consideration of amending Section 35.1-26.5, Temporary Signs, Section 35.1-26.9, Signs in B-1 and B-2 Districts and Section 35.1-26.10, Signs in B-3 and B-5 Districts of the Zoning Ordinance. The proposed amendments would establish the same temporary sign standards for the proposed IN-1 and IN-2 districts as exist for B-3, Community Business and B-5, General Business Districts, establish the same freestanding and wall- mounted sign requirements for the proposed IN-1 District as exist for B-1, Limited Business and B-2, Local Neighborhood Business Districts and establish the same freestanding and wall signage for the proposed IN-2 District as exist for B-3, Community Business District and B-5, General Business District.

Mr. Henry reminded the commission that this started in February 2010 when City Council passed a resolution to initiate an amendment to the *Zoning Ordinance* regarding the establishment of an institutional overlay district. In May 2010, the first meeting was held with the stakeholders and the Planning Commission. In July 2010, it moved away from being an overlay district to more of a zoning district. Several stakeholder meetings were held and the first public hearing took place in February 2011. A work session was held after the public hearing. The fourth meeting with the stakeholders was held in May 2011 and the second public hearing is being held today.

Chair Hamilton asked for anyone to speak in favor of the petition. Mr. Dave Evans of Virginia University of Lynchburg (VUL) came forward. He mentioned that if the university goes to this institutional zoning, it should reduce the number of times it needs to come before the Planning Commission and City Council and make the process less cumbersome.

Mr. Tommy Brooks, Jr. of Acres of Virginia came forward to speak in favor of the petition. They are working for VUL at this point. The current process puts a lot of stress on the university and the Technical Review Committee, Planning Commission and City Council. VUL has multiple properties that it is trying to put together on a master plan. If IN-1 was in place, it would make the job a whole lot easier and it would cost the university a lot less money. They are strongly urging that the Planning Commission send this on to City Council because this has been trying to get off the ground for 16 months. The university has been told time and time again to hold off its conditional use permit applications but this university is growing and has to have the ability to grow. If they cannot get IN-1 zoning, you will see multiple conditional use permit applications. He really does not want to have to do that. He thinks this language has been well vetted and it is about time for City Council to get the ordinance for its review. He thinks this is going to be a good ordinance for other universities and colleges, particularly Liberty University. It would give them a lot of leeway and cut a lot of red tape.

Chair Hamilton recognized others present that are in favor of the petition by a show of hands.

Char Hamilton asked for anyone present to speak in opposition to the petition. Mr. David Corry representing Liberty University came forward and read some prepared remarks. "Liberty University was pleased to accept your invitation to participate in a process to improve how the City's zoning code relates to colleges and other institutional landowners. We realize how important it is to use properties in ways that don't interfere with the property rights of neighbors while still respecting the property rights of everyone. As you may recall, Liberty moved from a residential neighborhood setting to the commercial and industrial area of Candler's Mountain so its plans for expansion would not interfere with anyone else's property. When that land was annexed into Lynchburg, Liberty obtained Business 5 zoning with vested rights for college development. Liberty moved to obtain greater development freedom and certainty, but that didn't last. In 1991, the City imposed Conditional Use Permits for any new improvements to college campuses in the City's business districts. Liberty University looked forward to the recent evaluation of zoning ordinances as an opportunity to restore its B-5 development rights.

What this exchange among the institutions, planning commissioners and staff has generated is a great improvement for the smaller scale institutional campuses in residential areas. We are pleased to see that our sister institutions can look forward to a better zoning district that takes into account their needs while safeguarding the interests of the neighborhoods in which they chose to locate.

However, Liberty University would have preferred that the large-scale institutional campuses located outside residential areas have the option to simply be restored to their pre-CUP status with development by-right. The IN-2 zoning district is, in some ways, worse than a Conditional Use Permit requirement because it empowers staff to make various threshold determinations on development, such as new access points to public roadways, required traffic improvements, what is "visual impact," and sufficiency of water and sewer capacity. Also, there is no option for IN-2 developers to provide for their own water and sewage treatment needs. The subjective nature of these determinations, when combined with non-elected decision makers, creates too much uncertainty and potential for mischief over time. For Liberty University, this IN-2 district is not an improvement. For now, we will remain under the CUP process because, although it is flawed, at least elected officials decide the development conditions that will be imposed for future development. And Liberty University will continue to advocate for vested by-right zoning for campuses in commercial and industrial areas.

We also plan to continue to work with the City and its elected representatives to make the best decisions in the best interests of the economic development of our City. Recently, the City and Liberty have worked together well on cooperative projects involving expanded airport service, the Wards Road pedestrian bridge and the City library reading room expansion. Even though Liberty paid market value when acquiring a parcel of surplus City property to expand its student recreation fields, I am pleased to announce today that Liberty University has decided to donate to the City the commercial parcel needed to expand the Lynchburg Public Library reading room. We appreciate and value this close working relationship and expect it to continue."

Mr. Tommy Brooks, Jr. came back to rebut Mr. Corry's comments. He said that he respects Liberty's position on the IN-2 zoning. From VUL's standpoint, it does not have the same opportunities Liberty had when it began in the early '90's. He understands that it had their zoning in place and they want their by-right zoning back. However, VUL has no by-right issues. As far as Mr. Brooks is concerned, this zoning will be less restrictive. He acknowledges that Liberty has different needs. However, for the past sixteen months, Liberty has been included in on the public process. They have had a chance to express their needs. If they needed additional information in the ordinance, they should have stated that before this point. VUL was really expecting and have been told by staff that this ordinance might be moved along and VUL would really like for it to get moved along. Mr. Dave Evans said that VUL would like to opt into the IN-1 zoning. Whether or not Liberty opts in for IN-2 zoning is irrelevant to them.

Mr. Neal Askew said that during this whole process they have discussed the option of remaining in the CUP process. That is what Liberty is opting to do. They are not saying others should not do the institutional zoning. Liberty is still lobbying for by-right development. He wants Mr. Brooks to understand that they are not opposing VUL from moving forward. They are stating that their option is to stay with the CUP process. Chair Hamilton assured all the stakeholders that everyone's participation in this process has been very helpful.

Commissioner Coleman stated that he is in favor of them moving forward with the institutional ordinance. The statement from Liberty is very clear. He would somewhat concur with their comments. He did not see this as against what we are saying. They are just not going to participate in it for the reasons they have mentioned.

Commissioner Hannon said he is a bit taken aback by Liberty's statement. His intention was to avoid giving staff the power to make determinations on such vague things as visual impact. He cannot find the words "visual impact" in the ordinance. It specifically limits the review to the determination of existing and future land uses, adequacy of transportation and water and sanitary capacity availability. He believes they had a discussion about state law and the adequacy of water and sewer. There was nothing that prohibited a private entity from providing its own water and sewer.

Mr. Corry came back up to address these comments. Mr. Corry said the visual impact element is in either the lighting or landscape section. Mr. Corry remarked that everyone in the City has a right to access points from their property to public roads under one set of standards but here, if it is not in your concept plan, you have to come back and staff has to decide that. The plan does not allow for anything other than a capacity determination based on the water and sewer treatment that is provided by the City. It does not have any flexibility in there for determining whether the property owner could meet that capacity on its own by creating a sewage treatment plant, for instance.

Commissioner Hannon pointed out that this issue had been addressed and they have a letter from the Attorney General that specifically said that a local jurisdiction could not make the availability of City supplied sewer and water a condition of development for a developer. Mr. Corry said that did not make it to a revision of the ordinance. Commissioner Hannon said it did not need to be in there because it is already a state law. It was pointed out to Mr. Corry that private water and sewer treatment facilities are allowed without a CUP if they are shown on the initial concept plan.

Commissioner Hannon pointed out that the new access points are only those that are access points to residential streets. It was certainly their intent to make it clear that access points from an institutional property onto a commercial street would be treated the same as any other commercial development.

Mr. Corry remarked that he is comparing what this ordinance provides to a by-right situation. Commissioner Hannon may be comparing what this ordinance does to a CUP process. Commissioner Hannon said it was his intention from the beginning to try and get a balance of interests that gave as much by-right development as a true by-right development. The only condition was that the Planning Commission had some input on the planning process.

Mr. Corry remarked that in by-right development, there is a process that you go through. With this zoning standard, you put in a concept plan. If you are going to deviate from the concept plan, that is the point that Liberty is talking about. He thinks what Commissioner Hannon is saying is that you can put anything you want in the concept plan. What Liberty is concerned with is when they want to change the concept plan. What can they do by right versus what do they have to do under this ordinance and when do they have to come back and submit a new concept plan?

Commissioner Hannon pointed out that the concept plan is not a master plan. The idea was never that the concept plan was going to be a straitjacket. If there is language in here that causes reasonable concern that Liberty feels is what they have done, he would have to vote against it. Commissioner Hannon acknowledges that this ordinance is not by-right development. Mr. Corry said that is Liberty's principal objection. Commissioner Hannon said that as a tradeoff, they were trying to find some way to get as close to that as possible and still have some planning input into the process. Commissioner Hannon wanted to make sure that he is not reading this with "rose colored" glasses. If there are still significant problems with this language, he would like the language pointed out that needs adjusting. If what Mr. Corry says in his statement is true, he would have to vote against this. Commissioner Hannon is not seeing what Mr. Corry is seeing and that is possibly because they are coming at this from two different points of view.

Mr. Corry said that could perhaps be the problem. He thinks that the key issue is the uses that have to have a conditional use permit if they are not put on the concept plan. An institution does not have the by-right rights that it would have to go get a permit. Commissioner Sale commented that was due to the dialogue process that was put in here on purpose. They wanted to create a community conversation about what the institution is planning to do. He is hearing Mr. Corry say that by-right eliminates conversation with the community. This was intended to generate conversation rather to eliminate conversation. Mr. Corry said it is a philosophical point perhaps. He understands where it is going. Liberty did not want the time to pass with everyone believing that this language took care of its concerns. They understand and participated and suggested other language. They understand which way it went but Liberty did not want them to think that all their concerns were all met in this ordinance. That was the thrust of his remarks.

Chair Hamilton said that a new concept plan is only required when the level of service falls below a D, you go beyond what the sewer and water capacity can take or five years have passed. Those are the three triggers. Commissioner Hannon pointed out that two of three of the conditional use permit conditions do not even apply to Liberty, only the private water and sewer treatment plant, and then only if it is not shown on the initial concept plan.

Commissioner Sale remarked that throughout this whole process, it was not their intention to lay anything on someone. The idea was to present options for institutions. There are other institutions that are opting to take the same position as Liberty and will remain with the CUP process. He understands what Liberty is saying and it would rather be a by-right development. His petition to Liberty would be to look closely into this and in the future as it goes through Council that we find ways to be in a healthier, constructive process together. Mr. Corry said he tried to emphasize how they value the relationship with the City and intend to continue to cooperate with its neighbors. But they had higher hopes for the process and despite what may have been said in rebuttal, Liberty has brought these concerns to the table and have made their desires clear all along. They did not want to be at the end of the process with the Planning Commission and not note it for the record. If Liberty does not take advantage of this option, please understand why. That is part of dialogue.

Commissioner Coleman would like to reiterate that he appreciates what they are saying on a matter of principle. The third paragraph is very well written but it is a powerful paragraph. He understands some of the concerns there and at some point the healthy discussion Commissioner Sale is referring to will have to address the language of this third paragraph.

Commissioner Sale made a motion to forward this ordinance to City Council for its consideration. The motion was seconded by Commission Coleman.

Commissioner Sale said they have tried to in this 16-month process to be in a constructive conversation with institutions that possibly would be interested in this option. He felt that their stakeholder meetings were very constructive and he hopes that dialogue will continue. This gives institutions a choice. He thinks it was a deliberate and thoughtful process.

Commissioner Coleman said he is in favor of it. He has watched each of them give constructive and well thought out input. He thinks it is going to be a great benefit for those who choose to take advantage of it.

Commissioner Hannon thinks this has worked out quite well in many respects. He thinks it is a good compromise and he hopes that some of our institutions take advantage of it. He is fully in sympathy with Liberty's position of by-right development. They have every reason to be dissatisfied with their situation as it has been. He encourages them to continue to push strongly for that. He would certainly support it. In the meantime, he thinks that this is a good ordinance and will serve the community well. He would not be surprised if it is not a good template that a lot of other communities will use.

Commissioner Barnes is in support of passing this on to City Council. This has been a very long and very transparent process. Commissioner Barnes is disappointed with Liberty's position at this point but he thinks this ordinance is a good compromise. In any process like this, you don't always get everything you want. Liberty can certainly continue to lobby for by-right development to City Council.

Commissioner Swienton also feels this is an improvement over what we currently have. While not perfect, he thinks that it is closer to getting to where we want to go. We have not actually seen this in action; there is not a version like this anywhere in the commonwealth. Commissioner Swienton would to make sure that Council considers whether or not it wants the provision in here about limited discussion and how that separates the discussion on this from other zoning classifications.

Commissioner Hooper said that he is in favor of this ordinance and has learned a tremendous amount during this process. He appreciates the participation of all the institutions. It has been a great effort on everyone's part. Hopefully, Liberty and the City can come to an amenable agreement that will satisfy both parties' needs. He would encourage Liberty to keep pursuing a resolution to its problem and they will do what they can to help.

Chair Hamilton said she agreed with everyone's comments. She does not think that this is a subjective process. She thinks they took as much subjectivity out of this process as possible while still allowing the planning process to work. She thinks it is going to be a good model. If it turns out that there are "squeaks" in it, those can be addressed.

The motion passed by the following vote:

AYES:	Barnes, Coleman, Hamilton, Hannon, Hooper, Sale and Swienton	7
NOES:		0
ABSTENTIONS:		0
ABSENT:		0

Chair Hamilton thanked all the stakeholders again for their participation.

LIBERTY UNIVERSITY
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PUBLIC COMMENTS
ON PROPOSED INSTITUTIONAL ZONING ORDINANCE

DELIVERED TO CITY OF LYNCHBURG PLANNING COMMISSION
Wednesday, July 13, 2011

Liberty University was pleased to accept your invitation to participate in a process to improve how the City's zoning code relates to colleges and other institutional landowners. We realize how important it is to use properties in ways that don't interfere with the property rights of neighbors while still respecting the property rights of everyone. As you may recall, Liberty moved from a residential neighborhood setting to the commercial and industrial area of Candler's Mountain so its plans for expansion would not interfere with anyone else's property. When that land was annexed into Lynchburg, Liberty obtained Business 5 zoning with vested rights for college development. Liberty moved to obtain greater development freedom and certainty, but that didn't last. In 1991, the City imposed Conditional Use Permits for any new improvements to college campuses in the City's business districts. Liberty University looked forward to the recent evaluation of zoning ordinances as an opportunity to restore its B-5 development rights.

What this exchange among the institutions, planning commissioners and staff has generated is a great improvement for the smaller scale institutional campuses in residential areas. We are pleased to see that our sister institutions can look forward to a better zoning district that takes into account their needs while safeguarding the interests of the neighborhoods in which they chose to locate.

However, Liberty University would have preferred that the large-scale institutional campuses located outside residential areas have the option to simply be restored to their pre-CUP status with development by-right. The IN-2 zoning district is, in some ways, worse than a Conditional Use Permit requirement because it empowers staff to make various threshold determinations on development, such as new access points to public roadways, required traffic improvements, what is "visual impact," and sufficiency of water and sewer capacity. Also, there is no option for IN-2 developers to provide for their own water and sewage treatment needs. The subjective nature of these determinations, when combined with non-elected decision makers, creates too much uncertainty and potential for mischief over time. For Liberty University, this IN-2 district is not an improvement. For now, we will remain under the CUP process because, although it is flawed, at least elected officials decide the development conditions that will be imposed for future development. And Liberty University will continue to advocate for vested by-right zoning for campuses in commercial and industrial areas.

We also plan to continue to work with the City and its elected representatives to make the best decisions in the best interests of the economic development of our City. Recently, the City and Liberty have worked together well on cooperative projects involving expanded airport service, the Wards Road pedestrian bridge and the City library reading room expansion. Even though Liberty paid market value when acquiring a parcel of surplus City property to expand its student recreation fields, I am pleased to announce today that Liberty University has decided to donate to the City the commercial parcel needed to expand the Lynchburg Public Library reading room. We appreciate and value this close working relationship and expect it to continue.

LYNCHBURG CITY COUNCIL
Agenda Item Summary

MEETING DATE: **August 9, 2011** AGENDA ITEM NO.: 3

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

ACTION: INFORMATION: **X**

ITEM TITLE: **Report Regarding the Greater Lynchburg Transit Company (GLTC) Financials**

RECOMMENDATION: City Council hears a report from staff regarding the finances of the Greater Lynchburg Transit Company (GLTC).

SUMMARY: At the June 14, 2011 City Council meeting, staff reported that it would perform a full review and accounting of the FY 2011 operating budget. Financial Services staff will provide a brief report to Council on the outcome of this review. Mike Carroll, General Manager for GLTC, will be present to provide additional information and to respond to any questions.

PRIOR ACTION(S): June 14, 2011 Request for review of GLTC Finances.

FISCAL IMPACT: None at this time.

CONTACT(S): Donna S. Witt, Director of Financial Services 455-3968

ATTACHMENT(S): Memorandum dated August 2, 2011 from Donna Witt, Director of Financial Services to City Council and the GLTC Board of Directors.

REVIEWED BY: lkp

127L

The City of Lynchburg, Virginia

CITY HALL, 900 CHURCH STREET, LYNCHBURG, VIRGINIA 24504
(434) 455-3968
FAX (434) 845-0711

FINANCIAL SERVICES
OFFICE OF THE DIRECTOR

M E M O R A N D U M

TO: City Council
GLTC Board of Directors

C: L. Kimball Payne, City Manager
Bonnie Svrcek, Deputy City Manager

FROM: Donna S. Witt, Director of Financial Services

RE: Review of GLTC Budget versus Actual Report

DATE: August 2, 2011

At the June 14, 2011 City Council meeting, I was asked by City Council to review the finances of the Greater Lynchburg Transit Company (GLTC). Soon after the City Council meeting Lisa Dibble, President of the GLTC Board also requested City staff review the finances of GLTC. Due to the timing of these requests being so close to the end of the fiscal year, it was decided that City staff should review a budget versus actual report for a five-year period (FY 2007 through May 31 for FY 2011). I also spoke with Norman Yoder of Brown Edwards and Co, auditor for GLTC, to discuss the intensity of this year's audit.

GLTC staff provided the report and Rhonda Allbeck, Assistant Director of Financial Services, tied the actual numbers back to the annual audits for GLTC. As I reviewed the budgets for the five year period, I made a list of questions and met with Mike Carroll, General Manager for GLTC, for answers. Mike was very knowledgeable about GLTC's budget and helped me to understand the logic behind the numbers.

Based on my observations and meeting with Mike Carroll, I submit the following recommendations:

1. The annual proposed budget is submitted to the Board for approval in January each year. Federal and State revenue budgets are not received until April and information from Liberty University is not received until July each year. Because the GLTC budget is so dependent upon federal and State revenue, GLTC staff needs to have the opportunity to revise revenue estimates based on more current information and submit them to City Council for consideration at a budget work session in April. This will give GLTC the opportunity to operate under a more realistic budget based on actual federal and State revenues.
2. Currently, GLTC does not budget a contingency fund. Therefore, no opportunity is given to GLTC staff to make funding adjustments during the fiscal year without coming back to City Council for third quarter adjustments. Best practice suggests a contingency fund be established and the amount to be accumulated may be based on the types of revenue, and the level of uncertainty associated with revenues, as well as the uncertainty of the economy and the event of an emergency. A contingency of $500,000 would be my recommendation.
3. The budget versus actual report needs to be compiled by GLTC staff and reviewed by the Board on a monthly basis. Any areas of concern need to be addressed with the Board.
4. Reports of the balance on the line of credit and cash in the bank also need to be reported to the Board at each Board meeting. These reports should also include information regarding any grant reimbursements that have been submitted but not received.
5. Similar to the City, GLTC should write and adopt financial policies for budget, debt (line of credit) and fund balance. A memorandum of understanding for the fiscal year end balance/deficit was a work in progress and it is my recommendation that it be blended with these policies.
6. Finally, since the City is the only stockholder of GLTC, a quarterly report needs to be presented to the Finance Committee like other City Funds.

If you have any questions or comments regarding these suggestions, I can be reached at 455-3968.

LYNCHBURG CITY COUNCIL
Agenda Item Summary

MEETING DATE: **August 9, 2011**			AGENDA ITEM NO.: 4
CONSENT:	REGULAR:	WORK SESSION: **X**	CLOSED SESSION: (Confidential)
ACTION:		INFORMATION: **X**	
ITEM TITLE: **nTelos Cable Television Franchise Request**			

RECOMMENDATION: No action required.

SUMMARY: Director of Information Technology Mike Goetz will brief City Council on a request from nTelos to expand their cable television franchise area to allow them to provide cable television services to areas in the city beyond the Cornerstone neighborhood. Staff wants Council to be aware of this interest by nTelos as it is prepared to enter into negotiations regarding an expanded franchise which would be brought to Council for consideration at a later date. Any provisions in an nTelos franchise that were less restrictive than Comcast's franchise would have to be granted to Comcast as well.

Attached is a background document prepared by Mr. Goetz that provides additional information.

PRIOR ACTION(S): In November, 2007, nTelos was granted a cable television franchise agreement which specified a franchise area limited to the Cornerstone neighborhood development area.

FISCAL IMPACT: None.

CONTACT(S): Mike Goetz, 455-6002

ATTACHMENT(S): Background document.

