// An additional scheduled meeting of the Council of the City of Lynchburg was held on the 19th day of June, 2009, at 12:00 Noon, Council Chamber, City Hall, Joan F. Foster, President, presiding. The purpose of the meeting was to interview candidates interested in serving on the Lynchburg School Board. The following Members were present:

Present: Dodson, Garrett, Helgeson, Johnson, Perrow, Foster	6
Absent: Gillette	1

// On motion of Council Member Helgeson, 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., interview candidates interested in serving on the Lynchburg School Board, pursuant to Section 2.2-3711(A)(1), Code of Virginia (1950), as amended:

Ayes: Dodson, Garrett, Helgeson, Johnson, Perrow, Foster	6
Noes:	0
Absent: Gillette	1

// Council Member Gillette arrived at 12:04 p.m.

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

// Council Member Helgeson made the following motion:

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

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

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

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

Ayes: Dodson, Garrett, Gillette, Helgeson, Johnson, Perrow, Foster	7
Noes:	0

// Council recessed at 1:25 p.m. and agreed to reconvene the meeting at 3:15 p.m.

// On motion of Council Member Helgeson, seconded by Council Member Gillette, Council by the following recorded vote elected to hold a closed meeting to consider appointments to Council-appointed Boards and Commissions, i.e., interview candidates interested in serving on the Lynchburg School Board, pursuant to Section 2.2-3711(A)(1), Code of Virginia (1950), as amended:

Ayes: Dodson, Garrett, Gillette, Helgeson, Johnson, Perrow, Foster	7
Noes:	0

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

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

Ayes:	Dodson, Garrett, Gillette, Helgeson, Johnson, Perrow, Foster	7
Noes:		0

// The meeting was adjourned at 4:42 p.m.

Clerk of Council

// A regular meeting of the Council of the City of Lynchburg was held on the 23rd day of June, 2009, at 5:00 P.M. in the Council Chamber, City Hall, Joan F. Foster, President, presiding. Council Member Perrow gave the Invocation, followed by the Pledge of Allegiance. The following Members were present:

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

Absent: 0

// Copies of the minutes of the June 9 (two meetings), 2009 meetings, having been previously furnished Council, reading was dispensed with. Council Members Garrett and Helgeson stated that they would abstain since they were not present at the June 9 meetings. On motion of Council Member Gillette, seconded by Vice Mayor Dodson, Council by the following recorded vote approved the minutes as presented:

Ayes: Dodson, Gillette, Johnson, Perrow, Foster 5

Noes: 0

Abstention: Garrett, Helgeson 2

// In the matter of Police – Emergency Communications, Resolution #R-09-050 amending the FY 2009 City/Federal/State Aid Fund budget and appropriating $8,480, fully reimbursable, to add two wireless 911 trunk lines needed to handle increased use by the public, laid over from the June 9, 2009 meeting, was again presented and read, and on motion of Council Member Gillette, seconded by Vice Mayor Dodson, Council by the following recorded vote adopted the Resolution:

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

Noes: 0

// In the matter of Courts - General, Resolution #R-09-051 amending the FY 2009 General Fund budget and appropriating $59,470, fully reimbursable, to support information technology needs in the Office of the Circuit Court Clerk, laid over from the June 9, 2009 meeting, was again presented and read, and on motion of Council Member Gillette, seconded by Vice Mayor Dodson, Council by the following recorded vote adopted the Resolution:

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

Noes: 0

// In the matter of Recreation - General, Resolution #R-09-052 amending the FY 2009 City/Capital Projects Fund budget and appropriating $350,000, with $250,000 reimbursement, for construction of the Clemmons Lake Place, an access road to the Ivy Creek Nature Center, laid over from the June 9, 2009 meeting, was again presented and read, and on motion of Council Member Gillette, seconded by Vice Mayor Dodson, Council by the following recorded vote adopted the Resolution:

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

Noes: 0

// In the matter of Community Planning - General, Resolution #R-09-053 amending the FY 2009 City Capital Projects Fund budget and appropriating $1,000,000, fully reimbursable, for improvements to the expressway retaining wall at Grace Street, laid over from the June 9, 2009 meeting, was again presented and read, and on motion of Council Member Gillette, seconded by Vice Mayor Dodson, Council by the following recorded vote adopted the Resolution:

Ayes: Dodson, Garrett, Gillette, Helgeson, Johnson, Perrow, Foster 7
Noes: 0

// In the matter of Budget FY2009, Resolution #R-09-055 amending the FY 2009 General Fund, Fleet Fund, City Capital Projects Fund, and Solid Waste Management Fund budgets and appropriating funds in these budgets in order to transfer the remaining fund balance from the closure of the Solid Waste Management Fund, laid over from the June 9, 2009 meeting, was again presented and read, and on motion of Council Member Gillette, seconded by Vice Mayor Dodson, Council by the following recorded vote adopted the Resolution:

Ayes: Dodson, Garrett, Gillette, Helgeson, Johnson, Perrow, Foster 7
Noes: 0

// In the matter of Public Works - Sewer, Resolution #R-09-057 amending the FY 2009 Sewer Capital Projects Fund budget and appropriating $25,360,000, fully reimbursable, for the construction of Divisions 2 and 6 of the James River Interceptor as well as the Rainleader disconnection Project for Randolph College, laid over from the June 9, 2009 meeting, was again presented and read, and on motion of Council Member Gillette, seconded by Vice Mayor Dodson, Council by the following recorded vote adopted the Resolution:

Ayes: Dodson, Garrett, Gillette, Helgeson, Johnson, Perrow, Foster 7
Noes: 0

// In the matter of Central VA Mental Health, City Council Report #8 was considered. On motion of Council Member Gillette, seconded by Vice Mayor Dodson, Council by the following recorded vote adopted Resolution #R-09-060, as presented, approving the Central Virginia Community Services FY 2010 Performance Contract:

Ayes: Dodson, Garrett, Gillette, Helgeson, Johnson, Perrow, Foster 7
Noes: 0

// In the matter of Community Planning – Zoning Amendments, City Council Report #9 regarding the petition of J.M.U., LLC, to amend the Future Land Use Map from an Office use to a Medium Density Residential use and for a conditional use permit to allow the construction of 75 townhouses with associated parking and amenities in a B-1, Limited Business District, at 1700 Graves Mill Road was considered. City Planner Tom Martin stated that following the June 9 public hearing, City Council delayed a decision regarding the proposed Holly Hills Townhomes project until this meeting. Mr. Martin explained that the petitioner originally proposed the construction of 75 townhomes on 9.56 acres but on June 17 the petitioner submitted a revised plan to allow the construction of 50 townhomes on 4.97 acres. Mr. Martin went on to say that the revised plan provides for:

- The removal of 25 townhomes and the relocation of the remaining units to the end of the private driveway. The revised layout would provide for a density of 10.1 units per acre. The proposed FLUM amendment to a Medium Density Residential use is characterized by small-lot single-family detached housing, duplexes and townhouses at densities of 13 units per acre.

- The removal of 75 parking spaces. The proposed 50 townhomes would require 125 parking spaces; the revised concept plan includes 126 spaces.
- The removal of a stormwater detention basin, a walking trail and the balance of the driveway. The property on the northern side of the Tomahawk Creek tributary is shown to remain wooded.

In response to questioning, Mr. Martin stated that the Planning Commission recommended denial for the original proposal for 75 townhomes. Several Council Members stated that they would like to receive input from the neighborhood and the Planning Commission regarding the revised proposal for 50 townhomes before making any final decision, while others felt that sending the matter back to the Planning Commission would further delay the project and that they would prefer scheduling a public hearing before City Council at the July meeting to receive input from the neighborhood. Some Council Members commented that delaying the matter would also allow time for Council to receive further information from the City's Traffic Engineer regarding traffic concerns associated with the proposed development. Council also discussed requesting that the developer put a conservation easement on the property on the northern side of the Tomahawk Creek tributary that is shown to remain wooded to ensure no future development of this land. Following discussion, Council Member Helgeson made a motion, seconded by Council Member Garrett, to reopen the public hearing regarding the revised plan and to schedule the public hearing for the July 14 Council meeting, and Council by the following recorded vote defeated the motion:

Ayes: Garrett, Helgeson, Perrow	3
Noes: Dodson, Gillette, Johnson, Foster	4

Vice Mayor Dodson made a motion, seconded by Council Member Johnson, to send the matter back through the Planning Commission process for review and recommendation and to schedule the matter for a public hearing before City Council at its August meeting, and Council by the following recorded vote approved the motion:

Ayes: Dodson, Garrett, Gillette, Helgeson, Johnson, Perrow, Foster	7
Noes:	0

// In the matter of Budget/Schools - General, City Council Report #10 regarding amending the FY 2010 General Fund and City Schools Budgets, and transferring $500,000 from the City Schools allocation to the General Fund Non-Departmental Budget was considered. City Manager Kimball Payne stated that at the earlier work session, it was mentioned that City Council would need to amend the FY 2010 Budget to reduce the City Schools allocation by $500,000 in order to use those funds to partially fund the replacement of the 3% salary cut. On motion of Council Member Gillette, seconded by Council Member Johnson, Council by the following recorded vote adopted Resolution #R-09-061, as presented, amending the FY 2010 General Fund and City Schools Budgets, and transferring $500,000 from the City Schools allocation to the General Fund Non-Departmental Budget:

Ayes: Dodson, Garrett, Gillette, Helgeson, Johnson, Perrow, Foster	7
Noes:	0

// In the matter of City Code, City Council Report #11 regarding amending Sections 18.1-1 and 18.1-13 of the City Code relating to the procurement of goods and services was considered. City Manager Kimball Payne stated that one of the first fruits of discussions between City and Schools staff regarding the consolidation of activities is in the area of procurement. Mr. Payne explained that the City and Schools procurement activities will be jointly handled out of the Procurement Office in Financial Services and that the office will be responsible for issuing bid documents and requests for proposals on behalf of City Schools and managing other aspects of the procurement process. Mr. Payne went on to say that in addition, Procurement will be providing training to Schools staff on the State's electronic purchasing program, seeking economies of scale through the bulk purchase of products used by both entities, sharing preferred vendor and annual contract lists with both organizations, and exploring the consolidation of purchasing cards under one vendor for both organizations. On motion of Council Member Perrow, seconded by Council Member Gillette, Council by the following recorded vote adopted Ordinance #0-09-062, as presented, amending Sections 18.1-1 and 18.1-13 of the City Code relating to the procurement of goods and services:

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

Noes: 0

// The meeting was adjourned at 6:00 P.M.