REVIEWED BY: lkp

128L

nTelos Request to Amend Cable TV Franchise Agreement

Background

In November, 2007, nTelos was granted a cable television franchise agreement which specified a franchise area limited to the Cornerstone neighborhood development area. This was done to facilitate the desires of nTelos and the developer of Cornerstone to provide fiber-to-the-premises (FTTP) services to the residences and businesses located there. FTTP services typically include video/cable TV, Internet, and telephone services delivered at very high speeds over a fiberoptic cable that is installed directly to the home or business. Since nTelos' desired service offering included cable TV service, a cable TV franchise was required.

At the time the nTelos franchise was negotiated, the incumbent cable TV provider (Adelphia) was in bankruptcy, and the company was in the process of being acquired by Comcast. Adelphia's franchise agreement had expired, but the franchise was considered to be in a holdover-tenant status – meaning that the terms and conditions of the franchise would continue, until and unless the City took action to terminate the franchise. Adelphia/Comcast's franchise contained a build-out provision based upon a "density requirement." In essence, this provision requires the franchisee to provide cable TV service wherever there are at least 30 homes per street-mile (i.e., the "density requirement") within their authorized franchise area. (Adelphia/Comcast's franchise area was defined in their franchise as the entire city.) Under federal law, the City is obligated to facilitate a level playing field between multiple cable TV franchise holders, ensuring that one franchisee is not granted more favorable provisions over another. Since Adelphia/Comcast's franchise contained a build-out provision and a density requirement, nTelos' franchise had to contain the same.

It was nTelos' position that it could only provide FTTP services in a cost-effective manner to the Cornerstone area (a greenfield development), and that it could not commit to providing service beyond that area, due to the additional costs required to build out to existing homes or neighborhoods. In the negotiations of nTelos' franchise, it was determined that the level playing field obligation could be met, incorporating the same build-out and density requirement provision in the nTelos franchise as existed in the Adelphia/Comcast franchise, by limiting the franchise area to just Cornerstone. This allowed nTelos to meet the franchise requirements and still provide FTTP services in a cost-effective manner.

It should be noted that FTTP services typically require a fiberoptic-based backbone infrastructure, with a fiberoptic cable connecting to each home or business being served. As such, FTTP services typically can only be provided in a cost-effective manner if: (a) the desired home/business to be served is located close to the fiberoptic-based backbone infrastructure, and (b) the cost or difficulty to construct a fiberoptic cable connection to the home/residence is not prohibitive.

nTelos' Request

Since 2000, nTelos has invested significantly in Lynchburg to expand its fiberoptic backbone infrastructure. They purchased the fiberoptic network that was owned by the City, added onto it, and enhanced its capabilities. They are now a significant provider of broadband services to much of Lynchburg. Increasingly, nTelos has been asked by its customers outside of Cornerstone, primarily businesses and high-density residential locations, to provide cable TV service in addition to the Internet and telephone services they currently receive. However, nTelos' cable TV franchise agreement currently prevents them from offering cable TV service outside of Cornerstone.

nTelos and City staff have had informal discussions for over a year exploring ways in which nTelos might be granted the authority to provide the cable TV services being requested by their customers. One concept that appears to be mutually acceptable between nTelos and City staff is to amend nTelos' franchise to expand their franchise area to the entire city, but remove the build-out provision. nTelos formally contacted the City in May, 2011, expressing their desire to amend their franchise in this way.

It is recognized that, due to federal level playing field requirements, if this amendment is granted to nTelos, the City must be willing to amend Comcast's franchise in the same way, if Comcast desires.

Issues and Considerations

1. If the build-out provision is dropped from nTelos' and Comcast's franchise agreements, the City will no longer have the authority to require either company to provide cable TV service to an unserved area if it is developed to the point where it meets the density requirement. However, this risk is tempered by: (a) practically speaking, there are few areas in Lynchburg which are not currently served and envisioned to be built out to the 30-homes-per-street-mile standard, and (b) if such developments were to occur, it is highly likely that at least one of the cable companies would find it profitable to serve them.
2. There would be nothing in Comcast's cable franchise agreement that would prevent them from stopping service to a location they currently serve. However, this seems highly unlikely. Having incurred the cost to build out to a residence or business, it would be a poor business decision to walk away from a revenue-generating location.
3. It is highly unlikely that Lynchburg will ever see a second cable TV provider willing to over-build and provide cable TV service to all of Lynchburg. The City has formerly contacted all the major cable TV providers in the past and requested that they serve Lynchburg, but these requests have been ignored. Given the relatively small market size of the city, it is probably not reasonable to expect that our customer base could support the cost to build and operate two cable TV systems that cover the entire city.
4. Competitive video services are growing. Satellite TV service is an option in many parts of the city, and video services delivered via broadband are also expanding. Allowing nTelos' request will expand the availability of high-speed fiberoptic-

based broadband services and, therefore, expand access to broadband-delivered video services to more businesses and residences.

5. In order to try to ensure an acceptable level of responsiveness on the part of the cable companies in evaluating requests to serve unserved areas, City staff recommends including a provision in the franchise agreements requiring the cable companies to evaluate and respond to all requests for service to unserved areas within a specific, reasonable time frame.

July 27, 2011

LYNCHBURG CITY COUNCIL
Agenda Item Summary

MEETING DATE: **August 9, 2011** AGENDA ITEM NO.: 5

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

ACTION: INFORMATION: **X**

ITEM TITLE: **Midtown Connector Phase I – Progress Report**

RECOMMENDATION: No action required.

SUMMARY: As requested by Council Member Cary, Project Manager J. P. Morris will present to Council a progress report on the Midtown Connector summarizing the work accomplished by City staff and consultant forces since June 2008.

PRIOR ACTION(S):

March 25, 1986 - Request to VDOT for Crosstown Connector Programming
January 9, 1990 - Dedication of street right-of-way on Park Avenue
March 12, 1996 - Reprogramming of Crosstown Connector
September 13, 2005 - Update on the Crosstown Connector Project
July 11, 2006 - Work Session, update on “Midtown Connector”
August 8, 2006 - Revised programming resolution with VDOT for Midtown Connector
February 13, 2007 - Dedication of street right-of-way for Midtown Connector, Phase Ia and Ic
March 25, 2008 – Resolution approving location and design public hearing adopted.
June 6, 2010 – Resolutions initiating condemnation proceedings for eight parcels.
October 12, 2010 – Resolutions initiating condemnation proceedings for thirteen parcels.

FISCAL IMPACT: None

CONTACT(S): J. P. Morris, P.E., Engineering Project Manager – Midtown Connector Project – 455-3918

ATTACHMENT(S): Printed copy of presentation.

REVIEWED BY: lkp

126L

THE CITY OF LYNCHBURG, VIRGINIA

Midtown Connector Project
Progress Report

J. P. Morris, P.E.
Engineering Project Manager

9 August 2011

Agenda

- Purpose & Goals
- Historical Milestones
- Progress to Date – Engineering
- Progress to Date – Right of Way
- Project Statistics
- Progress to Date – Utility Relocations
- Schedule / Target Dates
- Sequence of Construction
- Questions

Purpose & Goals

- Revitalize the corridor
- Rebuild aging infrastructure
- Provide a safe and efficient route to access the City's Medical Arts District
- Enhance multimodal transportation opportunities

Historical Milestones

- March 1986 – Cross-town Connector initiated
- January 1990 – City begins dedicating Right-of-Way
- August 2006 – Midtown Connector concept adopted
- July 2007 City joins the UCI initiative
- February 2008 – Location and design public hearing
- March 2008 – Council approves L&D public hearing
- <u>June 2008 – City begins Right of Way, Final Design, & Utility Relocation phases.</u>

Progress to Date
Engineering

- June 2008 - Final engineering commences
- Significant updates to base mapping
- Substantial design elements completed
- Staffing – Seven consulting firms
- Plans (construction drawings) 99% complete

Project Statistics

Description	Estimated Quantity
Storm Sewers	12,657 L.F.
Curb Inlets	135
Asphalt Pavement	19,870 Tons
New Sanitary Sewer	965 L.F.
Sanitary Sewer Rehabilitation	7194 L.F.
New Water Line	7270 L.F.
Decorative Street Lights	139
Plan Sheets	434 Sheets
Project Manual	655 Pages

Progress to Date
Right of Way

- June 2008 – Right of Way work commences
- Four consulting firms
- 101 parcels Identified
  - 77 Negotiated acquisitions
  - 10 Condemnations
  - 14 Acquisition not required.
- Relocations Complete
  - 4 Residential relocations completed
  - 5 Business / nonprofit relocations completed
- 11 Demolitions completed
- 4 Demolitions included in construction phase

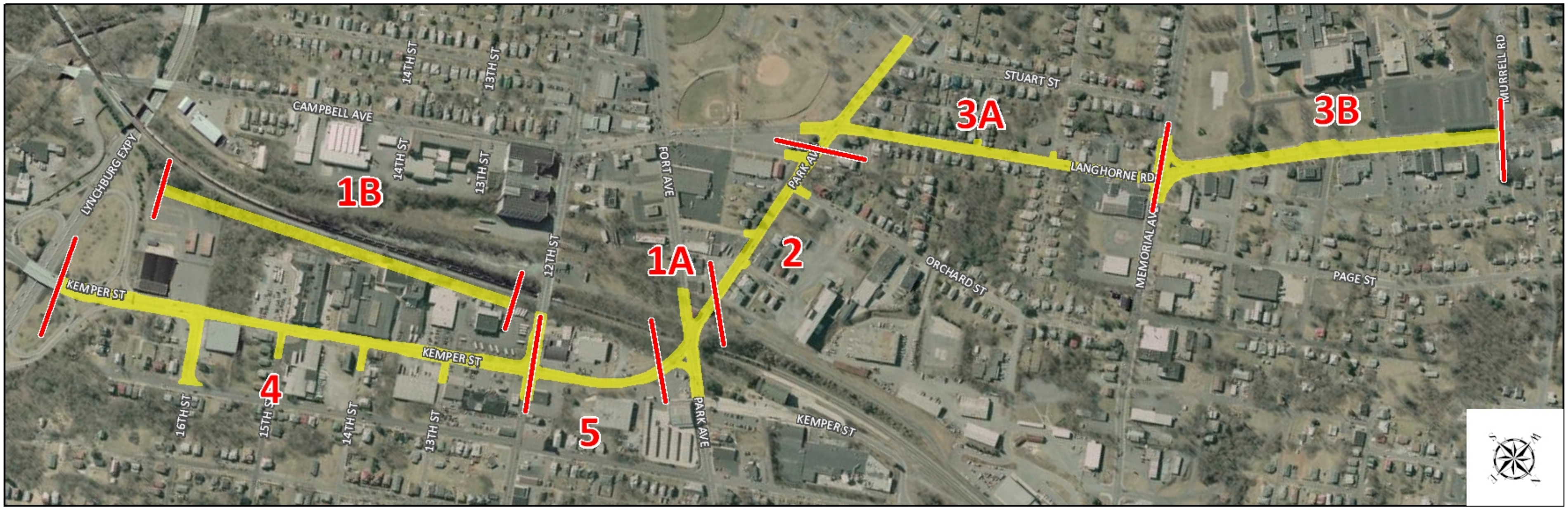
Progress to Date
External Utilities

- AEP
- Verizon
- nTelos
- Comcast
- Zayo Bandwidth
- Columbia Gas

Schedule & Target Dates

- FHWA Authorization of Construction Phase
  - 30 September 2011 deadline
- Advertise for Construction Bids
  - Fall 2011
- Award Contract
  - Winter 2011 - 2012
- Begin Construction
  - Spring 2012
- Construction Duration
  - Three Years

Sequence of Construction



Questions?

J. P. Morris, P.E.
Engineering Project Manager

LYNCHBURG CITY COUNCIL
Agenda Item Summary

MEETING DATE: **August 9, 2011** AGENDA ITEM NO.: 10

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

ACTION: **X** INFORMATION:

ITEM TITLE: **Central Virginia Community Services FY 2012 Performance Contract**

RECOMMENDATION:

Adopt resolution approving the Central Virginia Community Services FY 2012 Performance Contract.

SUMMARY:

Section 37.1-198(B)(ii) of the Code of Virginia requires City Council approval of the Central Virginia Community Services FY 2012 Performance Contract. Localities are asked to consider such action by September 10; and if approval is not received by then, the FY 2012 Performance Contract will be deemed approved by the State.

PRIOR ACTION(S):

None

FISCAL IMPACT:

None

CONTACT(S):

R. Scot Evans 847-8050

ATTACHMENT(S):

Resolution
FY 2012 Performance Contract

REVIEWED BY: lkp

RESOLUTION:

BE IT RESOLVED That the Lynchburg City Council does hereby approve the Central Virginia Community Services FY 2012 Performance Contract as required by Section 37.1-19B(B)(ii) of the Code of Virginia.

Adopted:

Certified: ______________________________
Clerk of Council

120L

CENTRAL VIRGINIA
Community Services

ADMINISTRATION
2241 Langhorne Road • Lynchburg, VA 24501-1114
434-847-8050 • Fax: 434-847-6099 • www.cvcsb.org

June 30, 2011

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

Dear Mr. Payne:

Enclosed please find a copy of the Central Virginia Community Services FY 2012 performance Contract with the Department of Behavioral Health and Developmental Services.

The contract requires us to seek formal approval of this document each year from the participating local governments that we serve. Localities are asked to take a formal action of approval and inform the CSB of the type action-ordinance, resolution, or motion and voice vote. Localities are asked to consider such action by September 10, 2011, if approval is not received by then it will be "deemed" approved by the State.

Thank you for your assistance. Please contact me with any questions you may have related to this matter.

Sincerely,

R. Scot Evans
Manager, Financial Planning and Analysis

RECEIVED
JUL - 5 2011
Council/Manager
Offices

Exhibit A: Resources and Services

Central Virginia Community Services

Consolidated Budget (Pages AF-3 through AF-7)				
Revenue Source	Mental Health Services	Developmental Services	Substance Abuse Services	TOTAL
State Funds	4,381,593	162,717	1,354,344	5,898,654
Local Matching Funds	804,012	0	44,792	848,804
Total Fees	20,950,814	7,477,259	390,320	28,818,393
Transfer Fees In/(Out)	200,000	0	-200,000	0
Federal Funds	157,125	0	1,551,089	1,708,214
Other Funds	356,701	13,954	111,758	482,413
State Retained Earnings	210,403	0	0	210,403
Federal Retained Earnings	0		22,417	22,417
Other Retained Earnings	0	0	0	0
Subtotal Funds	**27,060,648**	**7,653,930**	**3,274,720**	**37,989,298**
State Funds One-Time	0		0	0
Federal Funds One-Time	0		0	0
Subtotal One -Time Funds	**0**	**0**	**0**	**0**
TOTAL ALL FUNDS	**27,060,648**	**7,653,930**	**3,274,720**	**37,989,298**

Cost for MH/DV/SA	**25,876,228**	**6,970,416**	**2,033,162**	**34,879,806**
Cost for Services Available Outside of a Program Area (SAOPA) (AP-4)				**3,109,492**

Total Cost	**37,989,298**

Local Match Computation	
Total State Funds	5,898,654
Total Local Matching Funds	848,804
Total State and Local Funds	6,747,458
Total Local Match % (Local/Total State + Local)	**12.58%**

Administrative Expenses	
Total Admin. Expenses	3,670,956
Total Expenses	37,989,298
Administrative Percent	**9.66%**

FY2012 Community Services Performance Contract
Exhibit A: Resources and Services
Central Virginia Community Services
Financial Comments

Comment1	MH Other Funds - $356,701 - Consists of: $245,810 Billing Contract Revenue,
Comment2	$14,400 Rent Revenue, $1,727 Donations, and $94,764 Miscellaneous Other.
Comment3	MH State Retained Earnings - $210,403 - is for MH Pharmacy.
Comment4	SA Other Funds - $111,758 - Consists of: $111,093 Billing Contract Revenue
Comment5	and $665 Donations.
Comment6	SA Federal Retained Earnings - $22,417 - is for SA FBG Prevention.
Comment7	
Comment8	
Comment9	
Comment10	
Comment11	
Comment12	
Comment13	
Comment14	
Comment15	
Comment16	
Comment17	
Comment18	
Comment19	
Comment20	
Comment21	
Comment22	
Comment23	
Comment24	
Comment25	

FY 2012 Performance Contract Financial Summary

Exhibit A: Resources and Services

Mental Health (MH) Services

Central Virginia Community Services

Funding Sources	Funds
FEES	
MH Medicaid Fees	19,623,337
MH Fees: Other	1,327,477
Total MH Fees	20,950,814
MH Transfer Fees In/(Out)	200,000
MH NET FEES	**21,150,814**
FEDERAL FUNDS	
MH FBG SED Child & Adolescent (93.958)	140,540
MH FBG SMI (93.958)	16,585
MH FBG SMI PACT (93.958)	0
MH FBG SMI SWVMH Board (93.958)	0
Total MH FBG SMI Funds (Adult)	16,585
MH FBG Geriatrics (93.958)	0
MH FBG Consumer Services (93.958)	0
Total MH FBG Adult Funds	16,585
MH Federal PATH (93.150)	0
MH Other Federal - DBHDS	0
MH Other Federal - CSB	0
TOTAL MH FEDERAL FUNDS	**157,125**
STATE FUNDS	
Regional Funds	
MH Acute Care (Fiscal Agent)	0
MH Regional DAP (Fiscal Agent)	720
MH Crisis Stabilization (Fiscal Agent)	374,500
MH Recovery (Fiscal Agent)	0
MH Other Regional (Fiscal Agent)	1,200,534
MH Total RegionalTransfer In/(Out)	173,000
Total MH Regional Funds	1,748,754
Children's Funds	
MH Child & Adolescent Services Initiative	199,524
MH Children's Outpatient	51,694
Total Restricted MH Children's Funds	251,218
MH State Children's Services	25,000
MH Juvenile Detention	100,127
MH Demo Proj-System of Care (Child)	0
Total Unrestricted MH Children's Funds	125,127
Total MH Children's Funds	376,345

FY 2012 Performance Contract Financial Summary

Exhibit A: Resources and Services

Mental Health (MH) Services

Central Virginia Community Services

Funding Sources	Funds
Other State Funds	
MH Law Reform	331,492
MH Pharmacy - Medication Supports	399,705
MH Jail Diversion/Service	30,000
Total Restricted MH Other State Funds	761,197
MH State Funds	288,659
MH State Regional Deaf Services	0
MH State NGRI Funds	0
MH PACT	700,000
MH Discharge Assistance (DAP)	506,638
MH Geriatric Services	0
Total Unrestricted MH Other State Funds	1,495,297
Total MH Other State Funds	2,256,494
TOTAL MH STATE FUNDS	**4,381,593**
OTHER FUNDS	
MH Other Funds	356,701
MH Federal Retained Earnings	0
MH State Retained Earnings	210,403
MH State Retained Earnings - Regional Prog	0
MH Other Retained Earnings	0
TOTAL MH OTHER FUNDS	**567,104**
LOCAL MATCHING FUNDS	
MH In-Kind	0
MH Contributions	0
MH Local Other	0
MH Local Government	804,012
TOTAL MH LOCAL FUNDS	**804,012**
TOTAL MH FUNDS	**27,060,648**
ONE-TIME FUNDS	
MH FBG SMI (93.958)	0
MH FBG SED Child & Adolescent (93.958)	0
MH State Funds	0
TOTAL MH ONE-TIME FUNDS	**0**
TOTAL All MH FUNDS	**27,060,648**

FY 2012 Performance Contract Financial Summary

Exhibit A: Resources and Services

Developmental (DV) Services

Central Virginia Community Services

Funding Sources	Funds
FEES	
DV Medicaid Fees	4,654,047
DV Medicaid ICF/MR	2,401,260
DV Fees: Other	421,952
Total DV Fees	7,477,259
DV Transfer Fees In/(Out)	0
DV NET FEES	7,477,259
FEDERAL FUNDS	
DV Other Federal - DBHDS	0
DV Other Federal - CSB	0
TOTAL DV FEDERAL FUNDS	0
STATE FUNDS	
DV State Funds	103,217
DV OBRA	59,500
Total DV Unrestricted State Funds	162,717
DV Crisis Stabilization (Restricted)	0
TOTAL DV STATE FUNDS	162,717
OTHER FUNDS	
DV Workshop Sales	0
DV Other Funds	13,954
DV State Retained Earnings	0
DV Other Retained Earnings	0
TOTAL DV OTHER FUNDS	13,954
LOCAL MATCHING FUNDS	
DV In-Kind	0
DV Contributions	0
DV Local Other	0
DV Local Government	0
TOTAL DV LOCAL FUNDS	0
TOTAL DV FUNDS	7,653,930
ONE-TIME FUNDS	-----------
TOTAL ALL DV FUNDS	7,653,930

FY 2012 Performance Contract Financial Summary

Exhibit A: Resources and Services

Substance Abuse (SA) Services

Central Virginia Community Services

Funding Sources	Funds
FEES	
SA Medicaid Fees	151,510
SA Fees: Other	238,810
Total SA Fees	390,320
SA Transfer Fees In/(Out)	-200,000
SA NET FEES	**190,320**
FEDERAL FUNDS	
SA FBG Alcohol/Drug Trmt (93.959)	1,051,307
SA FBG SARPOS (93.959)	132,797
SA FBG Jail Services (93.959)	0
SA FBG Co-Occurring (93.959)	0
SA FBG New Directions (93.959)	0
SA FBG Recovery (93.959)	0
Total SA FBG A/D Trmt Funds	1,184,104
SA FBG Women (Includes LINK at 6 CSBs) (93.959)	74,115
SA FBG Prevention-Women (LINK) (93.959)	0
Total SA FBG Women Funds	74,115
SA FBG Prevention (93.959)	192,870
SA FBG Prev-Strengthening Families (93.959)	100,000
Total SA FBG Prevention Funds	292,870
SA Fed "Returning to Work" (93.243)	0
SA Other Federal - DBHDS	0
SA Other Federal - CSB	0
TOTAL SA FEDERAL FUNDS	**1,551,089**
STATE FUNDS	
Regional Funds	
SA Facility Reinvestment (Fiscal Agent)	0
SA Facility Reinvestment Transfer In/(Out)	0
SA Net Facility Reinvestment Funds	0
Other State Funds	
SA Women (Includes LINK at 4 CSBs) - Restricted	15,600
SA State Funds	1,293,520
SA Region V Residential	0
SA Jail Services/Juv Detention	0
SA MAT - Medically Assisted Treatment	0
SA SARPOS	45,224
SA Recovery	0
SA HIV/AIDS	0
Total Unrestricted SA Other State Funds	1,338,744
Total SA Other Funds	1,354,344
TOTAL SA STATE FUNDS	**1,354,344**

FY 2012 Performance Contract Financial Summary

Exhibit A: Resources and Services

Substance Abuse (SA) Services

Central Virginia Community Services

Funding Sources	Funds
OTHER FUNDS	
SA Other Funds	111,758
SA Federal Retained Earnings	22,417
SA State Retained Earnings	0
SA State Retained Earnings-Regional Prog	0
SA Other Retained Earnings	0
TOTAL SA OTHER FUNDS	134,175
LOCAL MATCHING FUNDS	
SA In-Kind	0
SA Contributions	0
SA Local Other	0
SA Local Government	44,792
TOTAL SA LOCAL FUNDS	44,792
TOTAL SA FUNDS	3,274,720
ONE TIME FUNDS	
SA FBG Alcohol/Drug Trmt (93.959)	0
SA FBG Women (includes LINK at 6 CSBs) (93.959)	0
SA FBG Prevention (93.959)	0
SA State Funds	0
TOTAL ONE TIME SA FUNDS	0
TOTAL ALL SA FUNDS	3,274,720

FY 2012 Community Services Performance Contract

Exhibit A: Resources and Services

Local Government Tax Appropriations

Central Virginia Community Services

City/County	Tax Appropriation
Lynchburg City	444,003
Bedford City	6,500
Campbell County	160,500
Bedford County	104,386
Appomattox County	41,033
Amherst County	92,382
Total Local Government Tax Funds:	848,804

FY 2012 Community Services Performance Contract

Exhibit A: Resources and Services

Supplemental Information

Reconciliation of Projected Revenues and (Core Services) Costs by Program Area

Central Virginia Community Services

	MH Services	DV Services	SA Services	SAOPA *	Total
Total All Funds (Page AF-1)	27,060,648	7,653,930	3,274,720		37,989,298
Cost for MH, DV, SA, and SAOPA Services (Page AF-1)	25,876,228	6,970,416	2,033,162	3,109,492	37,989,298
Difference	1,184,420	683,514	1,241,558	-3,109,492	0

* Services Available Outside of a Program Area

Difference results from

Other: 0

Explanation of Other in Table Above:

FY 2012 Community Services Performance Contract
Exhibit A: Resources and Services
CSB 100 Mental Health Services
Central Virginia Community Services

Report for Form 11

Core Services Code	Costs
250 Acute Psychiatric or SA Inpatient Services	$173,000
310 Outpatient Services	$5,820,293
350 Assertive Community Treatment	$1,161,834
320 Case Management Services	$6,736,607
410 Day Treatment/Partial Hospitalization	$8,180,867
420 Ambulatory Crisis Stabilization Services	$482,924
425 Rehabilitation or Habilitation	$597,537
510 Residential Crisis Stabilization Services	$967,102
521 Intensive Residential Services	$0
551 Supervised Residential Services	$802,498
581 Supportive Residential Services	$888,626
610 Prevention Services	$64,940
Total Costs	**$25,876,228**

Form 11A: Pharmacy Medication Supports	Number of Consumers
801 Facility Pharmacy Medication Supports Consumers	311

FY 2012 Community Services Performance Contract
Exhibit A: Resources and Services
CSB 200 Developmental Services
Central Virginia Community Services

Report for Form 21

Core Services Code	Costs
320 Case Management Services	$1,912,160
501 Highly Intensive Residential Services	$2,612,532
521 Intensive Residential Services	$2,359,744
581 Supportive Residential Services	$85,980
Total Costs	**$6,970,416**

FY 2012 Community Services Performance Contract
Exhibit A: Resources and Services
CSB 300 Substance Abuse Services
Central Virginia Community Services

Report for Form 31

Core Services Code	Costs
310 Outpatient Services	$407,578
320 Case Management Services	$67,316
501 Highly Intensive Residential Services	$1,189,983
610 Prevention Services	$368,285
Total Costs	**$2,033,162**

FY 2012 Community Services Performance Contract
Exhibit A: Resources and Services
CSB 400 Services Available Outside of a Program Area
Central Virginia Community Services

Report for Form 01

Core Services Code	Costs
100 Emergency Services	$2,698,136
318 Motivational Treatment Services	$205,727
390 Consumer Monitoring Services	$1,000
720 Assessment and Evaluation Services	$204,629
Total Costs	**$3,109,492**

LYNCHBURG CITY COUNCIL
Agenda Item Summary

MEETING DATE: **August 9, 2011**			AGENDA ITEM NO.: 11
CONSENT: **X**	REGULAR:	WORK SESSION:	CLOSED SESSION: (Confidential)
ACTION: **X**		INFORMATION:	

ITEM TITLE: **Virginia Department of Conservation and Recreation – Recreational Trails Program Grant**

RECOMMENDATION:
Adopt a resolution in support of the final grant application for a Virginia Department of Conservation Recreation, Recreational Trails Grant to rehabilitate and extend the Creekside Trail.

SUMMARY:

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

Parks and Recreation submitted a preliminary grant application for a Virginia Department of Conservation and Recreation, Recreation Trails Program in January 2011. Lynchburg has been notified that the preliminary grant application has been selected to advance to the second and final stage of the grant cycle. The submittal of the final grant application requires a resolution of support from City Council.

Award of this grant would allow implementation for the first phase of the Creekside Trail Extension Plan. Specifically, the funding will be used for rehabilitation of 5.2 miles of existing trail from Hollins Mill Park to BWCAA and construction of an additional 1.5 miles of trail from BWCAA through Lynchburg College, to a terminus at Shirley Road.

Lynchburg College is in full support of this application and has committed to granting the City all necessary easements for the trail construction and public access. In addition to the easement, Lynchburg College is committed to establishing a management agreement with the City and supporting construction of the project through volunteer labor. This project is also supported by the Friends of Lynchburg Stream Valleys who has made a donation of $17,000 and by the Natural Bridge Appalachian Club, who is committed to supervising and supporting volunteer labor during construction.

The total estimated budget for the project is estimated at $150,000. The City is requesting $100,000 in grant funding, the maximum allowed amount. This is a reimbursable grant and requires a minimum match of 20% ($20,000). The City will exceed the required match and will provide $50,000 through a combination of City funding, in-kind/volunteer labor and donations. The proposed budget is as follows:

Estimated Project Costs	
Architectural and Engineering	$ 6,250
Construction (includes volunteer labor, in-kind)	143,750
Total	$150,000

Funding	
Grant funds	$100,000
City Capital Improvement Program funds (existing)	8,000
Friends of Lynchburg Steam Valleys donation (existing)	17,000
Volunteer Labor/In-Kind	25,000
Total	$150,000

If the grant is received the project requires no additional City funding. The City Capital Improvement Program funds and the donation from the Friends of Lynchburg Stream Valleys are appropriated.

PRIOR ACTION(S):
Council, Work Session, September 22, 2009
Finance Committee, January 25, 2011
Council, Regular Session, February 8, 2011

FISCAL IMPACT:
None

CONTACT(S):
Andrew Reeder. 455-5876

ATTACHMENT(S):
Resolution

REVIEWED BY: lkp

Resolution

WHEREAS, under the provisions of the Recreation Trails Program, federal funding assistance is requested to aid in financing the cost of the construction and/or rehabilitation of recreational trails and trail related facilities,

WHEREAS, the City Council considers it in the best public interest to complete the Creekside recreational trail project described in the preliminary application and proposal description and environmental screening application;

NOW, THEREFORE, BE IT RESOLVED, that:

The City Manager be authorized to make formal application to the Virginia Department of Conservation and Recreation for funding assistance;

Any fund assistance received be used for implementation and completion of the Creekside Trail within the specified timeframe ;

The City hereby certifies that project funding is committed and will be derived from;
Friends of Lynchburg Stream Valleys
City of Lynchburg
Lynchburg College
Natural Bridge Appalachian Club

We acknowledge that we are responsible for supporting all non-cash commitments to this project should they not materialize;

We are aware that the grant, if approved by the Federal Highway Administration, will be paid on a 80-20 reimbursement basis. This means we may only request payment after eligible and allowable costs that have already been paid and remitted to our vendors and evidence of such has been provided to the Virginia Department of Conservation and Recreation in the format required by the project agreement.

This resolution becomes part of a formal application to the Virginia Department of Conservation & Recreation;

We acknowledge that we are responsible for compliance with the National Environmental Policy Act, Endangered Species Act, Historic Preservation Act and all applicable state and federal laws provided appropriate opportunity for public comment on this application

We acknowledge that appropriate opportunity for public comment has been provided on this application and evidence of such is a required component for approval.

Adopted:

Certified: ______________________________
Clerk of Council

124L

LYNCHBURG CITY COUNCIL
Agenda Item Summary

MEETING DATE: **August 9, 2011** AGENDA ITEM NO.: 12

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

ACTION: **X** INFORMATION:

ITEM TITLE: **2010 State Homeland Security Program (SHSP) grant: $23,000 for Lynchburg Fire Department's Hazardous Materials (Haz Mat) Team**

RECOMMENDATION: Adopt a resolution to amend the FY 2012 City/Federal/State Aid Fund budget and appropriate $23,000 with resources from the 2010 State Homeland Security Program (SHSP) grant from the National Preparedness Directorate, U.S. Department of Homeland Security (DHS), to provide training and equipment for the Fire Department's Hazardous Materials (Haz Mat) team.

SUMMARY: The Virginia Department of Emergency Management (VDEM) is administering this grant from the Department of Homeland Security (DHS) through the State Homeland Security Program (SHSP) grant. The Fire Department was awarded $23,000 to be utilized by the Haz Mat Team for equipment and training. The funds will be used for equipment and training in order to provide hazardous materials responses in a safe and timely manner.

This grant is 100% reimbursable; no local match is required.

PRIOR ACTION(S): Finance Committee July 12, 2011

FISCAL IMPACT: None, no local match is required. Future funds may be needed for periodic maintenance of the equipment purchased.

CONTACT(S): Fire Chief Steven B. Ferguson, 455-6340; Battalion Chief Keith Johnson, 455-6340;
Ellen Davidson-Martin, Fire Administrative Manager, 455-6368

ATTACHMENT(S): Resolution

REVIEWED BY: lkp

RESOLUTION:

BE IT RESOLVED That the FY 2012 City/Federal/State Aid Fund budget is amended and $23,000 is appropriated with resources from the FY 2010 State Homeland Security Program (SHSP) grant from the National Preparedness Directorate, U.S. Department of Homeland Security (DHS), to provide training and equipment for the Fire Department's Hazardous Materials team.

Introduced: Adopted:

Certified: ______________________________
Clerk of Council

119L

LYNCHBURG CITY COUNCIL
Agenda Item Summary

MEETING DATE: **August 9, 2011** AGENDA ITEM NO.: 13

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

ACTION: **X** INFORMATION:

ITEM TITLE: **Conditional Use Permit (CUP): Fill within the Floodplain at 4010 Wards Road**

RECOMMENDATION: Approval of the CUP petition.

SUMMARY: GJJ of Lynchburg, LLC is petitioning for a CUP to allow the placement of fill material within the limits of the 100-year floodplain at 4010 Wards Road. The property is currently zoned B-5, General Business District and the proposed fill would allow any new buildings to be constructed outside of the floodplain limits. The Planning Commission recommended approval of the CUP petition because:

- The petition agrees with the Zoning Ordinance in that filling in a floodplain is permitted upon approval of a CUP by City Council.
- The proposed fill would not result in a net-rise of the floodplain elevation and would not impact the floodway of Rock Castle Creek. The petitioner has submitted a CLOMR (Conditional Letter of Map Revision) in order to notify FEMA of the proposed change in floodplain.

PRIOR ACTION(S):

July 13, 2011: Planning Division recommended approval of the proposed CUP petition.

Planning Commission recommended approval of the CUP (7-0), subject to the following conditions:

1. The property shall be used and developed in substantial compliance with the plan entitled "4010 Wards Road: Filling of 100 Year Flood Plain" dated June 27, 2011, by Warner Engineering.
2. The developer shall not exceed the limitations for any detrimental effects caused by filling in the flood plain of Rock Castle Creek for the subject property.
3. An engineered site plan is required and shall provide for the determination of an "adequate conveyance and downstream receiving channel."
4. A Letter of Map Revision (LOMR) will be filed with the Federal Emergency Management Association (FEMA).

FISCAL IMPACT: None

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

ATTACHMENT(S):
- Resolution – CUP
- Planning Commission Report – July 13, 2011
- Planning Commission Minutes – July 13, 2011
- Vicinity Zoning Pattern
- Vicinity Land Use
- Watershed Location Map
- Site Plan
- Narrative
- Property Photograph
- Speaker Signup Sheet

REVIEWED BY: lkp

RESOLUTION:

A RESOLUTION GRANTING A CONDITIONAL USE PERMIT TO GJJ of LYNCHBURG, LLC TO ALLOW FILL WITHIN THE FLOODPLAIN AT 4010 WARDS ROAD IN A B-5, GENERAL BUSINESS DISTRICT.

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF LYNCHBURG that the petition of GJJ of Lynchburg, LLC to allow fill within the floodplain at 4010 Wards Road in a B-5, General Business District, is hereby approved subject to the following conditions:

1. The property shall be used and developed in substantial compliance with the plan entitled "4010 Wards Road: Filling of 100 Year Flood Plain" dated June 27, 2011, by Warner Engineering.
2. The developer shall not exceed the limitations for any detrimental effects caused by filling in the flood plain of Rock Castle Creek for the subject property.
3. An engineered site plan is required and shall provide for the determination of an "adequate conveyance and downstream receiving channel."
4. A Letter of Map Revision (LOMAR) will be filed with the Federal Emergency Management Association (FEMA).

Adopted:

Certified: ______________________________
Clerk of Council

122L

The Department of Community Development

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

To: Planning Commission
From: Planning Division
Date: July 13, 2011
Re: **Conditional Use Permit: Filling in the Floodplain at 4010 Wards Road**

I. PETITIONER

GJJ of Lynchburg, LLC, 4010 Wards Rd., Lynchburg, Virginia 24502
Representative(s): Mr. Trent Warner, Warner Engineering, 1511B Enterprise Dr., Lynchburg, Virginia 24502

II. LOCATION

The subject property is a tract of approximately one and eighty eight hundredths (1.88) of an acre located at 4010 Wards Rd.
Property Owner: GJJ of Lynchburg, LLC, 1167 Presidential Cir., Forest, Virginia 24551

III. PURPOSE

The purpose of this petition is to allow for the filling in of the floodplain for the future development of the property.

IV. SUMMARY

- Petition agrees with the *Zoning Ordinance* in that filling in a floodplain is permitted upon approval of a CUP by City Council.
- The proposed fill would not result in a net-rise of the floodplain elevation.

<u>The Planning Division recommends approval of the conditional use permit petition.</u>

V. FINDINGS OF FACT

1. **Comprehensive Plan.** The Lynchburg *Comprehensive Plan 2002-2020* recommends a Regional Commercial use in this area. These areas include retail, restaurant, entertainment, and hotel uses that draw customers from the entire region, as well as the traveling public **(page 5.5).** This area also falls within the Wards Road / Candlers Mountain Corridor Study Area. Redevelopment of sites within this corridor should be kept in mind for future planning **(page 4.13).**

   Chapter 12 of the *Comprehensive Plan 2002-2020* emphasizes that the City should limit new development in the floodplain and seek to protect existing development that may be affected by flooding **(page 12.3)**. The *Comprehensive Plan 2002-2020* also highlights that it is important for the City to consider environmental performance standards for new development and redevelopment, not only to ensure compliance with state and federal standards, but also to address the protection and management of important natural resources **(page 12.6).**

2. **Zoning.** The subject property was annexed from Campbell County in 1976. The existing B-5, General Business District and R-C, Conservation 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 would be needed for the development of the property as proposed.

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

   - On November 8, 2005, City Council approved English Development Corporation and Covenant Presbyterian Church's petition to rezone one and one hundred seventy three thousandths (1.173) acres from R-C Conservation District and R-4 Multi-family Residential District to B-3C Community Business District (Conditional) in order to construct driveway entrances for a shopping center located in Campbell County at 108 Melinda Drive and Wards Ferry Road. A Conditional Use Permit (CUP) was approved congruently with the rezoning to allow fill in the flood plain.
   - On August 10, 2004, Lynchburg City Council approved Frederick & Charlotte Lamonds petition to rezone approximately nine hundred thirty seven thousandths (.937) of an acre from I-2 Light Industrial to B-5C General Business District (Conditional) in order to construct a hotel at 4021 Wards Road.
   - On August 10, 2004 Lynchburg City Council approved Little Horse, LLC petition to rezone three and five hundred four thousandths (3.504) acres from I-2 Light Industrial District and B-5C General Business District (Conditional) to B-5C General Business District (Conditional) in order to construct a hotel at 113, 121, and 125 Delta Street.
   - On January 26, 1999 Lynchburg City Council approved E.R. & W.C. Corporation, G.A. Hartless, George C. Walker Jr., William M. Walker, and Michael Andre Coulter petition to rezone approximately fifty eight and seven tenths (58.7) acres from R-4 Medium-High Density Multi-Family Residential, R-5 High Density Multi-Family Residential, & B-5 General Business District to B-5C General Business District (Conditional) in order to construct a shopping center at 4026 Wards Road.
   - On January 26, 1999, Lynchburg City Council approved Faison/Trammel Crow Company's CUP petition to fill in the floodplain in a B-5C, General Business District (Conditional) in order to allow for the construction of a shopping center at 4026 Wards Road.
   - On December 14, 1993, Lynchburg City Council approved Charleston Trading Company, Inc. petition to rezone two and seventy-five hundredths (2.75) acres from I-2, Light Industrial District to B-5(C), General Business District (Conditional) to allow for car sales and mobile home sales/storage at 4009-4013 Wards Rd.
   - On December 8, 1992, Lynchburg City Council approved Woodroe & Suzann Newmans petition to rezone eighty eight hundredths (.88) of an acre from I-2 Light Industrial District to B-5C General Business District (Conditional) in order to allow for hardware sales/ equipment rental at 121 Delta Street.

5. **Site Description.** Currently the property is vacant. The property previously contained a twenty thousand (20,000) square foot gas station/convenience store. The property is generally flat, with a slight downward slope towards the rear of the property. Rock Castle Creek traverses along the western boundary of the property.

6. **Proposed Use of Property.** The purpose of this petition is to allow the petitioner to fill in the floodplain along the rear of the property.

7. **Traffic, Parking and Public Transit.** The project should have no impact upon the traffic conditions in the area. The traffic will not be altered by filling in the floodplain.

8. **Stormwater Management.** A stormwater management plan is required at the time the site is to be developed. The petitioner proposes no net-rise in the elevation of the site with the grading/fill that will take place. Once the grading of the site is complete the developer is required to submit a survey to FEMA (Federal Emergency Management Agency) which certifies the new topography of the site. The petitioner has already submitted a CLOMR (Certified Letter of Map Revision) in order to notify FEMA of the proposed change in floodplain.

   In 2008, FEMA updated the floodplain maps for this area of the City due to the intensity of land uses impacting Rock Castle Creek. According to the FEMA maps, the floodway will not be impacted by the fill.

9. **Emergency Services.** The City Fire Marshal and Police Department had no comments of concern with the project as proposed.

10. **Impact.** The petition proposes filling in the floodplain to allow for the future development of the property. The building which was demolished was located within the floodplain. The proposed fill would allow any new buildings to be constructed out of the floodplain. The representative has submitted information documenting that the proposed fill would not result in a net-rise of the floodplain elevation. No impacts will occur to the floodway. Although caution should be taken when altering the floodplain, the impact from this proposal should be minimal.

11. **Technical Review Committee.** The Technical Review Committee (TRC) reviewed the concept plan on June 14, 2011. Comments related to the proposal were minor in nature and have or will be addressed by the petitioner.

VI. PLANNING DIVISION RECOMMENDATION

Based on the preceding Findings of Fact, the Planning Commission recommends to City Council approval of the conditional use permit petition of GJJ of Lynchburg, LLC, to allow filling in the floodplain at 4010 Wards Road in accordance with the following conditions:

1. **The property shall be used and developed in substantial compliance with the plan entitled "4010 Wards Road: Filling of 100 Year Flood Plain" dated June 27, 2011, by Warner Engineering.**
2. **The developer shall not exceed the limitations for any detrimental effects caused by filling in the flood plain of Rock Castle Creek for the subject property.**
3. **An engineered site plan is required and shall provide for the determination of an "adequate conveyance and downstream receiving channel."**
4. **A Letter of Map Revision (LOMR) will be filed with the Federal Emergency Management Association (FEMA).**

This matter is respectfully offered for your consideration.