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Clerk of Council

// A regular meeting of the Council of the City of Lynchburg was held on the 23rd day of June, 2009, at 1:00 P.M., in the Council Chamber, City Hall, Joan F. Foster, President, presiding. The purpose of the meeting was to conduct a work session regarding several items. The following Members were present:

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

Absent: 0

// City Manager Kimball Payne presented an overview regarding information concerning the latest budget figures for the current year and revised projections for FY 2010 with a goal of crafting a scenario to restore, as soon as possible, the 3% pay cut that is anticipated by the adopted FY 2010 Budget. Mr. Payne explained that there are a number of issues that affect this effort:

- The latest revenue projections for FY 2009.
- Revised revenue projections for FY 2010 based on the latest information available.
- Significant changes in anticipated expenditures for FY 2010.
- The sustainability of any resources potentially identified to address the 3% pay cut.
- The State budget situation and its possible impact on local revenues and expenditures.
- The suggestion from City Schools that the transfer from the General Fund to support Schools operations can be reduced by $500,000 due to savings generated by the Schools Retirement Incentive Program.
- Potential savings and the timing of those savings from the City's Retirement Incentive Program and associated vacancy management.

Mr. Payne stated that until recently, the City was projecting a sharp decline in personal property revenue due to the falling value of SUVs, but that drop has not been as significant as expected. Mr. Payne went on to say that the real estate values also still appear to be strong as the City winds down the recent round of reassessment appeals, and that those two changes combined are expected to yield an additional $1.2 million in tax revenue for the City. Mr. Payne stated that with the $500,000 transfer from the Schools and the $1.2 million in additional tax revenue, funds would be available to restore the 3% salary cut for City employees. Mr. Payne did note that staff are still taking a cautious approach to the budget, noting the unstable economic climate and the state's growing budget troubles and cautioned that a second round of furloughs, similar to what was seen this year, may be needed in spring 2010 if the City suffers a reversal of fortune. Council Members praised City and Schools officials for finding the resources needed to restore the 3% salary cut, but also challenged City employees to remain vigilant and continue working to cut costs in order to keep the budget balanced. In response to questioning, Mr. Payne stated that the pay restoration will be formally written into the budget at a later date, but will take effect immediately. Council also agreed that City Council salaries would not be included in the pay restoration. On motion of Council Member Perrow, seconded by Council Member Garrett, Council by the following recorded vote agreed to the City Manager's proposal to restore the 3% salary cut to City employees:

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

Noes: 0

// City Manager Kimball Payne stated that staff is seeking clarification from City Council related to the number and types of dwelling units authorized in the Cornerstone Traditional Neighborhood Development. Mr. Payne explained that the City Attorney has provided City Council with a summary of this matter and includes the proposed resolution to clarify Council's intention. Mr. Payne outlined the following points:

1. It is clear in the original Conditional Use Permit (CUP) approved for Cornerstone that the mix of housing allowed in the Traditional Neighborhood Development (TND) included multifamily (apartments and condominiums), townhouses and single family detached housing.
2. The intent of the applicant for the CUP amendment acted on by Council on February 12, 2008, was to address only the allowed number of single family detached units and street extensions. It was only during the discussion regarding the motion to approve the CUP that Council decided to clarify the maximum numbers of the different types of dwelling units.
3. The video/audio recording of the motion ultimately approved by Council on February 12, 2008 indicates that Council Member Gillette used the words "multifamily, single family attached and single family detached" and not "condominiums", etc., as indicated in the minutes of the meeting.
4. Council Member Gillette has indicated that when he made the motion it was not his intent that the term "multifamily" mean anything more or less than its commonly accepted meaning which is inclusive of both apartments and condominiums.

Council Member Perrow asked to abstain since it would be hard for him to determine what the will of Council was when the February resolution was adopted since he was not on City Council at that time. Council Member Perrow went on to say that if Council was in agreement, that he would be willing to vote in the case of a "tie vote" on this matter. Council Members indicated their agreement to allow Council Member Perrow to vote in case of a tie vote regarding this matter. Council Member Gillette stated that it was his understanding that the intent of the applicant for the CUP amendment acted on by Council on February 12, 2008, was to address only the allowed number of single family detached units and street extensions. Council Member Gillette explained that when he made his motion that it was not his intent to take away from the original mix of housing in the Cornerstone development that was approved by City Council in June 2006, i.e., multifamily (apartments and condominiums), townhouses and single family detached housing. Council Member Gillette went on to say that his motion was to approve 600 multi-family units, which is inclusive of both apartments and condominiums, and that if he had realized that the minutes of that meeting had not accurately reflected the intent of his motion, then he would have corrected the minutes at that time. In response to questioning, City Attorney Walter Erwin stated that if Council agrees that a mistake was made, then they can adopt a Resolution to correct the record to reflect Council's intent. City Planner Tom Martin stated that in June 2006 City Council spent a lot of time in discussing the housing mix for each of the "blocks" in the Cornerstone development, and at that time decided to limit Blocks H & I to 50% condominiums and 50% apartments. Mr. Martin noted that the document showing the housing mix works in conjunction with the site plan for the development. Council Member Garrett stated that he was not on Council when the original CUP was approved, but that he did have some questions regarding some of the information presented by the developer at the February 12, 2008, public hearing, i.e., Cornerstone Unit Tally that shows "0" apartments and a statement made by Mark Borel that there would be no apartments in the Cornerstone development. In response to Council questioning, Mark Borel stated that his response during the February public hearing to Mayor Foster that there would be no apartments in Cornerstone meant that there were no apartments in Cornerstone at that time. Mr. Borel explained that it was not his intent to change the housing mix previously approved by City Council, only address the matter that was before Council at that time, which was the number of single family detached units and approval for street extensions. Mr. Trent Warner explained that the Cornerstone Unit Tally was an internal working document that was never intended to reflect the final housing mix in Cornerstone. Council Member Helgeson stated that he has spoken with the neighborhood, reviewed the documents submitted by the developer in February, viewed the video and the comment made by Mr. Borel, and looked at the minutes of the meeting, which City Council approved, and that all reflect that the housing units in Cornerstone would be individually owned, and that any changes by the developer should have to go back through the public hearing process which would allow input from the adjoining neighborhood. Some other Council Members indicated that it was also never their intention in February to change the housing mix approved by the original CUP in June 2006. Following discussion, Council Member Gillette made a motion, seconded by Council Member Johnson, to adopt the Resolution prepared by the City Attorney to correct the record and accurately reflect the action taken by City Council on February 12, 2008, and Council by the following recorded vote adopted Resolution #R-09-058, as presented, to correct the record and accurately reflect the action taken by City Council on February 12, 2008, regarding the Conditional Use Permit granted to JBO, LLC, on February 12, 2008, amending the Cornerstone Traditional Neighborhood Development Master Plan in a R-1, Low Density Single-family Residential District, located at 401 Cornerstone Street and 100, 200 and 300 Capstone Drive:

Ayes: Dodson, Gillette, Johnson, Foster	4
Noes: Garrett, Helgeson	2
Abstention: Perrow	1

// Council Member Helgeson left the meeting at 2:30 p.m.

// Mr. David Boomershine, of Boomershine Consulting Group, L.L.C., provided an overview regarding managing the City's Other Post Employment Benefits (OPEB) liability under the Government Accounting Standards Board (GASB) directive 45. Mr. Boomershine explained that localities are required to report in their Comprehensive Annual Financial Report (CAFR) starting June 30, 2008, an actuarial analysis of their liability regarding post employment benefits, such as health insurance, provided to retirees. Mr. Boomershine noted that such benefits are distinct from compensation provided by a retirement plan such as the Virginia Retirement System (VRS) and are referred to as Other Post Employment Benefits. Mr. Boomershine noted that the OPEB liability is a topic that is typically reviewed by rating agencies when a locality is issuing debt and that when GASB 45 became effective discussions ensued regarding whether or not localities should set aside funds to cover the calculated liability. Mr. Boomershine went on to say that many localities have established separate trust funds for this purpose and that the City has been budgeting funds towards the payment of OPEB as they have been available. Mr. Boomershine then provided information regarding the City's calculated OPEB liability and options toward funding this obligation. Following the presentation, City Manager Kimball Payne stated that City Council is not being asked to take any action on this matter at this time and that the presentation is part of the City's due diligence to demonstrate that it is working to develop a plan to address OPEB liability. Mr. Payne explained that staff will continue to work on this issue and will come back to Council for action at the appropriate time.

// Council Member Helgeson returned to the meeting at 3:01 p.m.

// City Manager Kimball Payne stated that in May City Council appropriated funds for FY 2010, the first year of the five-year Capital Improvement Program (CIP), and that further review and discussion regarding the Five-Year CIP is desired since many projects originally proposed for funding were recommended to move to either unfunded status or shifted to future years. Mr. Payne explained that City Council has been provided a summary of changes that are proposed in the FY 2010–2014 Capital Improvement Program, a Summary of Five-Year Proposed Appropriations by Fund and Major Category, and a Summary of Project Submissions Not Recommended for Funding by Fund and Major Category. Council Member Helgeson questioned the priority of some of the projects, i.e., Fifth Street Master Plan, Timberlake Road @ Logans Lane/Wards Ferry Road, Riverside Park Improvements, City Football Stadium improvements, and the need to continue to fund $1.2 million for Downtown revitalization. City Manager Payne stated that he feels that it is important for the City to maintain its current infrastructure, such as the City Football Stadium. Council Member Garrett inquired regarding the Community Park Investment Fund and Director of Parks and Recreation Kay Frazier provided a brief summary regarding the Fund. Ms. Frazier went on to say that every project funded via the Community Park Investment Fund would need to be approved by City Council. Some Council Members commented that they would not support taking any funds from Downtown Revitalization or the Fifth Street Master Plan project. Council Member Perrow also commented that the Timberlake Road @ Logans Lane/Wards Ferry Road project needed to be accelerated in the CIP, whereby Mr. Payne stated that maybe that project could be looked at again in next year's CIP. Mr. Payne stated that the challenge now is the Greenview Drive Project. On motion of Council Member Perrow, seconded by Council Member Johnson, Council by the following recorded vote adopted Resolution #R-09-059, as presented, adopting the FY 2010-2014 Capital Improvement Program:

Ayes: Dodson, Garrett, Gillette, Johnson, Perrow, Foster	6
Noes: Helgeson	1

// During roll call, Council Member Perrow requested that City staff investigate some complaints he has received regarding the dust from the new Sandusky Middle School work site. Council Member Perrow stated that he has had several meetings and learned more regarding the Wellons Foundation senior housing project and would like for City Council to revisit this proposal at the July work session. Some

Council Members commented that they did not see any need to bring this matter back to City Council while other Council Members were willing to revisit the proposal if the information presented earlier was not complete. On motion of Council Member Perrow, seconded by Vice Mayor Dodson, Council by the following recorded vote agreed to revisit the Wellons Foundation senior housing project at the July work session:

Ayes: Dodson, Gillette, Johnson, Perrow 4

Noes: Garrett, Helgeson, Foster 3

Council Member Perrow also mentioned that he has received a petition signed by over 100 residents from Wyndhurst questioning parking and enforcement issues in a traditional neighborhood development and that he plans to follow up with a meeting to discuss the issues. Council Member Helgeson questioned if there is any more information regarding the HUD findings listed in the May letter regarding the City's Community Development Block Grant and HOME programs. Council Member Helgeson also stated that he would like for Council to have a future discussion regarding (1) special taxing districts to support revitalization efforts, (2) changes to the City Code regarding the discharging of B B guns in the City, and (3) relaxing the City Code regulations regarding the number of times a person can have yard sales. Council Member Garrett read an article regarding the benefits of coordinated volunteer programs and mentioned again that he would like to see such a program in Lynchburg. Mayor Foster congratulated Deputy City Manager Bonnie Svrcek on her tenth anniversary with the City.