William T. Martin, AICP
City Planner

pc: Mr. L. Kimball Payne, III, City Manager
Ms. Bonnie M. Svrcek, Deputy City Manager
Mr. Walter C. Erwin, City Attorney
Mr. Kent L. White, Director of Community Development
Mr. J. Lee Newland, City Engineer
Ms. Cynthia Kozerow, Lynchburg Police Department
Battalion Chief Greg Wormser, Fire Marshal
Mr. Douglas Saunders, Building Commissioner
Mr. Robert Fowler, Zoning Administrator
Mr. Jacob Dorman, Environmental Reviewer
Mr. Trent Warner, Warner Engineering

VII. ATTACHMENTS

1. **Vicinity Zoning Pattern**
2. **Vicinity Proposed Land Use**
3. **Watershed Location Map**
4. **Concept Plan**
5. **Narrative**
6. **Photo**

MINUTES FROM THE JULY 13, 2011 PLANNING COMMISSION MEETING (MINUTES HAVE BEEN APPROVED):

b. Petition of GJJ of Lynchburg, LLC for a conditional use permit to allow fill in the one hundred (100)-year flood plain at 4010 Wards Road to facilitate future development of the property.

Mr. Henry had the following comments for the commissioners. The conditional use permit would allow for the filling in of the flood plain in order for the site to eventually be developed. Currently, the property is vacant but there was previously a 20,000 square foot gas station on the property. The B-5 and R-C zoning was established in 1978. The surrounding area is zoned B-5 as well and has a Regional Commercial land use classification. The *Comprehensive Plan* emphasizes that the City should limit new development in the flood plain and seek to protect existing development that may be affected by flooding.

The *Comprehensive Plan* also highlights that it is important for the City to consider environmental performance standards for new development and redevelopment, not only to ensure compliance with state and federal standards but also to address the protection of management and important natural resources. A stormwater management plan is required at the time the site is developed. The petitioner proposes no net rise in the elevation of the site with the grading and/or fill that will take place. No impacts will occur to the floodway. Although caution should be taken when altering the flood plain, impact from this proposal should be minimal and staff recommends approval.

Mr. Trent Warner came forward to represent the petition. Mr. Warner wanted to stress that this not a grading plan or a site plan. This is to do the math ahead of any site plan. They are also taking steps with FEMA to make sure they go through proper channels.

Chair Hamilton asked if there was anyone else to speak in favor of the petition. No one came forward. She asked if there was anyone to speak in opposition to the petition. No one came forward. She closed the public hearing portion of the petition.

Chair Hamilton asked exactly what they will be doing. Mr. Warner said there will be grading involved. They will fill in the area that is in the flood plain in order to build up the elevation. There is a floodway on the property that they are not petitioning to do anything in that area. A survey was done this week and they did very tight tolerances in that area to show that there is no net increase in the flood elevation. The reason that is if you look at the amount of water and the amount of drainage area that would come to that site, the little bit of fill that you are doing does not change your flood elevation. You are not impacting other properties by what you fill in. That is why it is a little easier to fill in a flood plain as opposed to a floodway.

Commissioner Hooper asked if he had set a 796 contour on the fill plan and if that is the total of the slope. Mr. Warner said that above where it says R-C across the property on the site plan, the future site plan will not do any grading beyond that area. They will fill in anywhere in this area and raise it to get the foundation over that elevation of 798. That is in essence the 100-year flood plain. They would be at 798.5 or something a little higher and it would slope down toward that elevation.

Chair Hamilton asked if this will be a noticeable elevation change when you put a building next to this other building. Mr. Warner said it will not be noticeable. Mr. Warner clarified that there is a rise in the grade elevation but not a rise in the flood elevation. Chair Hamilton asked if he knows what the use of the property will be yet. Mr. Warner said he does not. He has done several layouts of what could go there but there is nothing concrete yet.

Commissioner Sale asked if this will affect the flood plain on 29. Mr. Warner said it will not. Chair Hamilton asked if it would impact the flood way by a greater runoff. Mr. Warner explained that they are required to make sure that any new runoff before it goes into Rock Castle Creek has to be held back and also treated for water quality.

Commissioner Swienton asked for clarification that as a result of the fill, would Mr. Warner see an increase in stormwater quality and a decrease in stormwater quantity. Mr. Warner said there will be a slight increase in quantity because right now there are pockets of gravel that will end up being paved. They would probably detain this additional runoff under the parking lot. There will be a tremendous increase in stormwater quality. Commissioner Swienton asked where the water will go in a 100-year flood. Mr. Warner said it will follow the blue boundary they see on the watershed map. It will still maintain the same shape but there will be an island in the middle that will look more brown.

Commissioner Barnes said it is hard to predict what will happen downstream. They are restricting the flood plain but they are not totally cutting it off

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

"That the Planning Commission recommends to City Council approval of the conditional use permit petition of GJJ of Lynchburg, LLC, to allow filling in the floodplain at 4010 Wards Road in accordance with the following conditions:

1. **The property shall be used and developed in substantial compliance with the plan entitled "4010 Wards Road: Filling of 100 Year Flood Plain" dated June 27, 2011, by Warner Engineering.**
2. **The developer shall not exceed the limitations for any detrimental effects caused by filling in the flood plain of Rock Castle Creek for the subject property.**
3. **An engineered site plan is required and shall provide for the determination of an "adequate conveyance and downstream receiving channel."**
4. **A Letter of Map Revision (LOMAR) will be filed with the Federal Emergency Management Association (FEMA)."**

Commissioner Coleman noted that this has been thought through by staff and he supports it. Commissioner Hannon said they are going to need to do this in order to erect a building. Commissioner Hooper said it makes sense. Commissioner Sale said he is in favor of this but he thinks this could be an opportunity to affect the flood plain on 29 as well. Mr. Warner said an engineer would do this similar process on 29 as well, however, it would still be in the flood plain because of the elevation. Mr. Warner said there would still be a drainage pipe that would fill up. Commissioner Sale supports this because it is redevelopment, which is always good. Commissioner Swienton would agree with Commissioner Sale. He would caution them to take extraordinary precautions during the construction phase so as not to affect the stream.

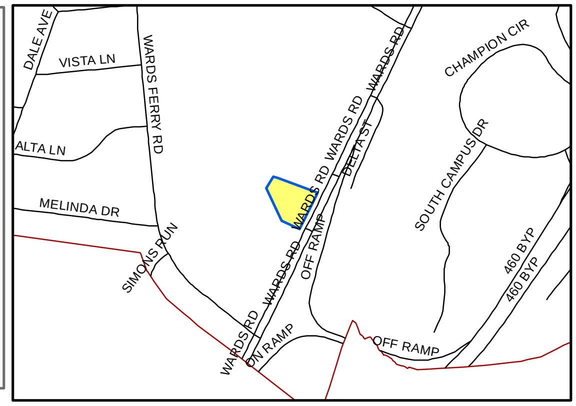
The motion passed by the following vote:

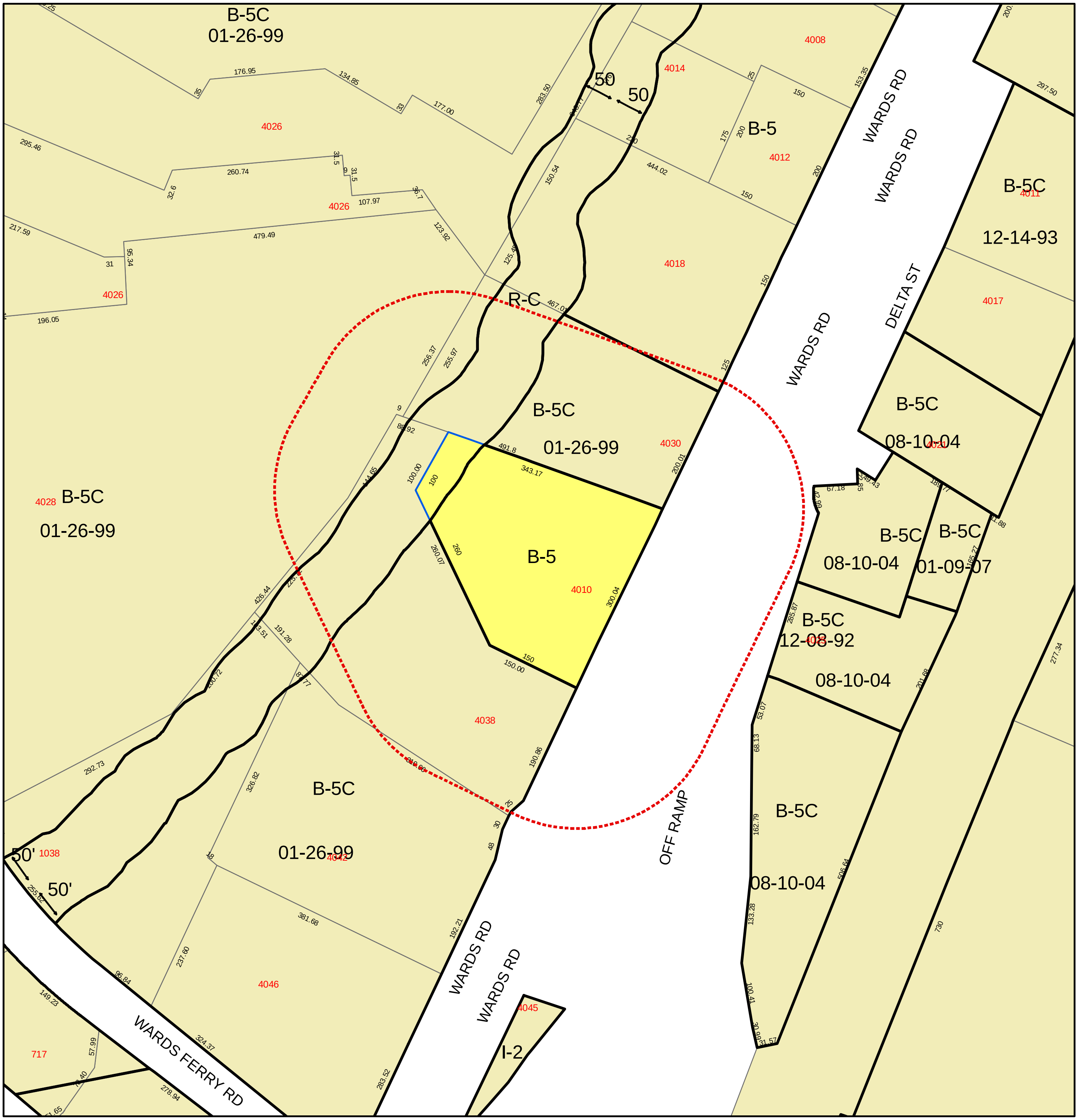
AYES:	Barnes, Coleman, Hamilton, Hannon, Hooper, Sale and Swienton	7
NOES:		0
ABSTENTIONS:		0
ABSENT:		0

GJJ OF LYNCHBURG, LLC
4010 WARDS ROAD
Conditional Use Permit to Allow Fill in the Flood Plain

Subject Property

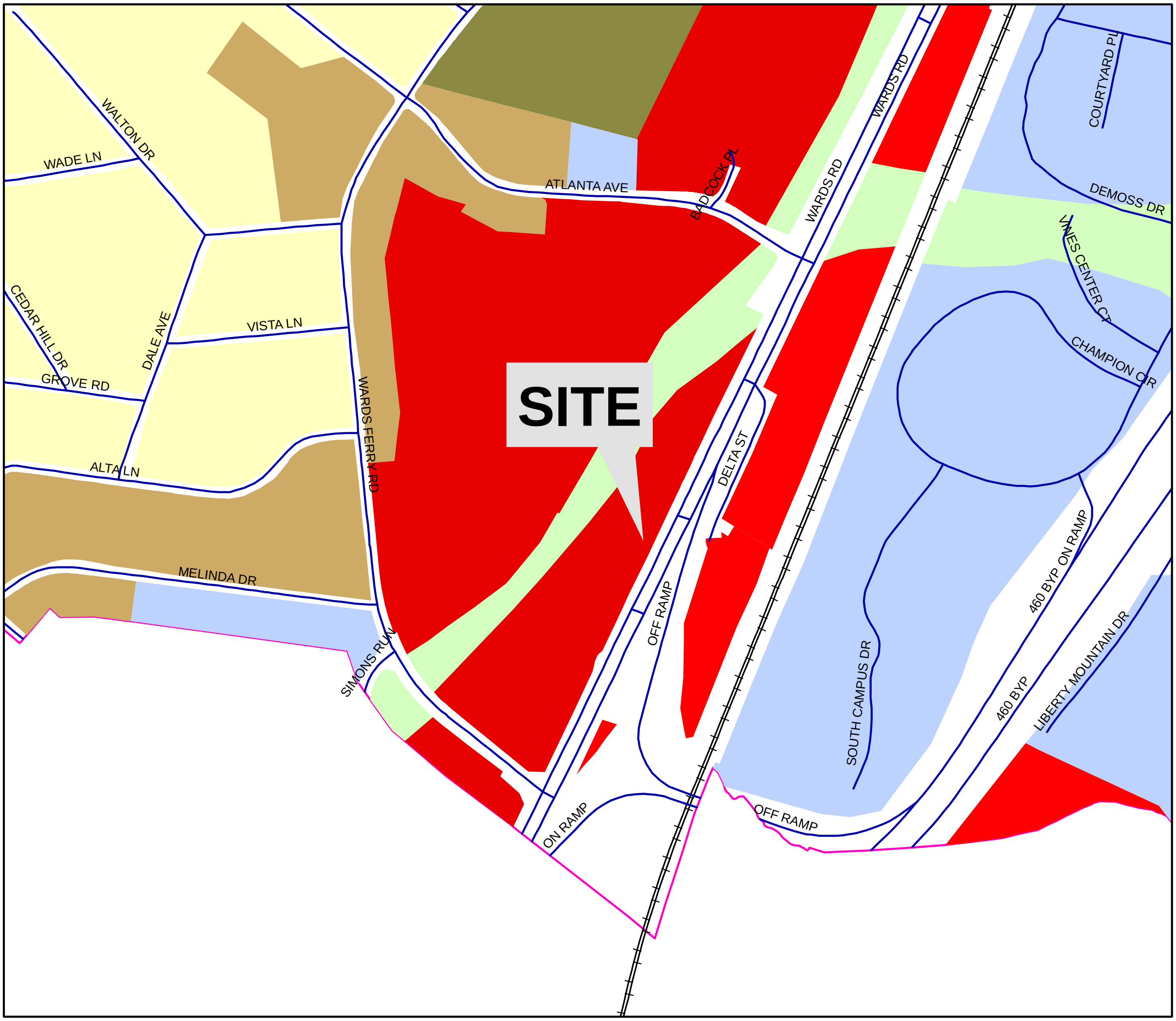
200 Foot Buffer

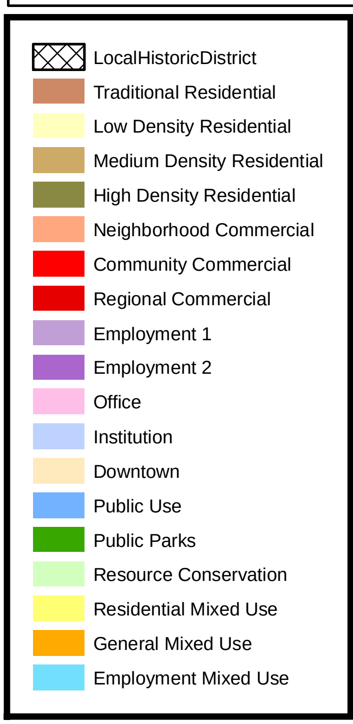




4010 Wards Road (GJJ of Lynchburg, LLC) Adjoining Property Owners

PIN	Owner	Local Address
26005003	ARCHLAND PROPERTY I LLC	4030 WARDS RD
25705006	DAYTON HUDSON CORPORATION C/O TARGET CORP TAX DEPT T1275	4028 WARDS RD
26005005	GJJ OF LYNCHBURG LLC	4010 WARDS RD
25705018	GMRI INC ATTN: PROPERTY TAX DEPT REST #0021615	4038 WARDS RD
26005001	LYNCHBURG RETAIL LLC	4018 WARDS RD
25705017	O'CHARLEY'S INC	4042 WARDS RD



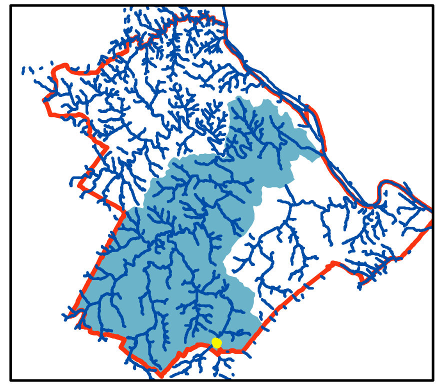


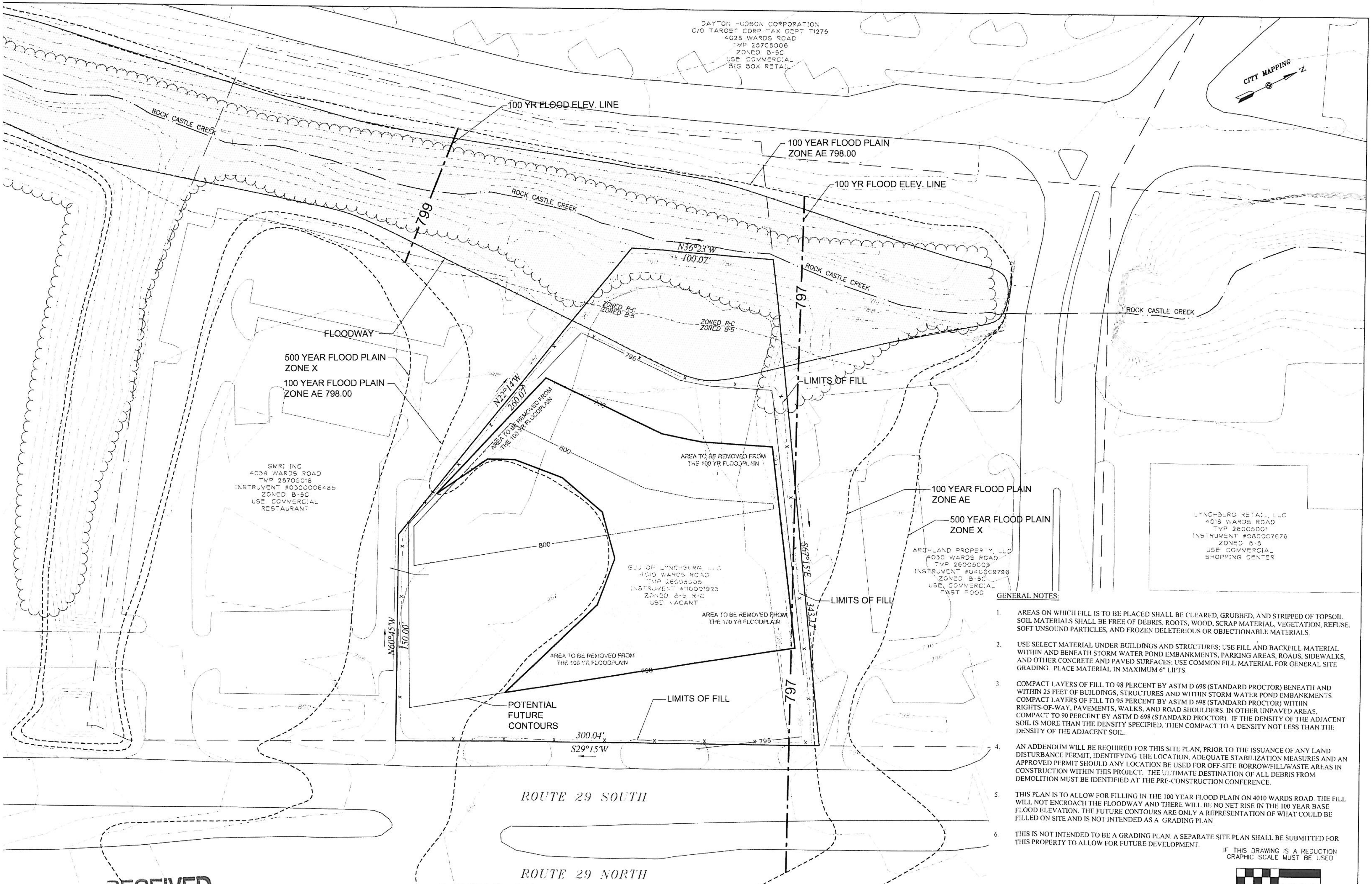
GJJ OF LYNCHBURG, LLC
CONDITIONAL USE PERMIT
4010 WARDS ROAD

GJJ of Lynchburg, LLC - Fill in the Floodplain

Watershed Location Map

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





GENERAL NOTES:

1. AREAS ON WHICH FILL IS TO BE PLACED SHALL BE CLEARED, GRUBBED, AND STRIPPED OF TOPSOIL. SOIL MATERIALS SHALL BE FREE OF DEBRIS, ROOTS, WOOD, SCRAP MATERIAL, VEGETATION, REFUSE, SOFT UNSOUND PARTICLES, AND FROZEN DELETERIOUS OR OBJECTIONABLE MATERIALS.

2. USE SELECT MATERIAL UNDER BUILDINGS AND STRUCTURES; USE FILL AND BACKFILL MATERIAL WITHIN AND BENEATH STORM WATER POND EMBANKMENTS, PARKING AREAS, ROADS, SIDEWALKS, AND OTHER CONCRETE AND PAVED SURFACES; USE COMMON FILL MATERIAL FOR GENERAL SITE GRADING. PLACE MATERIAL IN MAXIMUM 6" LIFTS.

3. COMPACT LAYERS OF FILL TO 98 PERCENT BY ASTM D 698 (STANDARD PROCTOR) BENEATH AND WITHIN 25 FEET OF BUILDINGS, STRUCTURES AND WITHIN STORM WATER POND EMBANKMENTS COMPACT LAYERS OF FILL TO 95 PERCENT BY ASTM D 698 (STANDARD PROCTOR) WITHIN RIGHTS-OF-WAY, PAVEMENTS, WALKS, AND ROAD SHOULDERS. IN OTHER UNPAVED AREAS, COMPACT TO 90 PERCENT BY ASTM D 698 (STANDARD PROCTOR). IF THE DENSITY OF THE ADJACENT SOIL IS MORE THAN THE DENSITY SPECIFIED, THEN COMPACT TO A DENSITY NOT LESS THAN THE DENSITY OF THE ADJACENT SOIL.