// On motion of Council Member Gillette, 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., Youth Services Citizens Board, City Employees Appeal Board, Central Virginia Community College Board, Region 2000 Local Government Council, Zoning Appeals Board, School Board, Dr. Martin Luther King, Jr.,/Lynchburg Community Council, Economic Development Authority, Museum Advisory Board, Historic Preservation Commission, Metropolitan Planning Organization, Regional Tourism Board, for discussion and consideration of the disposition of the City's interest in the Galleria property located at 915 Main Street because discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the City and for consultation with legal counsel and briefings by staff members about probable litigation concerning personnel matters involving constitutional issues because consultation or briefing in an open meeting would adversely affect the negotiating or litigating posture of the City pursuant to Section 2.2-3711(A) (1), (3) and (7), respectively, of the Code of Virginia (1950), as amended:

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

Noes: 0

// The meeting was re-opened to the public at 4:57 p.m.

// Council Member Gillette 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 Johnson, and Council by the following recorded vote adopted the motion:

Ayes: Dodson, Garrett, Gillette, Johnson, Perrow, Foster 7
Noes: 0
Absent: Helgeson 1

// Council Member Helgeson returned to the meeting at 4:58 p.m.

// In the matter of Appointments, and on nomination of Council Member Gillette, seconded by Council Member Johnson, Council by the following recorded vote re-appointed Mark J. Peake to serve on the Youth Services Citizens Board for a term to expire June 30, 2012:

Ayes: Dodson, Garrett, Gillette, Helgeson, Johnson, Perrow, Foster 7
Noes: 0

On nomination of Council Member Gillette, seconded by Council Member Johnson, Council by the following recorded vote appointed William H. Cabell, Deanna Coleman, Nancy S. Coursey, and Patricia Langan to serve on the Youth Services Citizens Board for terms to expire June 30, 2012:

Ayes: Dodson, Garrett, Gillette, Helgeson, Johnson, Perrow, Foster 7
Noes: 0

On nomination of Council Member Gillette, seconded by Council Member Johnson, Council by the following recorded vote re-appointed Deon Seltzer to serve on the City Employees Appeal Board for a term to expire June 30, 2012:

Ayes: Dodson, Garrett, Gillette, Helgeson, Johnson, Perrow, Foster 7
Noes: 0

On nomination of Council Member Gillette, seconded by Council Member Johnson, Council by the following recorded vote re-appointed Lester L. Lamb to serve on the Central Virginia Community College Board for a term to expire June 30, 2013:

Ayes: Dodson, Garrett, Gillette, Helgeson, Johnson, Perrow, Foster 7
Noes: 0

On nomination of Council Member Gillette, seconded by Council Member Johnson, Council by the following recorded vote re-appointed Mayor Joan F. Foster to serve on the Region 2000 Local Government Council for a term to expire June 30, 2010:

Ayes: Dodson, Garrett, Gillette, Helgeson, Johnson, Perrow, Foster 7
Noes: 0

On nomination of Council Member Gillette, seconded by Council Member Johnson, Council by the following recorded vote re-appointed Mayor Joan F. Foster to serve on the Metropolitan Planning Organization for a term to expire June 30, 2010, and re-appointed City Manager Kimball Payne to serve on the Metropolitan Planning Council for a term to expire June 30, 2012:

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

Noes: 0

On nomination of Council Member Gillette, seconded by Council Member Johnson, Council by the following recorded vote re-appointed Rev. Keith R. Anderson to serve on the Lynchburg School Board for a term to expire June 30, 2012:

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

Noes: 0

On nomination of Council Member Gillette, seconded by Council Member Johnson, Council by the following recorded vote appointed Charles B. White and Ingrid M. Hamlett to serve on the Lynchburg School Board for terms to expire June 30, 2012:

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

Noes: 0

On nomination of Council Member Gillette, seconded by Council Member Johnson, Council by the following recorded vote re-appointed Melany A. Pearl and Evette L. Stamps to serve on the Dr. Martin Luther King, Jr./Lynchburg Community Council for terms to expire June 30, 2012:

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

Noes: 0

On nomination of Council Member Gillette, seconded by Council Member Johnson, Council by the following recorded vote appointed Sharon A. Slaughter to serve on the Dr. Martin Luther King, Jr./Lynchburg Community Council for a term to expire June 30, 2012:

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

Noes: 0

On nomination of Council Member Gillette, seconded by Council Member Johnson, Council by the following recorded vote re-appointed H. Michael Lucado, Jr., to serve on the Economic Development Authority for a term to expire June 30, 2013:

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

Noes: 0

On nomination of Council Member Gillette, seconded by Council Member Johnson, Council by the following recorded vote re-appointed Mary M. Booth, Jane F. Bowden, Lucille W. Deane, Laura B. Munson and Raymond H. Stokes, Sr., to serve on the Museum Advisory Board for terms to expire June 30, 2012:

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

Noes: 0

On nomination of Council Member Gillette, seconded by Council Member Johnson, Council by the following recorded vote re-appointed Travis C. McDonald, Dr. James H. Mundy and Jeffery W. Schneider to serve on the Historic Preservation Commission for terms to expire June 30, 2012:

Ayes:	Dodson, Garrett, Gillette, Helgeson, Johnson, Perrow, Foster	7
Noes:		0

On nomination of Council Member Gillette, seconded by Council Member Johnson, Council by the following recorded vote re-appointed Anna McAlpine Bentson, Margaret Girling and Barry N. Moore to serve on the Regional Tourism Board for terms to expire June 30, 2012:

Ayes:	Dodson, Garrett, Gillette, Helgeson, Johnson, Perrow, Foster	7
Noes:		0

// The meeting was adjourned at 4:59 p.m.

Clerk of Council

LYNCHBURG CITY COUNCIL
Agenda Item Summary

MEETING DATE: **July 14, 2009** AGENDA ITEM NO.: 3

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

ACTION: **X** INFORMATION:

ITEM TITLE: **Certified Local Government Grant, FY 2009, for a Preservation Virginia Training Workshop**

RECOMMENDATION:
Adopt a resolution to amend the FY 2010 City/Federal/State Aid Fund budget and appropriate $10,000 with resources from the Virginia Department of Historic Resources for a Certified Local Government Grant, FY 2009, to provide a Preservation Virginia training workshop for the Historic Preservation Commission and staff.

SUMMARY:
The Department of Community Development was awarded a grant in the amount of $10,000 from the Virginia Department of Historic Resources. The grant focus is to provide a Preservation Virginia training workshop in downtown Lynchburg and Sweet Briar College from September 20-22, 2009, for Certified Local Governments' Historic Preservation Commissions and staff. No matching funds are required for this grant award.

PRIOR ACTION(S):
Finance Committee, April 28, 2009
Finance Committee, June 23, 2009

FISCAL IMPACT:
None, no matching fund required.

CONTACT(S):
Charlene Montford, Director of Community Development, 455-3902
Tom Martin, City Planner, 455-3909
Rebecca McCharen, Preservation Planner, 455-3915

ATTACHMENT(S):
Resolution

REVIEWED BY: lkp

RESOLUTION:

BE IT RESOLVED that the FY 2010 City/Federal/State Aid Fund budget is amended and $10,000 is appropriated, with resources from the Virginia Department of Historic Resources for a Certified Local Government Grant, FY 2009, to provide a Preservation Virginia training workshop for the Historic Preservation Commission and staff.

Introduced: Adopted:

Certified: ________________________
Clerk of Council

066L

LYNCHBURG CITY COUNCIL
Agenda Item Summary

MEETING DATE: **July 14, 2009** AGENDA ITEM NO.: 4

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

ACTION: **X** INFORMATION:

ITEM TITLE: **Fleet Services Appropriation of Auction Proceeds for Vehicle Expense**

RECOMMENDATION:
Adopt a resolution to amend the FY 2010 Fleet Fund budget and appropriate $251,447 with resources from Fleet Services' surplus auction to purchase ten replacement police vehicles.

SUMMARY:
Fleet Services would like to appropriate $251,447 to fund the replacement of ten police vehicles. Six vehicles will replace squad cars that are reaching their replacement cycle. In addition, four new unmarked investigator cars need to be purchased to replace four like cars that are approaching ten years service with mileage in the 90,000 range. Funding is available from Fleet Services' FY 2009 surplus auction proceeds.

PRIOR ACTION(S):
Finance Committee, June 23, 2009

FISCAL IMPACT:
Funds are available from Fleet Services FY 2009 surplus auction proceeds

CONTACT(S):
John McCorkhill, Director of Fleet Services, 455-4429

ATTACHMENT(S):
Resolution

REVIEWED BY: lkp

RESOLUTION:

BE IT RESOLVED that the FY 2010 Fleet Fund budget is amended and $251,447 is appropriated with resources from Fleet Services' surplus auction to purchase ten replacement police vehicles.

Introduced: Adopted:

Certified: ______________________________
Clerk of Council

065L

LYNCHBURG CITY COUNCIL
Agenda Item Summary

MEETING DATE: **July 14, 2009**		AGENDA ITEM NO.: 5
CONSENT:	REGULAR: **X**	CLOSED SESSION: (Confidential)
ACTION:	INFORMATION:	
ITEM TITLE: **PUBLIC HEARING REGARDING THE 2009/10 ALLOCATION OF COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) AND HOME PROGRAM FUNDS**		

RECOMMENDATION: Conduct a Public Hearing to receive public input regarding the 2009/10 allocation of $995,078.61 in Community Development Block Grant (CDBG) and $542,941.19 in HOME Program funds.

SUMMARY: The U.S. Department of Housing and Urban Development (HUD) funds the CDBG and HOME Programs. The City has available the following funds to use for eligible CDBG and HOME activities during the 2009/10 program year.

CDBG AVAILABLE FUNDING/SOURCE	**AMOUNT**
HUD Allocation	$842,849.00
Reprogrammed Funds	
ReBuild Lynchburg Repayment	1,383.61
BluffWalk Interest Payment	71,250.00
Anticipated Program Income	79,596.00
Total CDBG Funding Available	**$995,078.61**

HOME AVAILABLE FUNDING	**AMOUNT**
HUD Allocation	$471,162.00
Anticipated Program Income	7,800.00
Reprogrammed Funds/LNDF Repayment	63,979.19
Total HOME Funding Available	**$542,941.19**

The following list of projects have been recommended for funding by the Community Development Advisory Committee:

CDBG PROJECTS RECOMMENDED FOR FUNDING
BY THE COMMUNITY DEVELOPMENT ADVISORY COMMITTEE

Section 108 Loan (Bluff Walk)	$318,284.00
Program Administration (City)	150,000.00
Program Administration (Lynchburg Redevelopment & Housing Authority)	24,718.00
Lynchburg Redevelopment & Housing Auth/Spot Blight Abatement Acquisition	288,425.41
Lynchburg Redevelopment & Housing Authority/Rental Rehab	100,000.00
Hunton-Randolph Community Center (Public Service)	25,000.00
Jubilee (Public Service)	20,000.00
Miriam's House Special Needs Housing (Public Service)	20,000.00
New Land Samaritan Inns, Inc. /The Gateway (Public Service)	25,000.00
YWCA Domestic Violence Prevention Center (Public Service)	23,651.20
TOTAL CDBG PROJECTS	**$995,078.61**

HOME PROJECTS RECOMMENDED FOR FUNDING
BY THE COMMUNITY DEVELOPMENT ADVISORY COMMITTEE

Home Administration (City)	$ 54,294.00
Lynchburg Neighborhood Development Foundation Neighborhood Stabilization	180,000.00
Lynchburg Community Action Group Rehabilitation Program (CHDO)	110,000.00
Lynchburg Community Action Group Homebuyer Program (CHDO)	70,000.00
Rush Lifetime Homes/Victoria Ridge (CHDO)	128,647.19
TOTAL HOME PROJECTS	**$542,941.19**

All CDBG and HOME funds will be expended in accordance with primary objectives of these programs. Further, the City estimates that over 70 percent of the total funds for 2009/10 funding will benefit low/moderate income persons.

PRIOR ACTION(S): N/A

FISCAL IMPACT: N/A

CONTACTS: Charlene Montford - 455-3902

ATTACHMENT(S): CDBG and HOME Applications Recap

REVIEWED BY: bms

City of Lynchburg

Brief Description of 2009-2010

CDBG and HOME Applications

Community Development Advisory Committee
(CDAC) Review Meeting
May 27, 2009

Community Development Department
Grants Administration Division

CDBG APPLICATIONS

Housing Rehabilitation – Two Application

Public Facilities and Improvements – Four Applications

Public Service – Nine Applications

CDBG APPLICATION
Category: Housing Rehabilitation

Organization: Lynchburg Community Action Group, Inc.
Program: Housing Improvement Program

$ request	$100,000
CDBG or HOME	CDBG
Electronic Copy	Y
501 (c) (3)	Y
VA Sec. of State Cert.	Y
Support Letters/Amount	Y/3
Funding Commitments	N
Resumes	N
Prior Relative Activities	N
Audit/Number of Copies	Y
Management Letter	Y
Written Financial Procedures	Y
Signed Statement	Y

Brief Description

Lyn-CAG's repair and rehabilitation program activities provide selective rehabilitation services designed to remove health and safety hazards from the homes of low-income homeowners who live in the City of Lynchburg and meet HUD income guidelines for CDBG programs. Typical requests for services include electrical, plumbing, structural and roof repair/replacement. Local licensed contractors provide these services.

Lyn-CAG's weatherization activities provide energy saving measures, repairs, heating system repair/replacement and health and safety measures for eligible families. Conservation measures and home repairs are performed by Lyn-CAG's housing staff, while HVAC improvements, replacements and repairs are conducted by licensed HVAC contractors.

The CDBG funds will be used for weatherization and minor repair of homes owned by low income persons.

Organization: Rebuilding Together Lynchburg
Program: Rebuilding 2010

$ request	$80,000
CDBG or HOME	CDBG
Electronic Copy	N
501 (c) (3)	Y
VA Sec. of State Cert.	Y
Support Letters/Amount	Y/4
Funding Commitments	N
Resumes	Y
Prior Relative Activities	N
Audit/Number of Copies	N
Management Letter	N
Written Financial Procedures	N
Signed Statement	Y

Brief Description

Rebuilding Together Lynchburg's (RTL) mission is to help low-income homeowners receive repairs and/or modifications on their homes in an effort to provide them with a safer, warmer and more livable environment. The work is done at no cost to the homeowner.

RTL would like to assist at least 55 low income homeowners in Lynchburg in 2010 by repairing weak floors, building wheelchair ramps, installing grab bars, handrails, replacement windows, caulking draft areas, and other minor housing repair/rehabilitation. Many of the referrals for assistance comes from the Dialysis Center, Centra, Central Virginia Agency on Aging, LACIL, Interfaith Outreach and social workers.

The CDBG funds will be used labor, materials, supplies, staff and overhead.

CDBG APPLICATIONS

Category: Public Facilities and Improvements

Organization: City of Lynchburg for Fifth Street CDC
Program: Fifth Street Improvements

$ request	$100,000
CDBG or HOME	CDBG
Electronic Copy	Y
501 (c) (3)	Y (CDC) - March 2001; N (City)
VA Sec. of State Cert.	Y (CDC); N/City Government
Support Letters/Amount	N
Funding Commitments	N
Resumes	N
Prior Relative Activities	Y; CDBG and CIP funding for Phase I
Audit/Number of Copies	Y; City audit
Management Letter	N
Written Financial Procedures	Y
Signed Statement	N/City Government

Brief Description

The Fifth Street Corridor extends from Church Street to the Martin Luther King, Jr. Memorial Bridge. Fifth Street was once the home to thirty (30) businesses owned and operated by African Americans. The corridor has declined in activity and vibrancy in the past several years, but it is slowly reviving itself. The revitalization can be directly attributed to the community and City interest undertaken in the adoption of the Fifth Street Master Plan.

Improvements as listed in the Fifth Street Master Plan include improved infrastructure, the elimination of blight, the creation of an area conducive for economic revitalization and an improved living environment for the surrounding neighborhoods of College Hill, Garland Hill and Tinbridge Hill.

The requested CDBG funds will be used to continue to provide infrastructure and façade improvements for the Fifth Street Corridor and surrounding neighborhoods.

Organization: City of Lynchburg/Parks and Recreation Department
Program: Yoder Neighborhood Center Park Renovations

$ request	$133,000
CDBG or HOME	CDBG
Electronic Copy	Y
501 (c) (3)	N/City Government
VA Sec. of State Cert.	N/City Government
Support Letters/Amount	Y/4
Funding Commitments	N
Resumes	N
Prior Relative Activities	Y
Audit/Number of Copies	Y
Management Letter	N/City Government
Written Financial Procedures	N/City Government
Signed Statement	Y

Brief Description

The Yoder Neighborhood Center serves residents of Census Tract 6, one of the poorest sections of Lynchburg. The center includes after school programs and summer camp programs. The renovation to the Yoder Neighborhood Center is an ongoing collaboration between the City Parks and Recreation Department, Tinbridge Hill Neighborhood Council and St. John's Episcopal Church.

The CDBG funds requested will be used for the renovation project which consists of site improvements, including:

- **Renovation of the existing full basketball court, to include overlay, gel coat and new goals;**
- **Removal of the half-court court;**
- **Replacement of the existing drainage system to alleviate damage to the park and neighboring homes caused by site run off;**
- **Additional fence repair and replacement with new wrought iron fencing;**
- **Additional site amenities, including park benches, picnic tables and trash cans (with concrete pads);**
- **New site lighting;**
- **Signage; and**
- **Landscaping, and fine seeding and grading.**

Organization: Hunton-Randolph Community and Jubilee Family Center
Program: Hunton-Randolph Community Center Renovations

$ request	$
CDBG or HOME	CDBG
Electronic Copy	Y
501 (c) (3)	Y
VA Sec. of State Cert.	Y
Support Letters/Amount	Y/5
Funding Commitments	N
Resumes	Y
Prior Relative Activities	N
Audit/Number of Copies	N
Management Letter	N
Written Financial Procedures	Y
Signed Statement	Y

Brief Description

Hunton-Randolph Community Center is requesting fund for the renovation of the community center located at the corner of 12th and Taylor streets. An estimate from Moore & Goldman Architects is available.

CDBG funds will be used for renovations of the community center.

Organization: Mary Bethune Academy, t/a Bethune Nursery School, Inc.
Program: Building and Property Improvements

$ request	$54,800
CDBG or HOME	CDBG
Electronic Copy	Y
501 (c) (3)	Y
VA Sec. of State Cert.	Y
Support Letters/Amount	Y/2
Funding Commitments	N
Resumes	N
Prior Relative Activities	N
Audit/Number of Copies	Y
Management Letter	N
Written Financial Procedures	Y
Signed Statement	Y

Brief Description

Mary Bethune Academy is a non-profit United Way Agency seeking funds for improvements and revitalization to this City owned building. Although the building is owned by the City, the maintenance and upkeep are MBA's responsibility. The building is located in Fairview Heights, which is in census tract 13, one of the City's targeted areas.

Currently, MBA only serves children 2-5 years old, but parents of these children find it hard to bring their newborns and school age children to different day cares. The renovations will allow MBA to serve infants through school age children. As a non-profit agency serving primarily low income families, MBA has faced financial challenges over the years. The goal has been to offer affordable child care to struggling families striving for self-sufficiency.

The CDBG funds will be used for renovations to the facility.