4. AN ADDENDUM WILL BE REQUIRED FOR THIS SITE PLAN, PRIOR TO THE ISSUANCE OF ANY LAND DISTURBANCE PERMIT, IDENTIFYING THE LOCATION, ADEQUATE STABILIZATION MEASURES AND AN APPROVED PERMIT SHOULD ANY LOCATION BE USED FOR OFF-SITE BORROW/FILL/WASTE AREAS IN CONSTRUCTION WITHIN THIS PROJECT. THE ULTIMATE DESTINATION OF ALL DEBRIS FROM DEMOLITION MUST BE IDENTIFIED AT THE PRE-CONSTRUCTION CONFERENCE.

5. THIS PLAN IS TO ALLOW FOR FILLING IN THE 100 YEAR FLOOD PLAIN ON 4010 WARDS ROAD. THE FILL WILL NOT ENCROACH THE FLOODWAY AND THERE WILL BE NO NET RISE IN THE 100 YEAR BASE FLOOD ELEVATION. THE FUTURE CONTOURS ARE ONLY A REPRESENTATION OF WHAT COULD BE FILLED ON SITE AND IS NOT INTENDED AS A GRADING PLAN.

6. THIS IS NOT INTENDED TO BE A GRADING PLAN. A SEPARATE SITE PLAN SHALL BE SUBMITTED FOR THIS PROPERTY TO ALLOW FOR FUTURE DEVELOPMENT.

RECEIVED
JUN 27 2011
COMMUNITY DEVELOPMENT

NO.	REVISION	BY	DATE
2	MADE CHANGES PER CITY COMMENTS DATED 6/20/2011.	TMP	6/27/2011
1	MADE CHANGES FOR FEMA SUBMITTAL	TJW	6/16/2011

COMMONWEALTH OF VIRGINIA
TRENT J. WARNER
Lic. No. 31204
6/27/11
PROFESSIONAL ENGINEER

WARNER ENGINEERING
WE move the project forward
15118 ENTERPRISE DRIVE
LYNCHBURG, VIRGINIA 24502
PHONE 434-582-5007 FAX 434-582-5008

DRAWN BY: TMP
DESIGNED BY: TJW
REVIEWED BY: TJW
PROJECT No. 11012.00
SCALE: GRAPHIC

PROJECT:
4010 WARDS ROAD
FILLING OF 100 YEAR FLOOD PLAIN
LYNCHBURG, VIRGINIA

TITLE:
SITE PLAN

DATE: REV 6-27-2011
5-27-11
DRAWING No. C1
SHEET NUMBER 1 OF 1

GLEN THOMAS WARDS ROAD SITE\LAYOUTS\11012C1.dwg


SALE or LEASE
DeWitt
1.9
ACRES
300' FRONTAGE
RANDY BUNTON
641-9999
07/07/2011

Conditional Use Permit

4010 Wards Road

July 13, 2011

PLEASE PRINT

NAME	ADDRESS	PHONE	IN FAVOR	IN OPPOSITION	NEUTRAL
TRENT WARNER	1511B ENTERPRISE DR	434-665 6979	✓		
	LYNCHBURG				

LYNCHBURG CITY COUNCIL
Agenda Item Summary

MEETING DATE: **August 9, 2011** AGENDA ITEM NO.: 14

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

ACTION: **X** INFORMATION:

ITEM TITLE: ***Future Land Use Map* (*FLUM*) Amendment – Low Density Residential to Office at 1001 Oakmont Circle**

Rezoning – R-1, Low Density Single Family Residential District to B-1C, Limited Business District (Conditional) at 1001 Oakmont Circle

RECOMMENDATION: Approval of the FLUM amendment and rezoning petitions.

SUMMARY: Mr. Chuck Rodgers, Wyndhurst Counseling Center, is petitioning to amend the *FLUM* from Low Density Residential use to Office use and to rezone the property from R-1, Low Density Single Family Residential District to B-1, Limited Business District (Conditional) to allow the use of an existing residence as a counseling center at 1001 Oakmont Circle. The Planning Commission recommended approval of the petitions because:

- The proposed FLUM amendment and rezoning would provide for additional office and small business options along Timberlake Road while providing an acceptable transition to the Low Density Residential areas along Oakmont Circle.
- The petition agrees with the *Zoning Ordinance* which permits office uses in a B-1, Limited Business District.

PRIOR ACTION(S):

July 13, 2011: Planning Division recommended approval (4-3) of the proposed *Future Land Use Map* (*FLUM*) Amendment.

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

Planning Commission recommended approval rezoning (4-3) petition with the following voluntarily submitted proffer:

1. The property will be developed in substantial compliance with the “Rezoning Plan for Parcel 254-05-002” prepared by Perkins and Orrison, dated 5/31/11 and revised 6/28/11.

FISCAL IMPACT: None

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

ATTACHMENT(S):
- Future Land Use Amendment Ordinance
- Rezoning Ordinance
- Planning Commission Report – July 13, 2011
- Planning Commission Minutes – July 13, 2011
- Vicinity Zoning Pattern
- Vicinity Land Use
- Watershed Location Map
- Site Plan
- Narrative
- Property Photograph
- Speaker Signup Sheet

REVIEWED BY: lkp

ORDINANCE

AN ORDINANCE AMENDING THE FUTURE LAND USE MAP FOR THE PROPERTY LOCATED AT 1001 OAKMONT CIRCLE FROM LOW DENSITY RESIDENTIAL TO OFFICE.

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

Section 35.1-76__. Amend the Future Land Use Map for the subject property at 1001 Oakmont Circle from Low Density Residential to Office.

The area embraced within the following boundaries…

Beginning at monument in the southwesterly line of Oakmont Circle at its intersection with Timberlake Road and thence along the said line of Oakmont Circle S. 61° 08' 18" E. 64.17 feet to a point; thence N. 48° 48' 42" E. 5.44 feet .; thence S. 41° 00' 00" E. 238.07 feet in the northeasterly line of lot 108; and thence leaving said line of Oakmont Circle S. 49° 00' 01" W. 218.93 feet; thence N. 41° 00' 00" W. 49.00 feet; thence S. 53° 05' 21" W. 3.84 feet; thence N. 35° 03' 00" W. 271.16 feet to I.P.S. in the southeasterly line of Timberlake Road; and thence along said line N. 56° 03' 13" east 168.39 feet to the point of beginning.

Containing 1.464 acres of land, more or less.

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

Adopted:

Certified: ______________________________
Clerk of Council

121L-1

ORDINANCE

AN ORDINANCE CHANGING A CERTAIN AREA LOCATED AT 1001 OAKMONT CIRCEL FROM R-1, LOW DENSITY SINGLE-FAMILY RESIDENTIAL DISTRICT TO B-1C, LIMITED BUSINESS DISTRICT (CONDITIONAL).

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

Section 35.1-76__. Change of a certain area located at 1001 Oakmont Circle from R-1, Low Density Single-Family Residential to B-1C, Limited Business District (Conditional).

The area embraced within the following boundaries…

Beginning at monument in the southwesterly line of Oakmont Circle at its intersection with Timberlake Road and thence along the said line of Oakmont Circle S. 61° 08' 18" E. 64.17 feet to a point; thence N. 48° 48' 42" E. 5.44 feet .; thence S. 41° 00' 00" E. 238.07 feet in the northeasterly line of lot 108; and thence leaving said line of Oakmont Circle S. 49° 00' 01" W. 218.93 feet; thence N. 41° 00' 00" W. 49.00 feet; thence S. 53° 05' 21" W. 3.84 feet; thence N. 35° 03' 00" W. 271.16 feet to I.P.S. in the southeasterly line of Timberlake Road; and thence along said line N. 56° 03' 13" east 168.39 feet to the point of beginning.

Containing 1.464 acres of land, more or less.

…is hereby changed from R-1, Low Density Singe-Family Residential District to B-1, Limited Business District (Conditional) subject to the condition set out herein below which were voluntarily proffered in writing by the owner, namely Chuck Rodgers, to wit:

1. The property will be developed in substantial compliance with the "Rezoning Plan for Parcel 254-05-002" prepared by Perkins and Orrison, dated 5/31/11 and revised 6/28/11.

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

Adopted:

Certified: ______________________________
Clerk of Council

121L-2

The Department of Community Development

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

To: Planning Commission
From: Planning Division
Date: July 13, 2011
Re: **Rezoning: R-1 to B-1C, 1001 Oakmont Circle – Wyndhurst Counseling Center**

I. PETITIONER

Mr. Chuck Rodgers, Wyndhurst Counseling Center, 100 B, Archway Ct., Lynchburg, VA 24502
Representative: Mr. Norman Walton, P.E., Perkins & Orrison, Inc., 27 Greenhill Dr., Forest, VA 24551

II. LOCATION

The subject property includes one (1) tract totaling approximately one and one-half (1.5) acres at 1001 Oakmont Circle.
Property Owners: William H. & Nancy E. Davis, 1001 Oakmont Circle, Lynchburg, VA, 24502

III. PURPOSE

The purpose of this petition is to allow the use of the existing building as a counseling office or other uses allowed in a B-1, Limited Business District.

IV. SUMMARY

- Petition proposes to amend the *Comprehensive Plan 2002-2020's* Future Land Use Map (*FLUM*) from Low Density Residential to Office
- Petition agrees with the *Zoning Ordinance* which permits office uses in B-1, Limited Business District.

The Planning Division recommends approval of the *Future Land Use Map* amendment and rezoning petition.

V. FINDINGS OF FACT

1. **Comprehensive Plan.** The *Comprehensive Plan 2002-2020* recommends a Low Density Residential use for the property. "Low Density Residential (page 5.5) areas are dominated by single-family detached housing at densities of up to four (4) dwelling units per acre. In addition to residential uses they may include public and institutional uses compatible in scale with single-family residential homes". The petitioner is requesting an amendment of the *FLUM* to provide for an office use. "Office (page 5.4) uses are … intended for small-scale office buildings with building floorplates not exceeding twenty thousand (20,000) square feet and building heights not exceeding four (4) stories. Such offices provide adequate space for professional and service uses, such as medical, legal, insurance, real estate, engineering, architectural, software development, and information management uses. Office uses are generally located in lower density areas of the City, often adjacent to low density residential areas, and therefore are intended to be more compatible in scale with single-family homes than the urban office uses of downtown or the office parks of employment areas".

The proposed *FLUM* amendment and B-1C, Limited Business District (Conditional) zoning would permit the use of the property as a counseling office or other uses permitted by right in a B-1, Limited Business District. Adjacent land uses are designated Low Density Residential, Office, Community Commercial and Institutional on the *FLUM*. The property is located across Timberlake Road from Timberlake Station Shopping Center and is adjacent to residential uses along the southern (rear) property line, and office uses to the east and west. A similar *FLUM* amendment was approved by Council for the property located across Oakmont Circle (7626 Timberlake Road) on November 9, 2010.

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.
3. **Proffers.** The petitioner has voluntarily submitted the following proffer:

- The property will be developed in substantial compliance with the "Rezoning Plan for Parcel 254-05-002" prepared by Perkins and Orrison, dated 5/31/11 and revised 6/28/11.

While the submitted proffer only references substantial compliance with the site plan, notes contained on the plan adequately address concerns of staff.

Section 35.1-43.1(b) of the Zoning Ordinance states "The owner of the property which is the subject of a rezoning request shall, if he or she elects to obtain conditional zoning, voluntarily proffer in writing such conditions as he or she deems appropriate at the time of filing an application to rezone the property or by such later date as the commission shall establish in its rules and regulations; but in any event before the planning commission makes its recommendation to city council.

In the event that additions thereto or modifications thereof are desired by the owner of the property which is the subject of the rezoning request the same shall be made in writing no less than twenty-one (21) days prior to the time at which the planning commission makes recommendation to city council unless the commission:

(1) Specifically waives such time period; or

(2) Specifically establishes such greater or lesser time period as it deems reasonable".

The proffer was received by the Planning Division on June 27, 2001. A waiver to the twenty-one (21) day submittal requirement will need to be considered by the Planning Commission.

4. **Board of Zoning Appeals (BZA).** The Zoning Official has determined that no variances would be needed for the development of the property as proposed.
5. **Surrounding Area.** There have been several items requiring City Council approval in the immediate area:

- On November 9, 2010, Council approved the petition of Dr. Jeffrey Widmeyer for a *FLUM* amendment from Low Density Residential to Office and a rezoning from R-1, Low Density Single-Family Residential to B-1C, Limited Business District (Conditional) to allow the use of an existing building at 7626 Timberlake Road as medical offices.

- On July 13, 2010, Council approved the petition of Brookes Brothers, LLC for a conditional use permit (CUP) to allow a comprehensive sign plan in a B-1, Limited Business District at 7802 Timberlake Road.
- On April 9, 2002, Council approved the petition of Lynchburg Computer Systems, Inc. to rezone approximately forty-seven hundredths (0.47) of an acre from B-1, Limited Business District to B-3C, Community Business District (Conditional) to allow the use of an existing building for sale and repair of computers at 7605 Timberlake Road.
- On February 13, 2001, Council approved the petition of Medallion Home's CUP to allow the construction of a Planned Unit Development for eighty-eight (88) single-family homes in an R-1, Low Density Single-Family Residential District at 305 and 325 Old Graves Mill Road.
- On December 13, 1994, Council approved the petition of The Michael C. Phillips Company to rezone approximately two (2) acres from R-2, Low-Medium Density, Single-Family Residential District to B-3, Community Business District to allow the construction and operation of a grocery store at the end of Quail Lane.
- On November 12, 1991, Council approved the petition of National Business College for a CUP to allow the use of an existing building as a business college in an B-3, Community Business District at 104 Candlewood Court.
- On February 14,1989, Council approved the rezoning of property along Timberlake Road from B-3C, Community Business District (Conditional), I-I, Restricted Industrial District, B-2, Local Neighborhood Business District, R-2, Low-Medium Density Single-Family Residential District, and R-3, Medium Density Two-Family Residential District to B-3, Community Business District, as part of the Timberlake Road Corridor Study.
- On September 13, 1988, Council approved the petition of The Corley Company, Inc. to rezone approximately sixty-four (64) acres from R-l, Low Density Single-Family Residential District to R-2, Low-Medium Density Single-Family Residential District to allow the subdivision and residential development of the property at 412 Old Graves Mil Road.
- On April12, 1988, Council approved the petition of Emmett K. and Hazel H Simpson to rezone approximately three (3) acres from R-1, Low Density Single-Family Residential District to R-4, Medium-High Density Multi-Family Residential District to allow the construction of a thirty(32)-unit townhouse development at 203 Timbrook Place.
- On May 13, 1986, Council approved the petition of First Southern Methodist Church for a CUP to allow the construction of a pavilion, a softball field and a new sign for an existing church in an R-l, Low Density Single-Family Residential District at 7808 Timberlake Road.
- On May 25, 1980, Council approved the petition of the City of Lynchburg for a CUP to allow the construction of a fire station in an R-l, Low Density Single-Family Residential District at 213 Old Graves Mill Road.
- On July 10, 1979, Council approved the petition of George Fralin, Jr. for a CUP to allow the operation of a family billiard center in a B-3, Community Business District at 7705 Timberlake Road.
- On May 22, 1979, Council amended the Official Zoning Map of the City of Lynchburg to effect the rezoning of the Timberlake Road area as shown by the map "Timberlake Road

Study, Proposed Zoning, Recommended by the Planning Commission, and Further Revised by City Council May 22, 1979."

- On March 8, 1979, petitioner].L. Mosby, Jr. withdrew his petition for a CUP to allow the construction of offices and a convenience store in an R-l, Low Density Single-Family Residential District at 7802 Timberlake Road.

6. **Site Description.** The subject property includes a single-family home and is bound to the north by commercial businesses, and institutional uses, to the east and west by office uses and to the south by single-family homes.

7. **Proposed Use of Property.** The purpose of this petition is to allow the use of the existing building as a counseling center office or other uses permitted by right in a B-1, Limited Business District. The property is currently served by public water and a private septic system.

   The proposal would include the installation of a four (4) space paved parking area to the north of the existing building and a three (3) space gravel parking area to the south of the existing building. Landscaping would comply will all requirements of the City's *Zoning Ordinance.*

8. **Traffic, Parking and Public Transit.** The vehicle trip threshold for the existing and proposed uses is less than the five hundred (500) daily trips and the fifty (50) peak hour trips that would warrant a traffic study. The City Engineer noted that the existing driveway would need to be updated to the City standard for commercial entrances. The submitted site plan indicates that the driveway will be upgraded City standards for one-way traffic and the drive will be widened to twelve (12) feet in width.

   Parking requirements are established by the City's *Zoning Ordinance* and include two (2) spaces per one thousand (1,000) square feet of gross floor area plus one (1) per three (3) employees on duty at any one time. The submitted site plan indicates that a total of three thousand (3000) square feet of the building will be used for office space and a total of five (5) employees will be on staff at any one time. A total of seven (7) spaces will be provided to satisfy ordinance requirements.

   The property is served by Greater Lynchburg Transit Company's Route 6 with the closest stop located at the Social Security Administration east of the subject property.

9. **Stormwater Management.** The construction of the proposed parking areas and driveway widening would result in an increase of approximately four thousand seven hundred and seventy (4770) square feet of new impervious area. The City's *Stormwater Management* Ordinance provides that projects with new impervious cover between one thousand (1000) and five thousand (5000) square feet may mitigate stormwater runoff with landscaping, as long as runoff from the site is discharged into an adequate receiving channel. The submitted site plan indicates that the receiving channel is adequate to handle the increase in stormwater runoff.

10. **Emergency Services.** The City's Fire Marshal and Police Department had no concerns regarding the proposed use of the property.

11. **Impact.** The proposed use of the existing building as an office would have limited impact on the surrounding area. The development would require minimal disturbance to install the proposed parking areas and commercial entrances. The proposed FLUM amendment and rezoning would provide for additional office and small business options along Timberlake Road while providing an acceptable transition to the low density residential areas along Oakmont Circle.

12. **Technical Review Committee.** The Technical Review Committee (TRC) reviewed the preliminary site plan on June 14, 2011. Comments related to the proposed use were minor in nature and have or will be addressed by the petitioner prior to final site plan approval.

VI. PLANNING DIVISION RECOMMENDATION

Based on the preceding Findings of Fact, the Planning Commission recommends to City Council approval of the petition of Chuck Rodgers, Wyndhurst Counseling Center to amend the Future Land Use Map for approximately one and one half (1.5) acres at 1001 Oakmont Circle from Low Density Residential use to Office Use.

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

Based on the preceding Findings of Fact, the Planning Commission recommends to City Council approval of Chuck Rodgers, Wyndhurst Counseling Center petition to rezone approximately one and one half (1.5) acres at 1001 Oakmont Circle from R-1, Low Density Single-Family Residential District to B-1C, Limited Business District (Conditional) subject to the voluntarily submitted proffer.

This matter is respectfully offered for your consideration.

William T. Martin

William T. Martin, AICP
City Planner

pc: Mr. L. Kimball Payne, III, City Manager
Ms. Bonnie M. Svrcek, Deputy City Manager
Mr. Walter C. Erwin, City Attorney
Mr. Kent L. White, Director of Community Development
Mr. J. Lee Newland, City Engineer
Ms. Cynthia Kozerow, Lynchburg Police Department
Battalion Chief Greg Wormser, Fire Marshal
Mr. Doug Saunders, Building Commissioner
Mr. Robert Fowler, Zoning Administrator
Ms. Erin Hawkins, Environmental Reviewer
Mr. Chuck Rodgers, Wyndhurst Counseling Center
Mr. Norm Walton, Representative, Perkins and Orrison, Inc.

VII. ATTACHMENTS

1. **Vicinity Zoning Pattern**
2. **Vicinity Proposed Land Use**
3. **Watershed Location Map**
4. **Rezoning Plan**
5. **FLUM Narrative**
6. **Rezoning Narrative**
7. **Proffer**
8. **Photo**

MINUTES FROM THE JULY 13, 2011 PLANNING COMMISSION MEETING (MINUTES HAVE BEEN APPROVED):

a. Petition of Wyndhurst Counseling Center to amend the Future Land Use Map (FLUM) from Low Density Residential to Office and to rezone approximately one and one-half (1.5) acres from R-1, Low Density Residential District to B-1, Limited Business District (Conditional) at 1001 Oakmont Circle to allow the use of the property for office uses.

Mr. Henry had the following comments for the commissioners. The subject property is located at the intersection of Oakmont Circle and Timberlake Road. The rezoning would allow the existing building to be used as an office. The existing R-1 zoning was established in 1978. Several properties in the vicinity of the property along Timberlake Road are zoned commercially. The *Comprehensive Plan* recommends low density residential uses in this area. The petitioner is requesting an amendment to the *Future Land Use Map (FLUM)* to use the property for office use. Office uses are intended for small scale offices not to exceed 20,000 square feet and building heights not exceeding four stories. Office uses are generally located in lower density areas often adjacent to low density residential areas. Offices uses are intended to be more compatible in scale with single-family homes than urban office uses or downtown uses.

A similar *FLUM* amendment was approved by City Council for a property located across from this property, 7626 Timberlake Road, in 2010. The vehicle threshold for the proposed use is less than the 500 daily and 50 peak hour trips that would warrant a traffic study. The driveway will be upgraded to City standards for one-way traffic and twelve feet in width. This project will be able to mitigate storm water runoff with landscaping. There is an adequate receiving channel for the additional runoff that will be caused by the new impervious area.