CDBG APPLICATIONS
Category: Public Service

Organization: Camp Kum-Ba-Yah, Inc.
Program: Summer Day Camp Scholarships for Low Income Children and Youth

$ request	$20,000
CDBG or HOME	CDBG
Electronic Copy	Y
501 (c) (3)	Form 102 “VA Registration Statement for a Charitable Organization”
VA Sec. of State Cert.	Y
Support Letters/Amount	Y/1
Funding Commitments	N
Resumes	N
Prior Relative Activities	N
Audit/Number of Copies	2 copies of December 2006 and 2005
Management Letter	N
Written Financial Procedures	N
Signed Statement	Y

Brief Description

Camp Kum Ba Yah provides outdoor day-camp experiences for children ages 5-12. Each year this agency provides financial assistance (referred to as campership assistance) that allows many children to attend whose families would not otherwise be able to afford camp. Camp Kum Ba Yah seeks applications from children of low-income families residing in Lynchburg’s central city neighborhoods, including Lynchburg High Apartments, the Festival Center, the Hope II Program, James Crossing Apartments, Miriam’s House, White Rock Hill Education Center, and various Lynchburg Department of Social Services agencies.

The mission of Camp Kum Ba Yah is to use camping and recreational activities for personal discovery, spiritual growth, environment learning, and to improve cooperation and understanding between persons (campers and counselors) from diverse backgrounds (social, racial, economic, national, artistic, etc). The unique program challenges campers to cultivate friendships, identify, appreciate and develop their own interests, talents and abilities while appreciating those same qualities in other campers and counselors with whom they may have previously had nothing in common or, otherwise, may have never met or interacted. This effort, to develop a sense of community, is conducted in a safe and nurturing, outdoor environment supervised by caring and experienced adults. Scholarships are essential to the inclusion of low-income children in this experience.

CDBG funding is requested to provide scholarships (campership assistance awards) to low income eligible children in need of a safe and well supervised environment during the summer.

Organization: Johnson Health Services
Program: JHS Van/Transportation Services

$ request	$29,870
CDBG or HOME	CDBG
Electronic Copy	Y
501 (c) (3)	Y
VA Sec. of State Cert.	Y
Support Letters/Amount	Y/3
Funding Commitments	N
Resumes	Y
Prior Relative Activities	N
Audit/Number of Copies	Y
Management Letter	Y
Written Financial Procedures	Y
Signed Statement	Y

Brief Description

Johnson Health Services (JHS) provides comprehensive primary health care services including general medical, diagnostic, laboratory, x-ray, educational, case management, and all other primary care services necessary to meet the treatment needs of patients of all ages. Mental health and substance abuse services are provided internally by two Licensed Clinical Social Workers (LCSWs) and one case manager with a BS in Psychology. OB-prenatal and pediatric services are provided at 407 Federal Street. Dental services are provided to pediatric and adult patients at the James River Dental Clinic located in nearby Madison Heights.

The vast majority of JHS patients fall below 200% of federal poverty guidelines. Most pediatric patients have access to Medicaid transportation, but most uninsured adults and older adults struggle with affordable transportation. The most significant need is young pregnant women, adults with mental health needs, and older adults without transportation. Often these patients cancel needed medical appointments due to transportation issues.

The requested CDBG funds will be used purchase a van to allow for safe transportation for patients who cannot use public transportation and have no means of private transportation.

Organization: Jubilee Family Dev.Center & Cent. VA Community College
Program: Jubilee STEM Center (Science, Technology, Engineering & Mathematics)

$ request	$30,000
CDBG or HOME	CDBG
Electronic Copy	Y
501 (c) (3)	Y
VA Sec. of State Cert.	Y
Support Letters/Amount	Y/3
Funding Commitments	N
Resumes	N
Prior Relative Activities	N
Audit/Number of Copies	1 copy June 2007 and 2006
Management Letter	N
Written Financial Procedures	Y
Signed Statement	Y

Brief Description

The Jubilee Family Center strives to deliver programs to promote self-sufficiency and social responsibility to young people and their families. It consists of 3 phrases: Phase I-Academic Programming, Phase II-Athletic, and Phase III- Occupational Outreach Programming. Two of the newer programs include the Achievers Program and the Reentry Program.

STEM was developed to address the problem of unemployment and underemployment and expand the shrinking skilled labor pool in and around Lynchburg. The project seeks to improve participants' core academic skills so they are able to move on and master the "new literacy" skills necessary to compete in today's technology laden job market. The program is designed to steadily progress from academic training to career planning and job training and finally to internships and permanent employment. This building block program will match the target group with local employers whose labor pool has been reduced due to the lack of skilled workers in the "utilities" industry.

The CDBG funds will be used for staff and overhead associated with the program.

Organization: Interfaith Outreach Association
Program: Emergency Heating Assistance Program for the Elderly

$ request	$9,000
CDBG or HOME	CDBG
Electronic Copy	Y
501 (c) (3)	Y
VA Sec. of State Cert.	Y
Support Letters/Amount	Y/1
Funding Commitments	N
Resumes	Y
Prior Relative Activities	N
Audit/Number of Copies	1 copy from December 2006 and 2005
Management Letter	N
Written Financial Procedures	Y
Signed Statement	Y

Brief Description

The First Unitarian Universalist Church on Court Street in Lynchburg created this program to provide assistance with heating costs for those 60 years of age and older. It was managed by the church on a volunteer basis. As the need for the program grew, volunteers could no longer handle its administration and requested that Interfaith Outreach Association take over the program in the fall of 2002. All funds donated to this project are paid directly to the companies providing the heating source of those eligible for the program. No monies are used for administrative costs.

The CDBG funds will be used to provide heating and fuel assistance to elderly persons in Lynchburg.

Organization: Miriam's House, Inc.
Program: Special Needs Permanent Housing

$ request	$42,649.57
CDBG or HOME	CDBG
Electronic Copy	Y
501 (c) (3)	Y
VA Sec. of State Cert.	Y
Support Letters/Amount	Y/4 with letter heads; 3 from individuals who has experience with Miriam's House
Funding Commitments	N
Resumes	Y
Prior Relative Activities	N
Audit/Number of Copies	Y
Management Letter	N
Written Financial Procedures	Y
Signed Statement	Y

Brief Description

Miriam's House is requesting CDBG funds to support the staff that provides training and education for women, including how to maintain a living space, meal preparation, self-esteem, conflict resolution and parenting skills. There are currently 28 permanent housing units for disabled persons at the site. Miriam's House provides case management services for all of these residents. In returning to mainstream society homeless persons are particularity fragile especially those recovering from substance abuses.

Currently, Miriam's House provides for the gap in funding. The services include weekly visits by case managers, 24 hours-7 days a week on call support, money management, mental health assessment, medication monitoring, linkage to entitlement benefits such as Medicaid, Food Stamps and Social Security, employment counseling, parenting training and childcare, substance abuse recovery support and a host of other services specifically designed to maintain each resident in permanent housing.

The CDBG funds will be used for salaries and staff support.

Organization: New Land Industries, Inc.
Program: Job Readiness Training

$ request	$10,068
CDBG or HOME	CDBG
Electronic Copy	Y
501 (c) (3)	Y
VA Sec. of State Cert.	Y
Support Letters/Amount	Y/1
Funding Commitments	N
Resumes	Y
Prior Relative Activities	N
Audit/Number of Copies	Y/2
Management Letter	N
Written Financial Procedures	Y
Signed Statement	Y

Brief Description

New Land Jobs works with many other programs to assist unemployed or underemployed adults. The program includes many activities to assist the individual; program orientation, personal and job skills assessments, agency and service referrals, resume and cover letter preparation, prior employment verification, on-line and hard copy job search assistance, on-line and hard copy job application completion, interview skills training, prospective employer research, job readiness training (time management, work ethics, appropriate dress and behavior, the work environment), job counseling, financial management training, job placement, and retention, as well as scholarship computer training courses on a regular basis (other students pay $25/class).

The CDBG funds will be used salaries, overhead and equipment.

Organization: New Land Samaritan Inns, Inc.
Program: The Gateway

$ request	$70,179
CDBG or HOME	CDBG
Electronic Copy	Y
501 (c) (3)	Y
VA Sec. of State Cert.	N
Support Letters/Amount	Y/3 letterheads; 1 without
Funding Commitments	N
Resumes	Y
Prior Relative Activities	N
Audit/Number of Copies	Y
Management Letter	N
Written Financial Procedures	Y
Signed Statement	Y

Brief Description

The Gateway provides transitional housing and supportive services to homeless men in recovery from drug and alcohol addiction, holding them accountable as they learn to make better choices and rebuild their lives. Many of the clients have children, a few are married. Studies show that the majority of the homeless population is single male, and that substance and alcohol abuse contributes to the cause of homelessness for 90% of the national homeless population. The Gateway is the only transitional shelter for men in Central Virginia. The Gateway provides housing for a maximum of 24 men at any given time. Residents must be at least 18 years of age and have successfully completed a 30 day alcohol or substance abuse treatment program or be willing to attend intensive out-patient treatment in order to be considered for enrollment.

The CDBG funds will be used for staff and overhead.

Organization: United Way of Central Virginia
Program: Smart Beginnings Central VA

$ request	**$87,715.60**
CDBG or HOME	CDBG
Electronic Copy	Y
501 (c) (3)	Y
VA Sec. of State Cert.	N
Support Letters/Amount	Y/4
Funding Commitments	N
Resumes	N
Prior Relative Activities	N
Audit/Number of Copies	1 copy for June 2007 and 2006
Management Letter	N
Written Financial Procedures	N
Signed Statement	N

Brief Description

Children learn more at a faster pace in the first few years than at any other time in life. Parents are a child's first and most important teacher. The goals of the Parent Program are to increase parent knowledge of early childhood development, improve parenting practices and to increase children's school readiness and school success. Low-income children are a year or more behind according to U.S. Department of Education. Rex the Resource Bus is the Success By 6 mobile resource unit that supplies parents with educational materials and resources on child development, parenting skills, how to find resources in the community, quality child care, kindergarten readiness skills and introduces families and children to the classroom environment. Gus the Learning Bus is a mobile preschool classroom. It provides children who do not attend formal early education programs an opportunity to have school half a day twice a week and actually learn in their own neighborhood on the bus.

The CDBG funds will be used to support the outreach programs that are geared toward educating the parents about the needs of the children in the areas of child development and school readiness.

Organization: YWCA of Central Virginia
Program: YWCA Domestic Violence Prevention Center

$ request	$28,310
CDBG or HOME	CDBG
Electronic Copy	Y
501 (c) (3)	Y
VA Sec. of State Cert.	Y
Support Letters/Amount	Y/3
Funding Commitments	N
Resumes	Y
Prior Relative Activities	N
Audit/Number of Copies	Y
Management Letter	N
Written Financial Procedures	Y
Signed Statement	Y

Brief Description

YWCA's DVPC protected 98 women and 83 children from abusive homes in 2007. The Children's Supervised Visitation Center protected 14 children from abuse or abduction through 1,221 monitored family visits. DVPC provides unfunded direct services to the City of Lynchburg through the police protocol for responding to domestic violence cases, the Court Services protocol during intakes, and Court Referrals to the Children's Supervised Visitation Center. The grant will provide for a portion of the YWCA Domestic Violence Program Director's salary and benefits as well as a portion of client transportation costs. For the past two (2) years DVPC has been transporting clients on behalf of the Office of the Commonwealth's Attorney without reimbursement.

The CDBG funds will be used for staff support, training and travel.

HOME APPLICATIONS

Housing Rehabilitation – Two Application

Community Housing Development Organization (CHDO) – Two Applications

HOME APPLICATIONS
Category: Housing Rehabilitation

Organization: Lynchburg Community Action Group, Inc.
Program: Housing Rehabilitation Program

$ request	$220,000
CDBG or HOME	HOME
Electronic Copy	Y
501 (c) (3)	Y
VA Sec. of State Cert.	Y
Support Letters/Amount	Y/5
Funding Commitments	N
Resumes	N
Prior Relative Activities	N
Audit/Number of Copies	Y
Management Letter	Y
Written Financial Procedures	Y
Signed Statement	Y

Brief Description

Lyn-CAG's Housing Rehabilitation Program provides major rehabilitation services to Lynchburg LMI homeowners whose homes have been identified as substandard by City Inspections and/or Lyn-CAG. Major rehabilitation services include bringing all house systems into Code Compliance. This may include: plumbing, electrical, HVAC systems, safety systems, window and door systems, roof and gutter systems, structural systems, exterior and interior finishes, handicapped systems and lead remediation.

The scope of work is developed by a rehab specialist, the work is bid out and the rehab specialist and City Inspections/Grants Administration staff performs a final inspection. The rehabilitation work is done by professional licensed local contractors. Energy conservation improvements are performed by Lyn-CAG Energy Conservation Specialists.

The HOME funds will be used for eligible repair and rehabilitation services. In the 2009-2010 program year, Lyn-Cag anticipates assisting four (4) eligible households with this program.

Organization: Lynchburg Neighborhood Development Foundation (Lead Agency)
Program: Lynchburg Neighborhood Stabilization Coalition

$ request	$180,000
CDBG or HOME	HOME
Electronic Copy	Y
501 (c) (3)	Y
VA Sec. of State Cert.	Y
Support Letters/Amount	Y/1
Funding Commitments	Y
Resumes	Y
Prior Relative Activities	N
Audit/Number of Copies	Y
Management Letter	N
Written Financial Procedures	Y
Signed Statement	Y

Brief Description

The Neighborhood Stabilization Program (NSP) is a result of the Housing Recovery Act of 2008 through which federal funds were distributed to prevent communities with high foreclosure rates from physical deterioration and falling homes prices due to abandonment and neglect. The threshold for participation in NSP is that the defined neighborhood experienced foreclosures in 10% if its housing stock. The program will contribute funds for acquisition and a portion of the rehabilitation of a house for the re-sale to eligible qualified homebuyers.

NSP-Lynchburg proposes to purchase and renovate 15 foreclosed and vacant or abandoned homes in Diamond Hill and Early Street off Rivermont Avenue (targeted neighborhoods). Four non-profit housing providers – LNDF, Lyn-Cag, Habitat and Rush Homes – have worked over the past two months with the Region 2000 Local Government Council to develop the program and will participate directly in its implementation.

The HOME funds will be used for homebuyer financing, down-payment and closing costs and homeownership counseling.

HOME APPLICATIONS
Category: CHDO Activities

Organization: Lynchburg Community Action Group, Inc.
Program: First-Time Homebuyer Program

$ request	$70,000
CDBG or HOME	HOME/CHDO
Electronic Copy	Y
501 (c) (3)	Y
VA Sec. of State Cert.	Y
Support Letters/Amount	Y/5
Funding Commitments	N
Resumes	N
Prior Relative Activities	N
Audit/Number of Copies	Y
Management Letter	Y
Written Financial Procedures	Y
Signed Statement	Y

Brief Description

Lyn-CAG's First-Time Homebuyer Program activities provide services designed to remove health and safety hazards and code violations from vacant homes. The agency plans to sell these homes to low-income first-time homebuyers who meet HUD income guidelines for the HOME program. Lyn-Cag provides marketing for the sale of the homes.

The HOME/CHDO funds will be used for eligible program participants. In the 2009-2010 program year, Lyn-Cag anticipates assisting one eligible households with this program.

Organization: Rush Lifetime Homes, Inc.
Program: Victoria Ridge

$ request	$125,000
CDBG or HOME	HOME/CHDO
Electronic Copy	Y
501 (c) (3)	Y
VA Sec. of State Cert.	Y
Support Letters/Amount	Y/5
Funding Commitments	N
Resumes	N
Prior Relative Activities	N
Audit/Number of Copies	Y
Management Letter	N
Written Financial Procedures	Y
Signed Statement	Y

Brief Description

Rush Homes, Inc. has been designated by the Virginia Department of Housing and Community Development and the City of Lynchburg as a Community Housing Development Organization (CHDO). The agency plans to develop Victoria Ridge on Victoria Avenue in Lynchburg. The development will consist of 24 apartments, including 16 one-bedroom and eight two-bedroom units for people with special needs and low incomes. Fifty percent of the apartments will be fully accessible to Section 504 standards; the remainder will be adaptable for disabilities.

The HOME CHDO funds will be used for housing rehabilitation/construction.

CDBG	2009													
Non-Public Service							**Public Service**							
Number	Name	Request	Award	Previous	%Grant		Number	Name	Request	Award	Previous	%Grant		
	Section 108 Craddock	$318,284.00	$318,284.00	$325,772.00				Gateway	$70,179.00	$25,000.00	$19,500.00	35.62%		
	Admin	$174,299.53	$150,000.00	$75,000.00	86.06%			Hunton Y	$35,000.00	$25,000.00	$0.00	71.43%		
	LRHA Admin	$24,718.00	$24,718.00	$65,000.00	100.00%			YWCA	$28,310.00	$23,651.20	$14,500.00	83.54%		
	LHRA Spot Blight	$356,107.00	$288,425.41	$80,000.00	80.99%			Interfaith Fuel	$9,000.00	$0.00	$0.00	0.00%		
	LRHA Rental Rehab	$139,982.00	$100,000.00	$0.00	71.44%			Miriam's	$42,649.57	$20,000.00	$14,500.00	46.89%		
	LynCag Home Imp.	$100,000.00	$0.00	$75,000.00	0.00%			Kum-Ba-Yah	$20,000.00	$0.00	$5,000.00	0.00%		
	5th Street	$100,000.00	$0.00	$70,000.00	0.00%			United Way	$40,000.00	$0.00	$5,000.00	0.00%		
*	Bethune	$54,800.00	$0.00	$50,000.00	0.00%			JHS	$29,870.00	$0.00	$14,500.00	0.00%		
*								Job Ready (NL)	$10,068.00	$0.00	$5,000.00	0.00%		
	Yoder Center	$113,000.00	$0.00	$20,000.00	0.00%			Jubilee	$30,000.00	$20,000.00	$15,000.00	66.67%		
	Rebuilding Together	$80,000.00	$0.00	$40,000.00	0.00%		Totals		$315,076.57	$113,651.20				
Totals		$1,461,190.53	$881,427.41				Available		$113,076.57	$113,651.20	15% allocation			
Available		$845,816.82	$881,427.41				Balance		-$202,000.00	$0.00				
Balance		-$615,373.71	$0.00											
			$69,830.29	with stimulus										
HOME													Max Admin:	$199,017.53
Number	Name	Request	Award	Previous	%Grant		Total CDBG Allocation w/ Reprogrammed:			$995,078.61				
	Admin	$54,294.00	$54,294.00	$43,000.00	100.00%		Maximum Public Service:			$149,261.80				
	LNDF Neigh. Stab.	$180,000.00	$180,000.00	$0.00	100.00%								CHDO Requirement: 15%	
	LynCag Rehab (CHDO)	$110,000.00	$110,000.00	$140,000.00	100.00%		Home Allocation w/ Repogrammed:			$542,941.19	Max Admin:	$54,294.00		
	LynCag Buyer (CHDO)	$70,000.00	$70,000.00	$0.00	100.00%									
	Rush Homes (CHDO)	$125,000.00	$128,647.19	$54,886.29	102.92%									
Totals		$539,294.00	$542,941.19						Aug 09 108	$251,086.00				
Available		$542,941.19	$542,941.19						Feb 10 108	$67,198.00				
Balance		$3,647.19	$0.00							$318,284.00				

LYNCHBURG CITY COUNCIL
Agenda Item Summary

MEETING DATE: **July 14, 2009** AGENDA ITEM NO.: 6

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

ACTION: **X** INFORMATION:

ITEM TITLE: **Public Hearing to Authorize the Lynchburg Redevelopment and Housing Authority (LRHA) To Pursue Acquisition of Blighted Properties at 517 and 521 Winston Ridge Road**

RECOMMENDATION:

Adopt a resolution authorizing LRHA to pursue acquisition of blighted properties at 517 and 521 Winston Ridge Road under Section 36-19.5 of the Code of Virginia.