The proposed use of the property as an office would have limited impact on the surrounding area. The development would require minimal disturbance during construction. The proposed *FLUM* amendment would allow more office and small business options along Timberlake Road while providing an acceptable transition to the low density residential areas along Oakmont Circle. Staff recommends approval of both the *FLUM* amendment and the rezoning petitions.

Mr. Norm Walton of Perkins and Orrison and Mr. Chuck Rodgers of the Wyndhurst Counseling Center came forward to represent the petition. The rezoning would allow the Wyndhurst Counseling Center to relocate to this location. The development plan is to keep the residential feel to this property. There will be minimal improvements to the exterior so that it will remain looking like a house. The counseling center will not generate a tremendous amount of traffic. The petitioner feels this use will have a minimal impact on the surrounding neighborhood and will provide a good transition from the commercial uses on Timberlake Road to the residential neighborhood.

Mr. Rodgers explained that his counseling center provides services to both children and adults, including marriage counseling. The center's goal is to provide people with better stability in their homes.

There were no others to speak in favor of the petition. Chair Hamilton asked for anyone who wished to speak in opposition to the petition. Mrs. Vanessa Holloway of 1010 Oakmont Circle came forward. She is opposed to this rezoning petition because the property is on Oakmont Circle as opposed to Timberlake Road. She has lived in her home for 33 years and feels that every time she looks over her shoulder something is being thrown at them that they know nothing about. She mentioned the apartments behind her being put up without notification and she was out of town when the Widmeyer rezoning went through. She mentioned that there is already work being done on 1001 Oakmont Circle, so she assumes the property has already been sold.

Mr. Martin Davis of 1038 Oakmont Circle came forward to speak in opposition to the petition. He has lived there for over 30 years. He is concerned with how much of a traffic increase there will be from this development.

Mr. Walton and Mr. Rodgers came back up to address these concerns. Mr. Walton explained that the property has not been purchased yet but is under contract. The work that is being done on the property is the removal of an underground fuel tank. That is part of the contingency process of purchasing the property. Mr. Walton pointed out that the property does front two streets, one of which is Timberlake Road. The marketing of this property is geared more toward commercial uses than residential. In Mr. Walton's opinion, the farther you go down Oakmont Circle, the less desirable the properties would be for commercial use because they would not front Timberlake Road.

Mr. Rodgers explained that he did go out and speak with some of the property owners in the neighborhood. He went out on two different Saturdays to speak with neighbors and answer any questions they might have. He spoke with the Holloways. He acknowledged that Mrs. Holloway was very pointed and very afraid that commercial uses will continue down Oakmont Circle. The neighbor next door to 1001 Oakmont Circle was very favorable to his being there and very grateful that he was coming to the property. They saw it as a protection for the neighborhood from a larger, more intensive commercial use that might come to the property. Other neighbors that Mr. Rodgers spoke with were very grateful that he was coming to the property as well.

Mrs. Holloway acknowledged that Mr. Rodgers had answered many of her questions the day he visited with her. Her concern is that she sees things cropping up around her. She is concerned with her property value and whether or not her taxes would go up.

Chair Hamilton closed the public hearing portion of the petition.

Commissioner Sale noted that this piece of property is the only piece of R-1 property left in the immediate area that fronts Timberlake Road. Commissioner Sale asked what effect this rezoning might have on taxes when a commercial property is adjacent to a residential property. Mr. Henry was not sure and thought that was more of a question for the assessor. Chair Hamilton pointed out that they are not allowed to take the issue of taxes or other financial matters into consideration when making their recommendation. Chair Hamilton noted that Mrs. Holloway's property is set back pretty far from Timberlake Road and its commercial uses.

Chair Hamilton asked Mr. Henry to explain the traffic flow. He indicated that the site plan shows a one way ingress/egress. The traffic enters near Timberlake Road and exits farther down Oakmont Circle. It is very similar to the traffic flow on Dr. Widmeyer's property across the street. Chair Hamilton asked how much traffic the office will generate. Mr. Walton would estimate no more than eight vehicles an hour. There may be a few vehicles in the evening hours.

Commissioner Coleman commented that he appreciated the way in which Mr. Rodgers went out to visit the neighbors. He asked if he had spoken with Mr. Davis and Mr. Rodgers said he had not. Commissioner Coleman said that initially he was for this rezoning but now he does not feel that any of Mrs. Holloway's questions are being addressed other than with speculation.

Chair Hamilton said they certainly need to address the traffic issue but the mix of commercial and residential use is pretty much laid out in the *FLUM.* She thought that the citizens had seen the properties that front Timberlake Road as being developed commercially. Commissioner Swienton commented that he would disagree. There are noncommercial properties located between Oakmont Circle and Heritage High School that are designated as either medium or high density residential. Two of the petitions brought before the Planning Commission were for PEDCOR and Legacy at Linden Park. Chair Hamilton acknowledged Commissioner Swienton's point but still thought the *FLUM* was suggesting that in this area there was not so much of a market for low density residential.

Commissioner Hannon asked Mr. Rodgers what the hours of operation will be. The first appointment will be at 9:00 a.m. and there will be a few appointments in the evening. On occasion, there may be a Saturday appointment. It is theoretically possible that there could be an emergency appointment on a Sunday but he cannot remember any time that has been done. Commissioner Hannon asked if they had any plans to do group counseling. Mr. Rodgers said that was possible in the future. They have not done so yet. A group counseling session would typically be between four to eight people.

Commissioner Hooper asked the neighbors if they had seen an increase in traffic since Dr. Widmeyer's office went in across the street. Mr. Davis said there has been a significant increase. He said you can access Oakmont Circle from the back side through the Windsor Hills neighborhood. More people are using it as a cut through since the doctor's office opened. Mrs. Holloway said that a lot of people get confused and come down Oakmont Circle instead of turning into the Social Security office. Chair Hamilton asked if staff had obtained any traffic accident data from this area. Mr. Henry said staff did not. Mr. Davis said there are a lot of elderly people that live on Oakmont Circle and they do a lot of walking throughout the day. He is concerned for their safety because there will undoubtedly be an increase in traffic from this development.

Commissioner Swienton asked if a bigger building could be put on this property if the counseling center moved out. Mr. Henry explained that this is a conditional zoning and one of the proffers is that this will be developed in substantial compliance with the site plan. The proffers stay with the property in the event that it is ever sold. If someone wanted to change the site plan substantially, it would have to go through another public hearing process.

Commissioner Hannon asked why access could not be put in from Timberlake Road. Mr. Henry said it has to do with good access management. There are already many driveway entrances on Timberlake Road and it is considered safer to access from Oakmont Circle. Mr. Walton said that is correct. Following VDOT and City policy, if there is a side street with ample length, it is preferable to use it. If they were to try to put in access off Timberlake Road, they would have to put in tapers and turn lanes. Commissioner Hannon noted that you would have to slow down either way. Mr. Walton said the confusion would be that if someone has a signal on to turn into this property off Timberlake Road, the driver could assume the car was turning into Oakmont Circle and not slow down enough. Mr. Walton thinks that is the thought process of VDOT now. Commissioner Hannon noted that there is 170 feet of road frontage and that is plenty of room for a driveway. Mr. Walton explained that although this street is a City street, the City typically follows VDOT policies. There are maintenance funds and other monies that come from VDOT back to the City, so the City almost becomes handcuffed to follow VDOT policy.

Commissioner Hannon said that his problem is that there is almost a mirror image of the access across the street. They did not know this rezoning was coming up and they approved that rezoning. Commissioner Hannon asked if there is a process to go to the City and ask for a waiver from the normal standard. If this property was properly shielded and people were coming in and out off Timberlake Road, it would seem to him that would alleviate many of the concerns of the residents. Mr. Walton said that would be a decision of the City Engineer.

Commissioner Coleman recommended that this matter be tabled until these traffic considerations could be determined. He is having a serious problem with recognizing that the *FLUM* recommends limited business activity in that area but wants them to do everything they can to mitigate the residents' concerns before they act.

Commissioner Hannon noted that he does not have a problem approving this rezoning because he thinks this will be commercial property sooner or later. He does have a problem with a traffic policy that as a matter of course puts commercial traffic on to a residential street. Commissioner Hannon said that this rezoning along with the Widmeyer rezoning a few months ago will completely change the entrance to this subdivision. He can very well understand the concerns of the citizens in the neighborhood. He would like to know more specifically why access cannot be off Timberlake Road.

Mr. Henry pointed out that this property is within the Commercial Corridor Overlay District. There are some established codes for why there is not access directly off Timberlake Road. Chair Hamilton asked Mr. Rodgers if tabling this matter would impact him. Mr. Rodgers said it would impact him significantly because he needs to be out of his facility soon.

Commissioner Hooper noted that when he visited the site he had passed Oakmont Circle before he knew it and had to make a u-turn. He thought that another driveway entrance might pose a greater safety hazard.

Mr. Henry noted that the code says that the access shall be aligned with existing crossover or as directed by the Technical Review Committee. Another point is that there must be a minimum spacing of 250 feet maintained between entranceways. Chair Hamilton noted that when they redid the Transportation chapter of the *Comprehensive Plan* recently, the commission had said that access management was something they wanted the City to be moving toward.

Commissioner Barnes remarked that he is in support of this petition for a number of reasons. One is that the *FLUM* clearly indicates that the corridor along Timberlake Road is mostly offices and high density residential and commercial. This is the last R-1 property on Timberlake Road. Given that it is likely to be commercial at some point in the future, a counseling center is one of the lowest impact uses you could put there. He thinks that if there is a fear that the commercial properties will creep back into the neighborhood, he would be opposed to rezoning any properties to the rear of this property.

Commissioner Hannon asked Mr. Hannon about the little jog that sort of goes to the left up by the entrance on the site plan. Mr. Walton said that is the shape of the right-of-way. Commissioner Hannon asked if there was any way traffic could come in and out of the property there or is that too close to Timberlake Road. Mr. Walton thought that would be too close to Timberlake Road but he is speculating.

Commissioner Hannon said these are always the difficult cases when you have a last piece of property like this. It is never going to be a McDonald's or a Sheetz because of the access difficulty. But you also have a settled community and the whole entrance to their community is now changed by virtue of these up zonings. If he had known this was coming, he would have looked more closely at the rezoning across the street.

Commissioner Swienton remarked that Mr. Henry was making reference to 250 feet. When you go to the corner of Dreaming Creek and Timberlake Road where the dentist office is located, there is access off both Timberlake Road and Dreaming Creek and there is clearly not 250 feet of road frontage. That tells him that it is possible. Commissioner Swienton would have liked to have seen this as a conditional use permit petition so that they could get more into conditions and recommendations that they would like to place on this.

Chair Hamilton indicated that they could certainly vote on this petition today but she asked Mr. Walton and Mr. Rodgers if any of these things are things they might want to take back and consider. Mr. Walton said that the time frame really restricts the petitioner. This has gone through the Technical Review Committee process and the petitioner has agreed to improve the existing ingress/egress to City standards. There were no negative comments from the City Engineer. Mr. Walton does not believe that City staff will allow them to have access off Timberlake Road.

Mr. Lee Newland, the acting Traffic Engineer, came in to try and answer the commission's questions. Mr. Newland said that the first thing he would say is because of access management. Timberlake Road is already stressed at certain times and in certain areas. By keeping the access points limited, it helps the flow of traffic. He also believes that it is also in the Commercial Corridor Overlay District, which says that we try not to have access off of Timberlake Road.

Commissioner Hannon said he did not hear that it is forbidden, just not preferable. It is also preferable to maintain the quality of life for people in the neighborhood. He is trying to realize the highest and best use for this parcel. If that involves some engineering that brings the traffic in off Timberlake Road, it would seem to him that would be advantageous for everyone involved. Mr. Newland said that he has not looked at it to see what impact that would have on Timberlake Road. That is not the way it was presented. Commissioner Hannon said he is just trying to find out if it is possible or impossible. Commissioner Barnes and Mr. Newland both noted that even if the entrance is off Timberlake Road, the traffic will still have to exit on to Oakmont Circle.

Chair Hamilton asked why Mr. Newland thinks access management is the right or wrong way to go. He said that he would not recommend access off Timberlake Road because it is on a corner with access to a side street. It would not meet the standards to which we try to adhere.

Chair Hamilton called on Mr. Davis to give his input. Mr. Davis said if you use the Oakmont Circle entrance to turn off Timberlake Road, the entrance is less than thirty yards. If you combine that with the entrance of residents going to Timberlake Road, it is going to create an added traffic flow and could back up traffic on to Timberlake Road because of the two entrances there together.

Commissioner Hooper asked if Oakmont Circle could be signed for local traffic only. Mr. Newland said it could be done but it is not enforceable.

Mr. Kent White came up to address the commissioners. He had found the section of the code that addresses the access issue. Direct access off Timberlake Road is prohibited. In the Commercial Corridor Overlay District, you have to have 250 feet of frontage along Timberlake Road. If you do not, then you have two options. One is to get a 50 percent reduction in the frontage if you either share the direct access on to Timberlake Road with an adjacent lot or have a provision that no direct access to Timberlake Road is provided. For this property to have access to Timberlake Road within this corridor because of the frontage requirement, they would have to share a driveway with the adjacent lot.

Commissioner Barnes made a motion to accept the rezoning with submitted proffer. The motion was seconded by Commissioner Sale.

Commissioner Barnes feels that this property will become commercial at some point in the future, this use will have minimal impact to the neighborhood. He does not think that it will cause a domino effect for other commercial development in the neighborhood and he would certainly oppose that if it did come before them.

Commissioner Sale is in favor of the request because it will maintain a residential presence and that would be highly advantageous for the Oakmont Circle neighborhood. In terms of the traffic, he would be opposed to an entrance off Timberlake Road. He does not that is safe or achieves the level of low impact that is being proposed. The number of cars and the regularity of the use is not, in his opinion, an encumbrance on the neighborhood. He does not know how you can stop the cut through from Windsor Hills. He understands the neighbors' concerns but having tasteful and useful commercial property on to the residential street is, in fact, a buffer rather than an encumbrance, in his opinion. He thinks it would be a protection to the neighbors to have these two proffered properties on each corner that are maintaining a residential ambience.

Commissioner Swienton had abstained from the Widmeyer rezoning petition. When looking at the *Comprehensive Plan,* what jumped out at him was that these two pieces of property had been designated as low impact residential. He discovered that the age of the house is 1954, as well as many of the other houses on Oakmont Circle. He interprets that as this being an older, established neighborhood. He also looked at whether this is a Timberlake Road property or an Oakmont Circle property. To him, it is an Oakmont Circle property that happens to adjoin Timberlake Road. He believes it would be a positive for the business to do some exterior and interior modifications. The tie breaker for him was that if he were buying another house in the City, he would look at what is the zoning and what is the zoning around the property and how does that compare to the *Comprehensive Plan.* He believes that the R-1 zoning should be honored.

Commissioner Hooper commented that he appreciates the traffic concern and the safety concern. He does think that the property is obviously going to be commercial at some point. Commissioner Hooper feels that the traffic that will be generated by this office use is minimal. He would like to see the City put up some signage for local traffic only. He thinks that access off Oakmont Circle is the safer alternative for the majority.

Commissioner Coleman said he would be voting against this because of his concern for the stability of the neighborhood. He is concerned with how we go about making sure that persons who have made that level of investment are sensitive to and aware of what is going on around them. He is still not convinced that all of the neighbors' questions have been answered.

Commissioner Hannon agreed with Commissioner Swienton's analysis. Had he known that we were going to see a mirror image of the doctor's office across the street, he would have had very serious reservations. Although this property fronts Timberlake Road, if it cannot have access off Timberlake Road, that means this is an Oakmont Circle property. It does not make sense to him to have commercial traffic put on to a residential street and is not an adequate solution.

Chair Hamilton said she is voting for this petition. The *FLUM* was never meant to be parcel specific. She does not think that the *FLUM* was designed for there to be R-1 property that front Timberlake Road. This use, as well as the doctor's office across the street, are extraordinarily good uses, some of the best you could hope for when the property changes to commercial.

Mr. Henry pointed out that the *FLUM* amendment needs to be made first. Commissioner Barnes made the following motion, which was seconded by Commissioner Sale, and passed by the following vote:

"That the Planning Commission recommends to City Council approval of the petition of Chuck Rodgers, Wyndhurst Counseling Center to amend the Future Land Use Map for approximately one and one half (1.5) acres at 1001 Oakmont Circle from Low Density Residential use to Office Use."

AYES:	Barnes, Hamilton, Hooper and Sale	4
NOES:	Coleman, Hannon and Swienton	3
ABSTENTIONS:		0
ABSENT:		0

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

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

AYES:	Barnes, Coleman, Hamilton, Hannon, Hooper, Sale and Swienton	7
NOES:		0
ABSTENTIONS:		0
ABSENT:		0

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

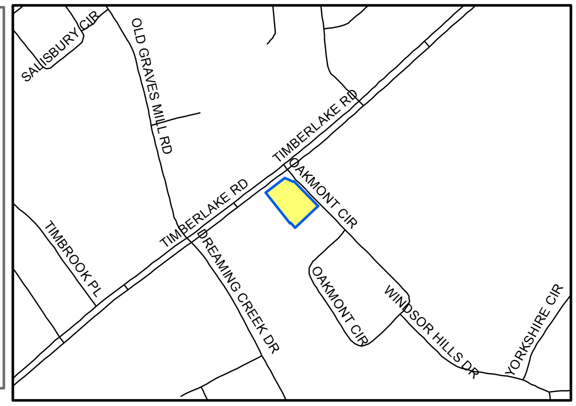
"That the Planning Commission recommends to City Council approval of Chuck Rodgers, Wyndhurst Counseling Center petition to rezone approximately one and one half (1.5) acres at 1001 Oakmont Circle from R-1, Low Density Single-Family Residential District to B-1C, Limited Business District (Conditional) subject to the voluntarily submitted proffer."

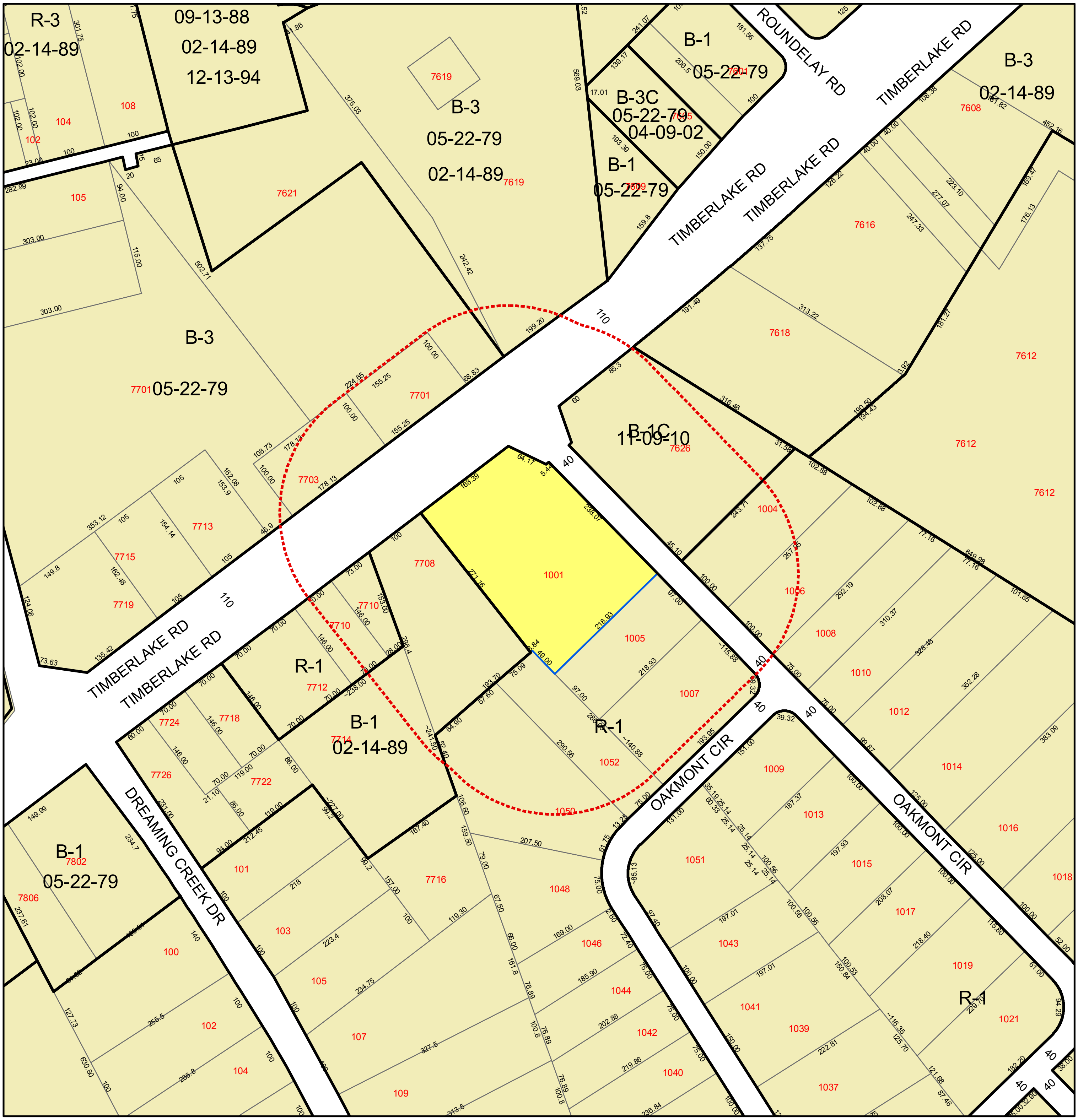
AYES:	Barnes, Hamilton, Hooper and Sale	4
NOES:	Coleman, Hannon and Swienton	3
ABSTENTIONS:		0
ABSENT:		0