SUMMARY:

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

PRIOR ACTION(S):

NA

FISCAL IMPACT:

NA

CONTACT(S):

Edward H. McCann 845-9011

ATTACHMENT(S):

- Resolution
- Letter from LRHA

REVIEWED BY: lkp

RESOLUTION AUTHORIZING THE ACQUISITION OF REAL PROPERTY

WHEREAS, it appearing to City Council from the evidence presented at the public hearing that the structures located at 517 and 521 Winston Ridge Road, parcels 108-09-021, 022, (i) have deteriorated to such an extent as to constitute an immediate, serious and growing menace to the public health, safety and welfare; (ii) that such structures are likely to continue to deteriorate unless corrected; (iii) that the continued deterioration of such structures will contribute to the blighting or deterioration of the area immediately surrounding 517 and 521 Winston Ridge Road; (iv) that such structures are blighted properties in accordance with Section 1-219.1 of the Code of Virginia in that their condition endangers the public health or safety, and the structures are a public nuisance or are beyond repair or unfit for human occupancy or use; (v) that the owner of 517 and 521 Winston Ridge Road was given 60 days notice by certified mail of the condition of the structures and has failed to correct the deterioration; and (vi) that 517 and 521 Winston Ridge Road lies within the Lynchburg Redevelopment and Housing Authority's area of operation; and

WHEREAS, it further appearing to City Council from the evidence presented at the public hearing that the acquisition of 517 and 521 Winston Ridge Road by the Lynchburg Redevelopment and Housing Authority is to serve a public purpose and not for private benefit or gain; and

WHEREAS, it further appearing to City Council from the evidence presented at the public hearing that the primary purpose for acquiring 517 and 521 Winston Ridge Road by the Lynchburg Redevelopment and Housing Authority is not to increase any tax base or taxable revenues, or to increase employment;

NOW, THEREFORE BE IT RESOLVED that as provided by Section 36-19.5 of the Code of Virginia the Lynchburg City Council does hereby designate, authorize, and direct the Lynchburg Redevelopment and Housing Authority to acquire the properties located at 517 and 521 Winston Ridge Road by purchase, lease, gift or through the exercise of eminent domain for the purposes set forth in subsection A of Section 36-19.5 of the Code of Virginia, including, but not limited to, the renovation, rehabilitation, and disposition of the structures at 517 and 521 Winston Ridge Road;

BE IT FURTHER RESOLVED that the Lynchburg Redevelopment and Housing Authority is hereby designated, authorized, and directed to act on the City's behalf in the acquisition of the properties at 517 and 521 Winston Ridge Road, and in the event the Lynchburg Redevelopment and Housing Authority files a petition in the Lynchburg Circuit Court to acquire the properties located at 517 and 521 Winston Ridge Road through the use of the power of eminent domain, the Lynchburg Redevelopment and Housing Authority shall be deemed to be acting as, and on behalf of, the City of Lynchburg for the purposes of such petition.

Adopted:

Certified: ______________________________

Clerk of Council

064P

LYNCHBURG
REDEVELOPMENT AND
HOUSING AUTHORITY

EDWARD H. McCANN
Executive Director

May 22,2009

Mrs. Patricia W. Kost
Clerk of City Council
900 Church Street
lynchburg, Virginia 24504

Re: 517 and 521 Winston Ridge Road
parcels 108-09-021, 022
lynchburg, Virginia

Dear Mrs. Kost:

Authority staff initially inspected these deteriorated properties in October of 2006 after being referred to the Authority by the City's inspections staff. In November 2006, the owner was notified by the Authority by certified mail of the deficiencies under section 36-19.5 of the Code of Virginia and given notice to submit either a written plan of correction within 30 days or to correct the deficiencies within 60 days.

The above Code section provides that an authority may acquire blighted property after a public hearing and approval of such acqUisition by the governing body of the city within which the property is located. This is to request that City Council hold a public hearing to consider the request of the lynchburg Redevelopment and Housing Authority for authorization to acquire these properties pursuant to the above referenced code. Enclosed is a copy of the resolution adopted by the Commissioners of the Authority, proposed resolution for City Council's consideration, report to Council, notices sent to the owner and pictures of the property.

Please let me know if you need further information.

Very truly yours,

Edward H. McCann

enclosures

Report to City Council

May 22, 2009

As part of the collaborative effort between the City of Lynchburg and the Lynchburg Redevelopment to address blighted properties through our local Spot Blight Abatement Program, the City's Inspection personnel referred the properties at 517 and 521 Winston Ridge Road to the Authority for action. As outlined on the attached chronology, attempts by the Authority to have the owner correct the defIciencies have been unsuccessful and the properties remain blighted.

Attached is a resolution adopted by the Commissioners of the Authority requesting that City Council authorize the acquisition of the properties as well as a recommended resolution for City Council's consideration. Also attached are copies of correspondence sent to the owner, pictures of the properties and a listing of deficiencies. A public hearing is required prior to City Council's adoption of the resolution.

Members of the Authority's staff will be available at the Council meeting to address this issue.

05/06/09

RESOLUTION NO. 988

Resolution Authorizing the Executive Director to seek approval of City Council for the acquisition of the properties at 517 and 521 Winston Ridge Road, Parcels 108-09-021,022, Lynchburg, Virginia pursuant to Code section 36-19.5

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

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

WHEREAS, the Commissioners of the Authority have made a finding that the dwelling units located at 517 and 521 Winston Ridge Road, Lynchburg, Virginia (the properties), (i) have deteriorated to such extent as to constitute an immediate, serious and growing menace to the public health, safety and welfare; (ii) that the properties are likely to continue to deteriorate unless corrected; and (iii) that the continued deterioration of the properties may contribute to the blighting or deterioration of the area immediately surrounding the dwelling units; and

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

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

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

THEREFORE, BE IT RESOLVED, by the Commissioners of the Authority that the Executive Director of the Authority, in consultation with the Authority's legal counsel, is hereby authorized and directed to request that the City Council of the City of Lynchburg hold a public hearing to consider the Authority's request to acquire the properties at 517 and 521 Winston Ridge Road, Lynchburg, Virginia, in accordance with the provisions of Code section 36-19.5, for the purpose of development and redevelopment, including, but not limited to, renovation, rehabilitation and disposition of the properties.

Chronology for 517 and 521 Winston Ridge Road

- According to City inspections records, the City inspector cited violations at both properties in August 2003. The City inspections staff conducted approximately 35 inspections from 2003 to present. The owner began repairs during December 2004, January 2005, October 2005 and July 2007; but he never completed the repairs.
- September 2006, City inspections staff referred the properties to the Authority's Spot Blight Program.
- October 2006, Authority staff inspected the properties and cited exterior deficiencies.
- November 2006, the owner was notified by the Authority by certified mail of the deficiencies under section 36-19.5 of the Code of Virginia and given notice to submit either a written plan of correction within 30 days or to correct the deficiencies within 60 days.
- January 2007, the owner responded to Authority staff stating that he planned to repair both properties. He indicated that he was working with a City building inspector and was making repairs to 521 Winston Ridge Road and then would repair 517.
- February 2007, staff observed no repairs underway, and the commissioners deferred taking further action due to insufficient funds.
- March through June 2007, Authority and City inspections staff did not observe any work underway.
- July 2007, Authority staff observed that part of 517 had been painted and the windows boarded and the boards painted in accordance with the City's ordinance for securing vacant property. Staff also observed that part of 521 had been painted.
- September 2007 through May 2008, no repairs observed by Authority or inspections staff.
- June 2008, the commissioners decided to continue to defer taking further action due to insufficient funds.
- June 2008 through April 2009, no repairs observed by Authority or inspections staff.
- March 2009, the owner responded to the Senior Building Official's correspondence and indicated that he planned to correct the deficiencies, but no repairs have been observed to date.
- April 2009, the Senior Building Official referred the property to the Authority's Spot Blight Abatement Program again since all efforts by the inspections staff have been unsuccessful.
- May 2009, the Authority commissioners adopted a resolution authorizing the Executive Director to request City Council conduct a public hearing to consider the Authority's request to acquire these properties.

LYNCHBURG
REDEVELOPMENT AND
HOUSING AUTHORITY

EDWARD H. McCANN
Executive Director

November 6, 2006

Ronald E. Harris
P.O. Box 2453
Louisville, KY 40201

Re: Parcel: 108-09-021
517 Winston Ridge Road
Lynchburg, Virginia

Dear Mr. Harris:

In a cooperative effort with the City of Lynchburg, the Board of Commissioners of the Lynchburg Redevelopment and Housing Authority has directed our staff to identify residential properties that are deteriorated to such an extent as to constitute a serious and growing menace to the public health, safety and welfare, that are likely to deteriorate unless corrected, and that may contribute to the blighting or deterioration of the surrounding area. We have been made aware of the above property which city records show to be owned by you. We observed the dwelling on October 25, 2006, and found the following conditions:

- Condemned On 8/23/05
- Roof deteriorated
- Eaves deteriorated and peeling paint
- Sections of siding deteriorated
- Steps/porch in front missing
- Windows boarded
- Wires hanging from structure
- Concrete blocks in yard
- Deteriorated steps from road and missing handrail

We are requesting that you:

1. Present a written plan within thirty (30) calendar days of receipt of this notice for consideration and approval by the Commissioners which would address the correction of these

deficiencies and include a timetable and financing arrangements and identify who would complete the work;

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

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

Please contact me if you with to discuss this.

Very truly yours,

Edward H McCann

Certified Mail Return Receipt Requested

LYNCHBURG
REDEVELOPMENT AND
HOUSING AUTHORITY

EDWARD H. McCANN
Executive Director

November 6,2006

Ronald E. Harris
P.O. Box 2453
Louisville, KY 40201

Re: Parcel: 108-09-022
521 Winston Ridge Road
Lynchburg, Virginia

Dear Mr. Harris:

In a cooperative effort with the City of Lynchburg, the Board of Commissioners of the Lynchburg Redevelopment and Housing Authority has directed our staff to identify residential properties that are deteriorated to such an extent as to constitute a serious and growing menace to the public health, safety and welfare, that are likely to deteriorate unless corrected, and that may contribute to the blighting or deterioration of the surrounding area. We have been made aware of the above property which city records show to be owned by you. We observed the dwelling on October 25, 2006, and found the following conditions:

- Condemned on 8/23/05
- Roof deteriorated
- Gutters and downspouts missing
- Deteriorated fascia
- Sections of siding deteriorated
- Peeling paint entire structure
- Windows boarded
- Window panes broken and missing
- Electrical wires hanging from structure
- Front porch deteriorated including steps, roof, deck and foundation
- Debris in rear yard
- Deteriorated steps from road and missing handrail

We are requesting that you:

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

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

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

Please contact me if you with to discuss this.