1001 OAKMONT CIRCLE
REZONING R-1 TO B-1C
PETITIONER: WYNDHURST COUNSELING CENTER

Subject Property

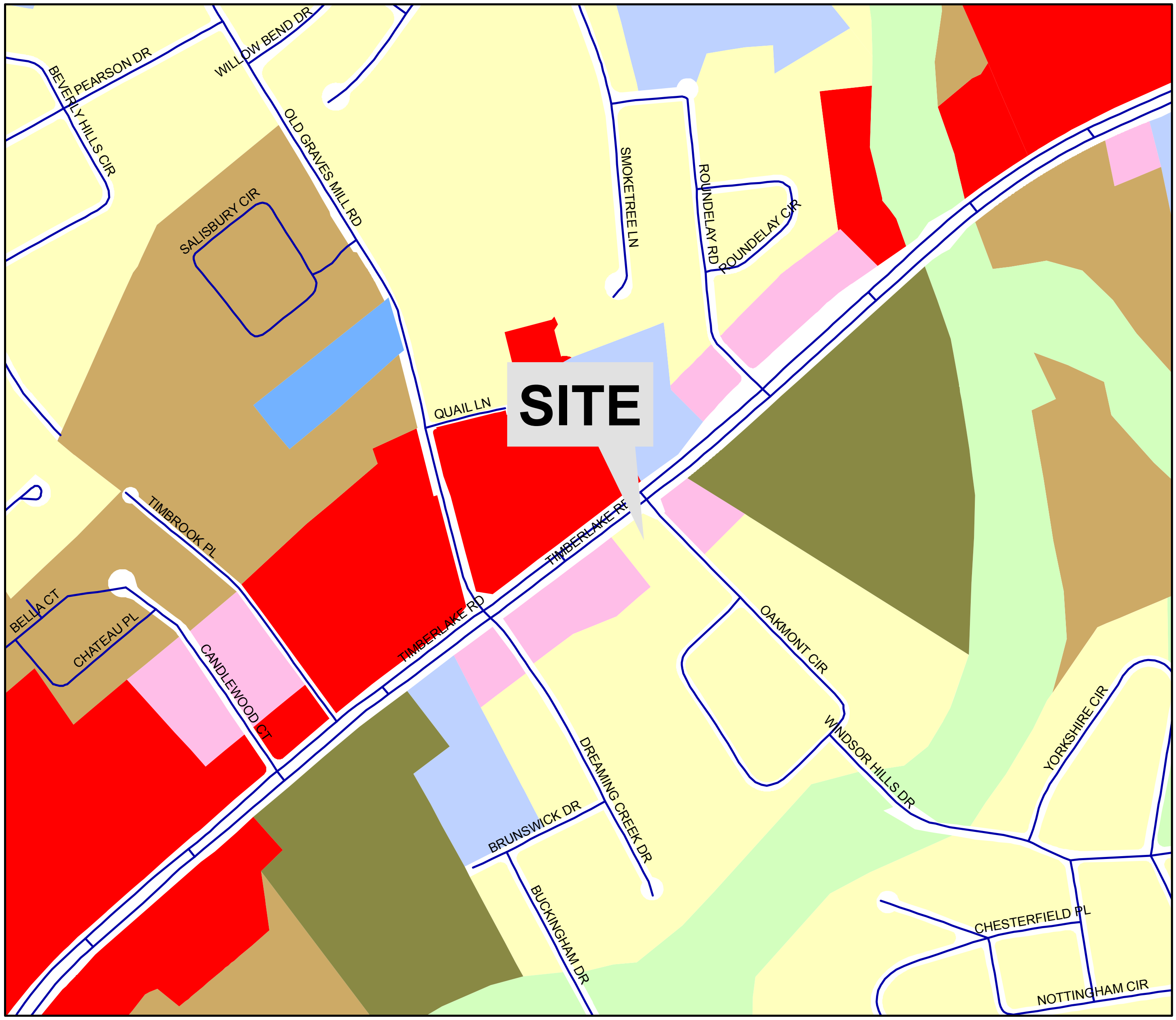
200 Foot Buffer

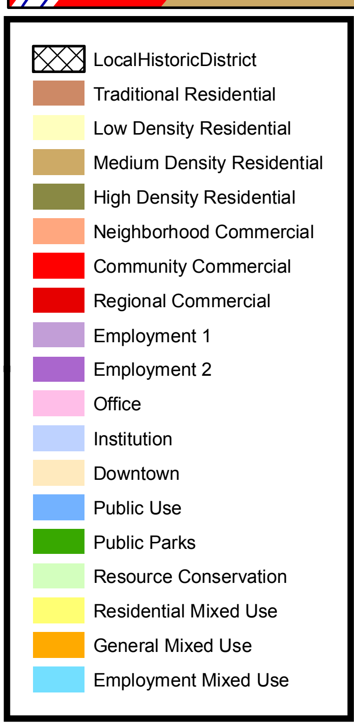




Wyndhurst Counseling Center (1001 Oakmont Circle) Adjoining Property Owners

PIN	Owner	Local Address
25405001	ADAMS INVESTMENT PROPERTIES LLC	7708 TIMBERLAKE RD
25403002	BARBARA G SHEFFIELD	1004 OAKMONT CIR
25405003	CLAUDE D & PATRICIA CHILDRESS	1005 OAKMONT CIR
25405006	DEFRAUNCE & DONNA D LEWIS	1050 OAKMONT CIR
25405004	JOSEPHINE J GRIFFIN	1007 OAKMONT CIR
25403005	LARRY R & VANESSA W HOLLOWAY	1010 OAKMONT CIRCLE
25411001	LYNCHBURG WESLEYAN CHURCH	7619 TIMBERLAKE RD
25405005	MARK G & ROSE W MORRIS	1052 OAKMONT CIR
25403003	MAURICE T JR & DEBORAH C MCCARTHY	1006 OAKMONT CIR
25409002	MOREY BROTHERS LLC	7710 B TIMBERLAKE RD
25409001	MOREY BROTHERS LLC	7710 TIMBERLAKE RD
25409009	MOREY BROTHERS LLC	7714 TIMBERLAKE RD
25411009	TIMBERLAKE STATION LIMITED C/O PHILLIPS EDISON & CO ATTN: CAM	7703 TIMBERLAKE RD
25411010	TIMBERLAKE STATION LIMITED C/O PHILLIPS EDISON & CO ATTN: CAM	7701 TIMBERLAKE RD
25411008	TIMBERLAKE STATION LIMITED C/O PHILLIPS EDISON & CO ATTN: CAM	7621 TIMBERLAKE RD
25411004	TIMBERLAKE STATION LIMITED C/O PHILLIPS EDISON & CO ATTN: CAM	7701 TIMBERLAKE RD
25403001	VEIN AND COSMETIC LLC	7626 TIMBERLAKE RD
25405002	WILLIAM H SR & NANCY E DAVIS	1001 OAKMONT CIR





WYNDHURST COUNSELING CENTER
1001 OAKMONT CIRCLE
REZONING FROM R-1 TO B-1C

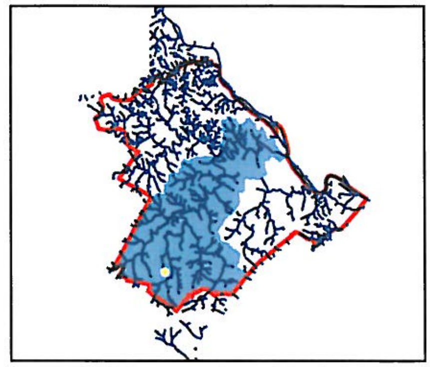
N

Wyndhurst Counseling Center
Watershed Location Map

Project Site

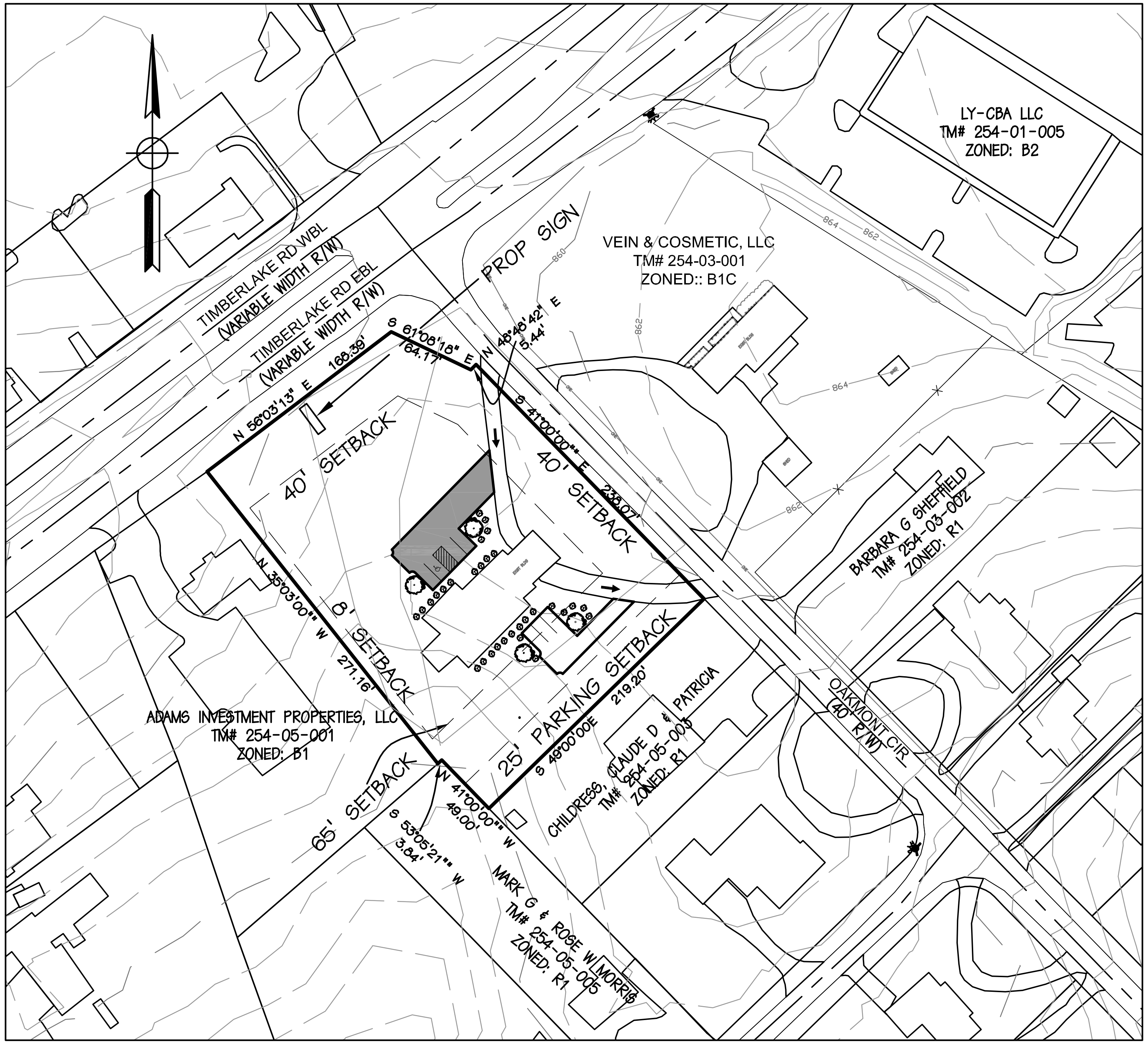
Blackwater Creek

Corporate Limit



REZONING PLAN FOR PARCEL 254-05-002

CITY OF LYNCHBURG, VIRGINIA



REZONING PLAN

SCALE: 1"=100'

LEGEND

PROPOSED PAVED PARKING

PROPOSED GRAVEL PARKING

PERKINS & ORRISON
ENGINEERS ▲ PLANNERS ▲ SURVEYORS

PROPERTY INFORMATION:

Parcel ID: 254-05-002

Property Address: 1001 Oakmont Cir.
Lynchburg, VA 24502

Owner: William H Sr & Nancy E Davis

Rezoning Applicant: Chuck Rodgers, MA PLC
Wyndhurst Counseling Center
100 B Archway Ct
Lynchburg, VA 24502

Total Acreage: Approximately 1.46 acres

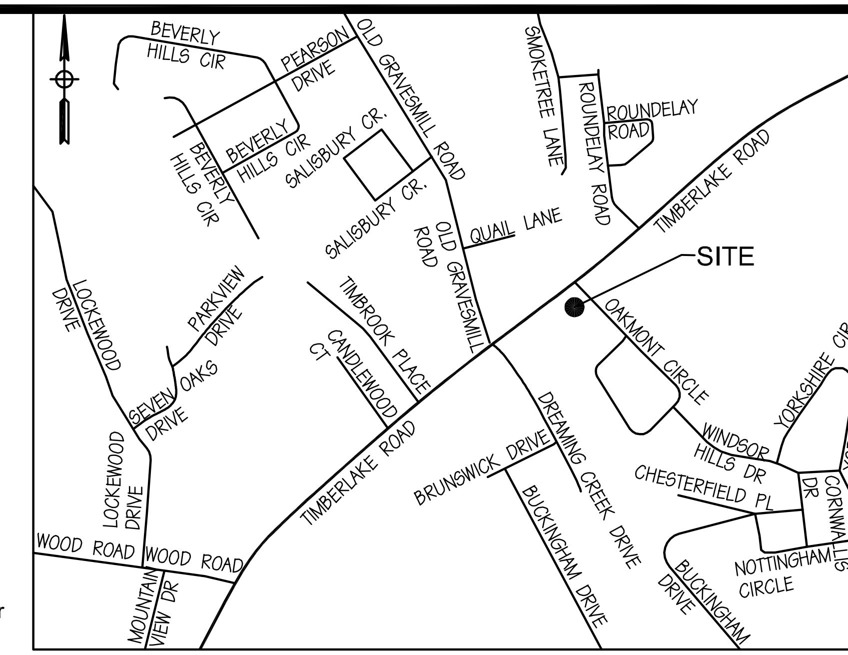
Total Area To Be Rezoned: 1.46 Ac.

Current Zoning: R1 (Commercial Corridor Overlay)

Proposed Zoning: B1 (Commercial Corridor Overlay)

Current Use: Residential

Proposed Use:Care Center or other uses permitted under B1 zoning



VICINITY MAP
NOT TO SCALE

NOTES:

1) The purpose of this plan is to show a preliminary layout for the rezoning process. The actual layout may change slightly when actual construction plans are submitted to the City for review, but shall remain in general conformance to this plan.

2) The increase in impervious area proposed by this plan is approximately 4770 sq. ft., which is less than 5,000 sq ft and stormwater management will be achieved with new landscaping. Preliminary calculations have confirmed that the existing receiving channel is adequate to handle the small increase in runoff.

3) Landscaping symbols are shown for graphical representation of the general concept only. The actual size and number of plants will be shown on the site plan and will meet or exceed the requirements of the landscaping ordinance. Existing vegetation may be used as credit towards the City landscaping requirements, subject to approval by the Planning Department and Urban Forester.

4) This property is not located within a FEMA 100 year flood zone. (FEMA panel #5100930101D revised June 3, 2008)

5) If exterior lighting is to be installed by the owner, shielding shall be used to control the light so that no direct illumination will occur beyond any property line.

6) No additional roadway entrances are proposed by this plan. Existing entrances shall be upgraded to meet City standards for a commercial entrance (one way entrances). The existing circular drive shall be widened approximately 2 feet to give a total width of 12 feet for one way traffic.

7) Erosion and Sediment control measures will be used in accordance with the Virginia Erosion and Sediment Control Handbook. E&S measures are not shown on this plan, but will be included with the actual site plan when submitted.

8) The developer is responsible for obtaining all necessary state, federal, and local permits required for the development of this site.

9) This site is served by public water and a private sewage system.

10) This property is located within the Commercial Corridor Overlay District.

11) With the rezoning of this property, an amendment to the City's Future Land Use Map will also be required.

12) Backflow prevention will be provided per Deparmten of Utilities' requirements.

Parking Calculations (office for business):

Required: 2 spaces per 1000 sq ft of floor area
2 x (3000 sq ft / 1000 sq ft) = 6 spaces required

7 spaces provided (including 2 handicapped spaces)
A maximum of 5 employess is anticipated on staff at any time.

27 Green Hill Drive Forest, Virginia 24551	Office: 434-525-5985 Fax: 434-525-5986 E-Mail: pno@perkins-orrison.com	100 0 100 GRAPHIC SCALE	REV. REV. DATE:	 6/28/11 5/31/11	JOB#: 11148 DWG: C-RZ-11148 DWN: NBW

ID - P:\2010\10251 Foster Builders\dwg\C-RZ-10251.dwg - Wed, 25 Aug 2010 - 14:15

LEXINGTON
Wes Perkins, LS
Russ Orrison, PE, LS
Susan Perkins
Pierson Hotchkiss, LS
Dave Walsh

PERKINS & ORRISON
ENGINEERS ▲ PLANNERS ▲ SURVEYORS

LYNCHBURG
Kenneth Knott, LS
Norman Walton, PE
Joseph (Jay) Craddock, PE
Aaron Dooley, LS

June 28, 2011

Tom Martin
City of Lynchburg
Department of Community Development
900 Church Street
Lynchburg, VA 24502

RECEIVED
JUN 27 2011
COMMUNITY DEVELOPMENT

RE: FLUM Amendment for 1001 Oakmont Circle
REZ1106-0001

Dear Mr. Martin,

The purpose of this letter is to justify the proposed change of the City's Future Land Use Map (FLUM) for the property located at 1001 Oakmont Circle. The FLUM currently recommends a Low Density Residential Use, and our client would like to see it amended to an Office or Neighborhood Commercial Use.

We believe that a commercial-type use is appropriate for any properties fronting on Timberlake Road. As you know this property is already in the Commercial Corridor Overlay and has those restrictions placed upon it. There are many other commercial properties on the same side of Timberlake Road as this property. From the intersection of Timberlake and Old Graves Mill Road there is a beauty salon, a clothing alteration business, a chiropractor's office, the Social Security Administration, and an orthodontist's office on the same side of Timberlake Road as is this parcel. On the opposite side of Timberlake Road, there are major commercial uses including a grocery store, restaurants, office space and a Harbor Freight Tools. Any use allowed under B-1 zoning would match the current development trend in this area. The B-1 also does not deter from the residential development, as the proposed use will maintain a residential look.

Should you have any questions or need any additional information regarding this rezoning and proposed FLUM amendment, please do not hesitate to contact me.

Sincerely,

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

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

27 Green Hill Drive
Forest, Virginia 24551

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

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

email: pno@perkins-orrison.com

LEXINGTON
Wes Perkins, LS
Russ Orrison, PE, LS
Susan Perkins
Pierson Hotchkiss, LS
Dave Walsh

PERKINS & ORRISON
ENGINEERS ▲ PLANNERS ▲ SURVEYORS

LYNCHBURG
Kenneth Knott, LS
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Aaron Dooley, LS

June 28, 2011

RECEIVED
JUN 27 2011
COMMUNITY
DEVELOPMENT

Tom Martin
City of Lynchburg
Department of Community Development
900 Church Street
Lynchburg, VA 24502

RE: Rezoning Narrative for Wyndhurst Counseling Center
REZ1106-0001

Dear Mr. Martin

The Wyndhurst Counseling Center is requesting a rezoning of 1001 Oakmont Circle from R-1 to B-1C, and a FLUM amendment. Both of these actions are to allow the use of the existing parcel and structure as a business office for Wyndhurst Counseling Center.

Wyndhurst Counseling Center is an organization that offers various counseling services including marriage counseling, substance abuse, divorce consultation, therapeutic counseling and psychological assessments, as well as other services. There are 8 counselors that work through Wyndhurst Counseling Center. Their office hours vary. This is to allow flexibility for both the counselors and clients.

The impact to the adjacent neighborhood will be low. There is not a high traffic demand for this type of business. The building exterior will change very little. Additional parking will be provided, but overall, the residential nature of the building will be maintained.

This use along Timberlake Road seems appropriate and provides a good transition between the commercial area and that residential development adjacent to this property.

Should you have any questions or comments, please feel free to contact me.

Sincerely,

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

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

27 Green Hill Drive
Forest, Virginia 24551

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

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

email: pno@perkins-orrison.com

RECEIVED

JUN 27 2011

COMMUNITY
DEVELOPMENT

June 29, 2011

Tom Martin
City Planner
City of Lynchburg
Department of Community Development
900 Church Street
Lynchburg, VA 24504

RE: Rezoning of 1001 Oakmont Cir
REZ1106-0001

Dear Mr. Martin,

Regarding the rezoning of 1001 Oakmont Cir, I agree to the following proffer as the petitioner for this rezoning:

1. The property will be developed in substantial compliance with the "Rezoning Plan for Parcel 254-05-002" prepared by Perkins and Orrison, dated 5/31/11 and revised 6/28/11.

Please let me know if you have any questions or comments.

Sincerely,

Chuck Rodgers

Chuck Rodgers

Rezoning from R-1 to B-1C

1001 Oakmont Circle

July 13, 2011

PLEASE PRINT

NAME	ADDRESS	PHONE	IN FAVOR	IN OPPOSITION	NEUTRAL
NORM WALTON	27 GREENHILL DR. FOREST VA	525-5985	✓		
Chuck Rodgers	100 Archway CT Lynchburg VA	237-2655	✓		
Vanessa Holloway	1010 Oakmont Cr.	237-4643		✓	
Martin [illegible]	1038 Oakmont Cir	239-2561		✓	

AGENDA ITEM #15

James Coleman

From: James Coleman [jcoleman@vul.edu]
Sent: Thursday, June 30, 2011 4:02 PM
To: 'valeria.chambers@lynchburgva.gov'
Cc: 'Judith Johnson'; 'tsunamimensmentoring@yahoo.com'
Subject: Letter to the Clerk of Council Requesting to be on the Agenda of August 9th Council Meeting

Multicultural Rib and Yam Riverfront Festival

Celebrating Cultural Diversity and the Renaissance of VUL

June 30, 2011

Dear Valeria P. Chambers

Greetings and God's Speed to you and yours!

As per a conversation with Mayor Joan Foster, this correspondence is to request to be placed on the agenda of the Lynchburg City Council Meeting scheduled for Tuesday, August 9, 2011. The brief statement will be made by a representative of the Multicultural Rib and Yam Riverfront Festival Steering Committee (I, Jeffrey Robey, or Judith Johnson).

If granted the opportunity, the intent of presentation will be to galvanize support from City Council to proclaim Saturday, August 27, 2011 as Cultural Diversity and The Renaissance of Virginia University of Lynchburg Day in the Hill City. We will further request that members of council and other relevant city personnel be present at 2 p.m. to make presentations and share the support of our city government regarding issues of cultural diversity and empowering our communities through education. We also would request the support of our city in anyway regarding the encouragement of citizens to attend the August 27th event entitled Multicultural Rib and Yam Riverfront Festival from 1 p.m. to 9 p.m.

If I can be of any further assistance regarding this matter, please do not hesitate to contact me at jcoleman@vul.edu or 1-434-426-2507.

With warm regards, I remain

Yours in Pursuit of the Beloved Community,

James E. Coleman, Jr.
Steering Committee Member

RECEIVED
JUN 30 2011
Council/Manager
Offices

LYNCHBURG CITY COUNCIL
Agenda Item Summary

MEETING DATE: **August 9, 2011** AGENDA ITEM NO.: 17

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

ACTION: **X** INFORMATION:

ITEM TITLE: **Electoral Board/Registrar's Request for Funding for the August Republican Primary**

RECOMMENDATION: Adopt a resolution to amend the FY 2012 General Fund budget and appropriate $13,929 with resources from the General Fund Reserve for Contingencies to provide supplemental funding to the Electoral Board/Registrar's Office for estimated costs for the August 23, 2011, Republican Primary.

SUMMARY: On August 23, 2011 the Republican Party will hold a primary to choose a nominee for the Virginia General Assembly Senate District 22. The Electoral Board/Registrar's Office requests that City Council appropriate $13,929 to cover the costs associated with this primary. Costs will include an estimated $11,115 for election official pay, $1,845 for election software programming, $193 for ballot printing, $206 for absentee ballot postage, $90 for two mailings to election officials, $100 for precinct office supplies, $230 for two legal notices required to be placed in the newspaper, and $150 for election day mileage for the Electoral Board and Deputy Registrar.

PRIOR ACTION(S): July 12, 2011 Finance Committee

FISCAL IMPACT: A one-time appropriation of $13,929 from the FY 2012 General Fund Reserve for Contingencies.

CONTACT(S): Carolyn C. Sherayko, Registrar, 847-1609

ATTACHMENT(S): Resolution

REVIEWED BY: lkp

RESOLUTION:

BE IT RESOLVED that the FY 2012 General Fund budget is amended and $13,929 is appropriated with resources from the General Fund Reserve for Contingencies with resources from the General Fund Reserve for Contingencies to provide supplemental funding to the Electoral Board/Registrar's Office for estimated costs for the August 23, 2011, Republican Primary.

Introduced: Adopted:

Certified: ______________________________
Clerk of Council

118L

LYNCHBURG CITY COUNCIL
Agenda Item Summary

MEETING DATE: **August 9, 2011**			AGENDA ITEM NO.: 18
CONSENT:	REGULAR: **X**	WORK SESSION:	CLOSED SESSION: (Confidential)
ACTION: **X**		INFORMATION:	

ITEM TITLE: **Lynchburg Baseball Corp. Memorandum of Understanding**

RECOMMENDATION: Approve the Memorandum of Understanding (MOU) between the Lynchburg Baseball Corp. (LBC) and City Council and authorize the City Manager to sign.

SUMMARY: The City Manager received a letter from LBC dated December 2, 2010 (attached) requesting that revenues and expenses for LBC no longer be tracked by the City on an account by account basis and to also discontinue the preparation of quarterly statements. Suggestions for alternatives for these items were also presented in the letter. These recommendations establish new methods for financial accountability and reporting for LBC to the City. These new methods of financial accountability will save the City's Financial Services Staff time by not recording LBC's revenues and expenses in the City's General Ledger and having to reconcile on a monthly basis with LBC's records.

City Financial Services staff met with LBC staff and decided it was best to replace the current MOU with one that represented the recommendation to close the Stadium Fund in the City's General Ledger and to receive the LBC financial statements and budget on an annual basis.

Given the financial history and strengthened relationship between the City and LBC, staff supports LBC's request.

PRIOR ACTION(S): MOU dated September 5, 2002; Revised MOU dated December 15, 2005 (copy attached)

FISCAL IMPACT: None

CONTACT(S): Donna S. Witt, Director of Financial Services, 455-3968

ATTACHMENT(S): Letter dated December 2, 2010 from LBC President, Rex Angel; Current MOU; Proposed new MOU between the Lynchburg Baseball Corp. and the City Council of Lynchburg, Virginia

REVIEWED BY: lkp

RESOLUTION

BE IT RESOLVED that the City Manager is hereby authorized to execute the revised Memorandum of Understanding between the Lynchburg Baseball Corp. and City Council.

Adopted:

Certified: ________________________________
Clerk of Council

129L

LYNCHBURG BASEBALL CORP.
CAROLINA LEAGUE
Class "A" Advanced
Affiliate of the ATLANTA BRAVES

P.O. BOX 10213, Lynchburg, VA 24506
Calvin Falwell Field
at
Lynchburg City Stadium

December 2, 2010

City of Lynchburg
Attn: L. Kimball Payne, City Manager
P. O. Box 60
Lynchburg, VA 24505

Mr. Payne:

After the Memorandum of Understanding dated September 2, 2002, between Lynchburg Baseball Corp. (LBC) and the City of Lynchburg (City) had been agreed upon, we were advised by Mr. Mike Hill, Director of Finance, that the City would need a LBC "cash basis" budget prepared for the City's fiscal year (July 1 –June 30) beginning with its fiscal year ending June 30, 2004, and continuing each June 30th thereafter. Further, the City would need a LBC "cash basis" operating statement prepared for each quarter in the same format as the budget. Mr. Hill further explained that the yearly budgets and quarterly statements should be "Cash Revenues and Cash Expenditures" and not include depreciation, debt service, or capital expenditures. (Beginning in 2008, at the request of Ms. Stacy Wilkes, the amount expended for debt service and capital items have been noted for each quarter).

Mr. Hill was informed that LBC's accounting is "for-profit" in accordance with generally accepted accounting practices (GAAP) while the City uses governmental accounting procedures and that LBC's fiscal year is October 1 – September 30.

The task of preparing these statements is time consuming, taking 20-25 hours per quarter due to the fact that our accounting records are maintained on an accrual basis and the conversion to the cash basis is preformed by hand – "off books".

Unless there is a compelling reason by the City to track our revenues and expenses on an account by account basis, we would like to discontinue the preparation of such quarterly statements. We had previously discussed this with Ms. Wilkes and Ms. Rhonda Albeck but there was no follow-up at that time. Alternatively we would suggest the following – On or before December 1 of each year we would present you with:

Tel: 434-528-1144 • Fax: 434-846-0768 • Email: info@lynchburg-hillcats.com • Web: www.lynchburg-hillcats.com

1. A check representing the excess profits for LBC's preceding September 30th fiscal year
2. A copy of LBC's financial statements for the same preceding year
3. A copy of LBC's budget showing:
   - Current year actual
   - Current year budget
   - Next years budget, noting City's portion of excess profits

Of course, the City maintains the right and may audit or review any of LBC's records at anytime.

I trust that you will seriously consider this matter and if further discussions are considered necessary, I will meet with you or an appropriate party at a mutually agreeable time.

We appreciate our relationship with the City as together we continue to provide the community with a professional program.

Very truly yours,

C. Rex Angel

C. Rex Angel, President
Lynchburg Baseball Corp.

MEMORANDUM OF UNDERSTANDING BETWEEN THE LYNCHBURG BASEBALL CORP. AND THE CITY COUNCIL OF LYNCHBURG, VIRGINIA

(dated 9/05/02)
(revised 12/15/05)

This Binding Memorandum of Understanding (MOU) between the Lynchburg Baseball Corp. (LBC) and the *City* of Lynchburg (City) is entered into December 15, 2005. This MOU serves as the basis for the development of a more detailed agreement regarding the maintenance and operations of the Baseball Stadium.

ARTICLE I-GUIDING PRINCIPLE

This MOU is premised on the principle that all revenues generated at the City's Baseball Stadium will be used to support the operations of LBC, operations and maintenance of the Stadium, a capital reserve, and debt service in excess of the City's initial investment for Baseball Stadium renovations. All revenues include revenues generated by LBC, City events, events held at the Baseball Stadium by a promoter, and funds generated through fundraising activities, donations and naming rights. Further, it is understood that the City is not interested in managing or operating a baseball club.

ARTICLE II-STADIUM DESCRIPTION

The Stadium provided for the use of LBC shall be renovated in substantial accord with the plans and specifications attached hereto or listed as Exhibit A, which plans and specifications may be modified and supplemented by the City from time to time, and shall in all respects provide a high quality professional playing field for the use of LBC and have a seating capacity of approximately 3,500 individuals, a scoreboard, public address system, and shall in all respects comply with Minor League Standards, and with the Americans with Disabilities Act and all fire code, building, health department and other applicable statutes, ordinances, rules and regulations. The City expressly reserves the right to expand the seating capacity of the stadium and the City shall undertake such expansion on dates outside the Baseball Season or, if necessary, during the Baseball Season, in a manner that (i) is minimally disruptive to LBC, and (ii) does not diminish the minimum seating capacity of the Stadium. The City expressly reserves the right to reconfigure Stadium seating with non-permanent seating for City Events.

ARTICLE III-ADVISORY COMMITTEE

An Advisory Committee shall be formed and a Charter outlining the duties of the Advisory Committee shall be adopted. The purpose of the Advisory Committee will be to work together to determine the most cost-efficient methods to operate and maintain the Baseball Stadium as described in the site plan and to maximize marketing opportunities to achieve the greatest return on investment. The Advisory Committee shall consist of a representative appointed by the City Manager, the Financial Services Director, the Director of Parks and Recreation, the Director of Buildings and Grounds, and four representatives of LBC, one of which shall be the General Manager. A primary responsibility of the Advisory Committee will be to review the budget prepared by LBC for its annual operations and the budget prepared by the City for the operations and maintenance of the Baseball Stadium, a capital reserve, and debt service and to forward the same to LBC and the City Manager. The City Manager will forward his recommendations regarding the budget to the City Council for consideration during its annual budget process.

ARTICLE IV-BASEBALL STADIUM FUND

A "Baseball Stadium Fund" (the Fund) will be created by the City to account for all revenues and expenditures at the Baseball Stadium.

All revenues generated by LBC, City events and events held at the Baseball Stadium by a promoter and funds generated through fundraising activities, donations and naming rights will be reported quarterly to the City for inclusion in the financial records of the Fund. These revenues include funds received for admission, skyboxes, advertising, all concessions including beer and wine sales, special events, rental fees, merchandise, and any and all other revenue generated at the Baseball Stadium by LBC, the City or a promoter.

All expenditures attributed to the operations of LBC *will be reported quarterly to the City for inclusion in the financial records of the Fund,* operations and maintenance of the Stadium, a capital reserve, and debt service above the City's initial commitment of $3,384,302 shall be accounted for in the Fund.

Funds that have been raised through fundraising activities, donations and naming rights shall serve as the beginning balance for the Fund.

LBC and the City shall annually submit a Baseball Stadium budget to the Advisory Committee for review and shall adhere to the City's annual budget calendar. The Advisory Committee, with the approval of the City Manager, shall manage the Fund and adjust revenues and expenditures within the Fund as warranted during the fiscal year. The Advisory Committee shall forward a Fund budget to the City Manager for consideration in the City's annual budget.

Quarterly reports on the Fund shall be performed and submitted to LBC and the City's Finance Committee for review.

~~An annual audit of the Fund shall be performed by the City's external auditors~~. *Annually the City's external auditors will perform an agreed upon procedures engagement of the Fund, with such procedures to be agreed upon by both parties to this Memorandum of Understanding.* The expense for ~~annual audit~~ the *Annual Independent Report on Agreed upon Procedures* shall be included in the ~~Baseball Stadium~~ Fund. If the annual ~~audit~~ *report* reveals that revenues exceed expenditures, excess revenues shall be shared by LBC and the City with an additional allocation to a capital reserve fund following the paydown of the debt issued above the City's original commitment.

In addition to payments to cover operations costs, the City agrees to pay $30,000 to LBC annually from the Fund for uses determined by LBC if revenues generated by baseball activities exceed expenditures for baseball operations not including debt service or capital reserve allocations.

The City shall not at any time subsidize the operations of LBC.

ARTICLE V-NON-RELOCATION PROVISION

LBC shall be committed to retaining a Carolina League team to play at the Baseball Stadium in the City. In the event that LBC fails for more than one (1) year to field a team for the enjoyment of the Lynchburg community, it shall liquidate its assets and pay to the City 50% of the sale of net liquidation proceeds up to $1,750,000. The amount of liquidation proceeds will decrease in the annual amount of excess revenues over expenditures (profits) for LBC operations only after the difference between the City's initial commitment of $3,384,302 and the total project cost minus maximum liquidation proceeds ($1,750,000) is reimbursed to the City. For example only:

Total Project Estimate	$7,000,000
Initial City Commitment	(3,384,302)
Balance	3,615,698
Liquidation Proceeds	(1,750,000)
Balance	$1,865,698

The City's maximum share of liquidation proceeds of $1,750,000 would begin to diminish after the City is paid $1,865,698 from profits from stadium operations.

If LBC loses its Major League Player Development Contract, or is unable to generate revenues sufficient to support the operation of a professional baseball club, the City or LBC may terminate this MOU and any other agreement between LBC and the City free of the foregoing obligation.

ARTICLE VI-ADDITIONAL PROVISIONS

The term of this MOU and a more detailed agreement shall be coterminus with the maturity of the debt issued for the Baseball Stadium construction project.

LBC shall agree to operate and manage ball club activities, concessions, marketing for baseball activities, sky box rental and merchandise sales.

The City shall incorporate Baseball Stadium events into its marketing program to complement the LBC marketing program. The Advisory Committee shall consider an effective marketing strategy using LBC and City resources.

The agreement shall outline stadium operations and services to be delivered by LBC, food and beverage service requirements, facility maintenance requirements, and responsibility regarding utility payments.

The City and LBC shall determine the most cost-effective methods regarding stadium operations and maintenance.

If revenues do not equal or exceed expenditures, the City reserves the right to pursue other revenue generating activities, such as, but not limited to a parking fee and/or an admissions tax.

LBC use of the stadium shall be defined in the agreement. LBC shall have exclusive rights to the Baseball Stadium during the baseball season and for tryouts, practice, tournaments, baseball camp, and when applicable, Carolina League playoffs and All-Star Game play.

The undersigned parties have executed this Binding Memorandum of Understanding to evidence and confirm their intent with respect to the operations of LBC, operations and maintenance of the Baseball Stadium, creating a capital reserve, and to fund a defined amount of debt service. By executing this Memorandum, each of the parties hereby agree to work together cooperatively and negotiate, on the basis of the terms set forth herein, the detailed agreement regarding the operations of the Baseball Stadium

Witness the following signatures and seals:

Al Calvin Stowell

Lynchburg Baseball Corp.

L Kimball Payne

L. Kimball Payne, III
City Manager

Approved as to Form:

Walter C. Erwin

Walter C. Erwin
City Attorney

MEMORANDUM OF UNDERSTANDING
BETWEEN THE
LYNCHBURG BASEBALL CORP.
AND THE
CITY COUNCIL
OF
LYNCHBURG, VIRGINIA

This Binding Memorandum of Understanding (MOU) between the Lynchburg Baseball Corp. (LBC) and the *City* of Lynchburg (City) is entered into August 9, 2011.

ARTICLE I – GUIDING PRINCIPLE

This MOU is premised on the principle that all revenues generated at the City's Baseball Stadium will be used to support the operations of LBC, operations and maintenance of the Stadium, capital projects, and debt service in excess of the City's initial investment for Baseball Stadium renovations. All revenues include revenues generated by LBC, City events, events held at the Baseball Stadium by a promoter, and funds generated through fundraising activities, donations and naming rights. Further, it is understood that the City is not interested in managing or operating a baseball club.

ARTICLE II – STADIUM DESCRIPTION

The Stadium provided for the use of LBC, by the City, shall in all respects provide a high quality professional playing field for the use of LBC and have a seating capacity of approximately 3,500 individuals, a scoreboard, public address system, and shall in all respects comply with Minor League Standards, and with the Americans with Disabilities Act and all fire code, building, health department and other applicable statutes, ordinances, rules and regulations. The City expressly reserves the right to expand the seating capacity of the stadium and the City shall undertake such expansion on dates outside the Baseball Season or, if necessary, during the Baseball Season, in a manner that (i) is minimally disruptive to LBC, and (ii) does not diminish the minimum seating capacity of the Stadium. The City expressly reserves the right to reconfigure Stadium seating with non-permanent seating for City Events.

ARTICLE III – ADVISORY COMMITTEE

An Advisory Committee shall be formed. The purpose of the Advisory Committee will be to work together to determine the most cost-efficient methods to operate and maintain the Baseball Stadium to maximize marketing opportunities to achieve the greatest return on investment. The Advisory Committee shall consist of a representative appointed by the City Manager, the Financial Services Director, the Director of Parks and Recreation, the Deputy Director of Public Works, and four representatives of LBC, one of which shall be the General Manager. The Advisory Committee will meet quarterly with the Director of Parks and Recreation setting the agenda, preparing minutes, and being responsible for any items needing City Council approval. A primary responsibility of the Advisory Committee will be to review and approve an annual maintenance schedule for the Baseball Stadium. The Advisory Committee will also review the budget prepared by LBC for its annual operations and the budget prepared by the City for the maintenance of the Baseball Stadium, the debt service, and the Baseball Stadium Capital Project funds. These budgets will be forwarded to LBC and the City Manager. The City Manager will forward his recommendations regarding the budget to the City Council for consideration during its annual budget process. The Advisory Committee, with the approval of the City Manager, shall manage the maintenance and Baseball Stadium Project funds.

ARTICLE IV – BASEBALL STADIUM PROJECT FOR MAJOR PURCHASES AND REPAIRS

Any revenues generated from LBC's baseball operations that exceed expenses by more than $30,000 (Excess Profits) for each fiscal year shall be transferred to the City's Capital Fund in a Baseball Stadium Project.

ARTICLE V – BASEBALL FINANCIAL REPORTING

A "Baseball Stadium Fund" (the Fund) was created by the City to account for all revenues and expenditures at the Baseball Stadium. The Stadium Fund will be closed July 1, 2011. All revenues and expenses of LBC will be accounted for by LBC. All revenues other than those generated by LBC will be accounted for by the City. The maintenance and debt service will be accounted for in the City's General Fund. The Baseball Stadium Project funds will be accounted for in the City's Capital Fund. LBC will cease providing quarterly cash basis statements to the City effective July 1, 2011.

On or before December 1 of each year LBC will present to the City:

1. A check representing the Excess Profits for LBC's preceding September 30th fiscal year.
2. A copy of LBC's financial statements for the same preceding year
3. A copy of LBC's budget showing:
    - Current year actual
    - Current year budget
    - Next year's budget, noting City's portion of Excess Profits

The City reserves the right to review or audit any of LBC's records at anytime at LBC'S expense.

ARTICLE VI – NON-RELOCATION PROVISION

LBC shall be committed to retaining a Carolina League team to play at the Baseball Stadium in the City. In the event that LBC fails for more than one (1) year to field a team for the enjoyment of the Lynchburg community, it shall liquidate its assets and pay to the City 50% of the sale of net liquidation proceeds up to $1,750,000. The amount of liquidation proceeds will decrease in the annual amount of excess revenues over expenditures (profits) for LBC operations only after the difference between the City's initial commitment of $3,384,302 and the total project cost minus maximum liquidation proceeds ($1,750,000) is reimbursed to the City. For example only:

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If LBC loses its Major League Player Development Contract, or is unable to generate revenues sufficient to support the operation of a professional baseball club, the City or LBC may terminate this MOU and any other agreement between LBC and the City free of the foregoing obligation.

ARTICLE VII – ADDITIONAL PROVISIONS

The term of this MOU shall be co terminus with the maturity of the debt issued for the Baseball Stadium construction project.

LBC shall operate and manage ball club activities, concessions, marketing for baseball activities, sky box rental and merchandise sales.

The City shall incorporate Baseball Stadium events into its marketing program to complement the LBC marketing program. The Advisory Committee shall consider an effective marketing strategy using LBC and City resources.

If revenues do not equal or exceed expenses, the City reserves the right to pursue other revenue generating activities, such as, but not limited to a parking fee and/or an admissions tax.

LBC shall have exclusive rights to the Baseball Stadium during the baseball season and for tryouts, practice, tournaments, baseball camp, and when applicable, Carolina League playoffs and All-Star Game play.

This memorandum of understanding is a supplement to the April 8, 1995, Lease Agreement between the parties hereto.

The undersigned parties have executed this Binding Memorandum of Understanding to evidence and confirm their intent with respect to the operations of LBC, operations and maintenance of the Baseball Stadium, creating a Baseball Stadium Project for capital needs, and to fund a defined amount of debt service. By executing this Memorandum, each of the parties hereby agree to work together cooperatively and negotiate, on the basis of the terms set forth herein, the detailed agreement regarding the operations of the Baseball Stadium.

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Lynchburg Baseball Corp.

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City of Lynchburg
L. Kimball Payne, III
City Manager