Very truly yours,

Edward H McLean

~~Certified Mail - Return Receipt Requested~~

517 Winston Ridge Road

Pictures taken May 20, 2009


MAY 20 2009


MAY 20 2009


MAY 20 2009


MAY 20 2009


MAY 20 2009


MAY 20 20


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MAY 20 2009


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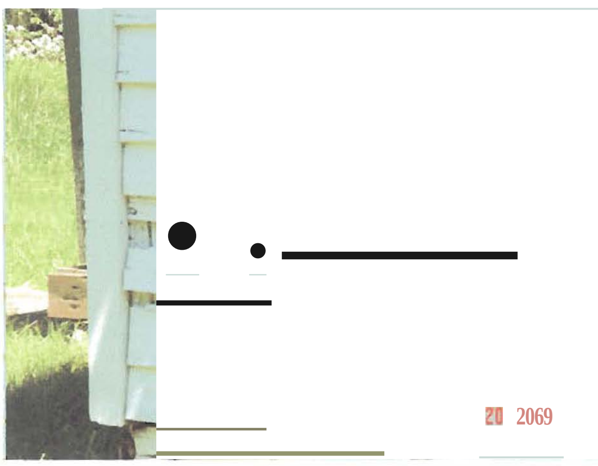
MAY 20 2009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MAY 20 2009


MAY 20 2009


MAY 20 2009

521 Winston Ridge Road

Pictures taken May **20,** 2009

LYNCHBURG CITY COUNCIL
Agenda Item Summary

MEETING DATE: **July 14, 2009** AGENDA ITEM NO.: 7

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

ACTION: **X** INFORMATION:

ITEM TITLE: **Conditional Use Permit (CUP): Fill Within the Limits of the One Hundred (100)-Year Floodplain - Griffin Pipe Products, Inc. – 10 Adams Street**

RECOMMENDATION: Approval of the CUP petition.

SUMMARY: Griffin Pipe Products, Inc is petitioning for a CUP to allow fill within the limits of the one hundred (100)-year floodplain. The permit would ultimately allow the construction of a fifty-two thousand, seven hundred (52,700) square foot manufacturing addition. The City has complied with Section 15.2 -2204 of the Code of Virginia and notified Amherst County about the proposed changes within the City; the county had no concerns about the proposed CUP.
The Planning Commission recommended approval of the CUP petition because:

- The applicant's Hydrologic Engineering Center River Analysis System (HEC-RAS) study indicates that there would be no rise in the flood level as a result of the addition.
- The petition agrees with the *Comprehensive Plan* which recommends an Employment 2 use within this area.
- The concept plan indicates the limits of clearing will not impact the existing canal or the existing buffer adjacent to the James River.

PRIOR ACTION(S):
June 10, 2009: Planning Division recommended approval of the CUP petition.

June 10, 2009: Planning Commission recommended approval of the CUP petition (4-0, with three members absent, Hannon, Barnes and Worthington) subject to the following condition:

1. The property shall be developed in substantial compliance with the concept plan for the "Griffin Pipe Building Expansion" designed by Wiley & Wilson and dated May 29, 2009.

BUDGET IMPACT: None

CONTACT(S): Charlene Montford 455-3902
Tom Martin 455-3909

ATTACHMENT(S):
- Resolution
- Planning Commission Report
- Planning Commission Minutes
- Vicinity Map
- Vicinity Proposed Land Use Map
- Watershed Location Map
- Concept Plan
- Speaker Sign Up Sheet

REVIEWED BY: lkp

RESOLUTION: #R-09-

A RESOLUTION GRANTING A CONDITIONAL USE PERMIT TO GRIFFIN PIPE PRODUCTS, INC. TO ALLOW FILL WITHIN THE LIMITS OF THE ONE HUNDRED (100)-YEAR FLOODPLAIN FOR THE CONSTRUCTION OF A FIFTY-TWO THOUSAND SEVEN HUNDRED (52,700) SQUARE FOOT MANUFACUTURING ADDITION AT 10 ADAMS STREET.

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF LYNCHBURG that the petition of Griffin Pipe Products, Inc. to allow fill within the limits of the one hundred (100)-year floodplain for the construction of a fifty-two thousand seven hundred (52,700) square foot manufacturing addition at 10 Adams Street be, and the same is hereby, approved subject to the following condition:

1. The property shall be developed in substantial compliance with the concept plan for the "Griffin Pipe Building Expansion" designed by Wiley & Wilson and dated May 29, 2009.

Adopted:

Certified: ________________________
Clerk of Council

069L

The Department of Community Development

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

To: Planning Commission
From: Planning Division
Date: June 10, 2009
Re: **CONDITIONAL USE PERMIT [CUP]: Fill within the limits of the one hundred (100)-year floodplain.**

I. PETITIONER

Griffin Pipe Products, Inc., Division of Amsted Industries, 10 Adams Street, Lynchburg, VA 24504-1446
Representative: Jay Lewis, Wiley and Wilson, 127 Nationwide Drive, Lynchburg, VA 24502-4272

II. LOCATION

The subject property is located at 10 Adams Street, and totals approximately twelve and eight tenths (12.8) acres.

Property Owner: Griffin Pipe Products, Inc., Division of Amsted Industries, 10 Adams Street Lynchburg, VA 24504-1446

III. PURPOSE

The purpose of this petition is to allow fill within the limits of the one hundred (100)-year floodplain to allow the construction of a fifty-two thousand, seven hundred (52,700) square foot manufacturing addition.

IV. SUMMARY

- The petition agrees with the *Comprehensive Plan* which recommends an Employment 2 use within this area.
- Petition agrees with the *Zoning Ordinance* in that manufacturing facilities are allowed in an I-3, Heavy Industrial District.
- Petition agrees with the *Zoning Ordinance* in that fill is permitted within the limits of the one hundred (100)-year floodplain with approval of a CUP by City Council.

The Planning Division recommends approval of the CUP petition.

V. FINDINGS OF FACT

1. **Comprehensive Plan.** The Lynchburg *Comprehensive Plan* recommends an Employment 2 use in this area. These areas include light and heavy manufacturing, research and development, flex space and large-scale office uses. Restaurant, hotel and business service uses are also appropriate, if sized and designed to serve the employment area. **(page 5.4)**

   The Natural Systems chapter of the *Comprehensive Plan* recommends limiting new development in the floodplain, since the Federal Emergency Management Agency (FEMA) 100-year floodplain maps are no longer accurate (based on the September 1978 floodstudy). **(page12.3)** The City's 1978 floodstudy indicated that portions of the existing building (and the proposed location of the addition) are located within the floodway of the James River. The floodway is defined by Section 35.1-45(b)(10) of the *Zoning Ordinance* as "the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation." New buildings within the floodway district are generally prohibited by City Code since this zone carries the velocity of the flood. A Letter of Map Revision (LOMR) was submitted to FEMA in April 1993, which noted that the original floodway was not accurate based on the location of the existing structure and the topography of the area. FEMA issued Best Available Data Letter (BADL) Number 93-03-183P allowing that the building was in fact located within the limits of the one hundred (100)-year floodplain rather than the floodway. Although this change was not reflected when FEMA issued revised floodplain maps for the James River in June 2008, the Environmental Reviewer has confirmed that the 1993 BADL letter is still in effect and the project can be reviewed in accordance with the provisions of Section 35.1-45(n) regarding special floodplain districts. Based on these revisions, staff has sufficient information to evaluate the effect of the proposed addition.

2. **Zoning.** The subject property was annexed into the City in 1870. The existing I-3, Heavy Industrial District zoning was established in 1978 with the adoption of the *Zoning Ordinance*.

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

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

   - On December 11, 2007, City Council adopted Section 35.1-43.2:1, Fifth Street Revitalization Corridor Overlay District as part of the *Zoning Ordinance* and rezoned properties from B-1, Limited Business District and B-5, General Business District to 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 and B-6, Riverfront District as shown on the map entitled “Fifth Street Revitalization Corridor Proposed Zoning.”

   - On May 17, 2007, Michael and Kathy Bedsworth withdrew their petition for a CUP to allow operation of a bed and breakfast within an existing building in an R-3, Medium Density, Two-Family Residential District at 404 Cabell Street. The bed and breakfast was allowed by a CUP previously approved by City Council.

   - On August 8, 2005, City Council approved Lynchburg Daily Bread’s petition for a CUP to allow the construction of an addition for food preparation and storage in an R-2, Low-Medium Density, Single-Family Residential District at 721 Clay Street.

   - On July 13, 2004, City Council rezoned portions of the Garland Hill Historic District from R-3, Medium Density, Two-Family Residential District to R-2, Low-Medium Density, Single-Family Residential District to create an environment that supports the pattern of owner-occupied, single-family residences within the district.

   - On October 14, 2003, City Council approved St. Paul’s Episcopal Church’s petition for a CUP to allow the construction of a parking lot in an R-2, Low-Medium Density, Single-Family Residential District at 612 and 616 Madison Street.

   - On July 9, 2002, City Council approved St. Paul’s Episcopal Church’s petition for a CUP to allow the use of an existing building as a child care facility in an R-2, Low-Medium Density, Single-Family Residential District at 620 Madison Street.

   - On July 11, 2000, City Council denied Central Virginia Community Services’ petition to allow the use of an existing building as a substance abuse center in a B-1, Limited Business District at 620 Court Street.

   - On November 9, 1999, City Council approved Rebecca Carwile’s petition for a CUP to allow the operation of a bed and breakfast inn within an existing building in an R-3, Medium Density, Two-Family Residential District at 404 Cabell Street.

   - On January 13, 1998, City Council approved Roland H. Macher’s petition for a CUP to allow the use of an existing building for the operation of an arcade with laser tag facilities in a B-4, Central Business District at 908 Main Street.

   - On April 8, 1997, City Council approved Atlantic Rural Exposition’s petition for a CUP to allow the Fair by the James along Jefferson Street from 10th Street to Horseford Road.

   - On March 11, 1997, City Council approved Susan Boyett’s petition for a CUP to allow the operation of a bed and breakfast for up to eight (8) guests within an existing building in an R-3, Medium Density, Two-Family Residential District at 404 Cabell Street.

- On June 13, 1995, City Council approved Holy Cross Catholic Church's petition for a CUP to allow the construction of a three (3)-story multipurpose building addition in an R-2, Low-Medium Density, Single-Family Residential District at 710 Clay Street.
- On September 13, 1994, City Council approved the City of Lynchburg's petition for a CUP to allow the construction of a visitor center, plantation center and associated parking as part of the Point of Honor Master Plan in an R-3, Medium Density, Two-Family Residential District and B-5, General Business District at 112 Cabell Street.
- On June 14, 1994, City Council approved Joseph A. and Brenda B. Sanzone's petition to rezone twenty-eight hundredths (0.28) of an acre at 707 Clay Street from R-2, Low-Medium Density, Single-Family Residential District to B-1C, Limited Business District (Conditional) to allow the construction of an office addition and associated parking.
- On April 12, 1994, City Council amended the "Official Zoning Map" to reflect the rezoning of properties within the Riverfront area from B-5, General Business District and I-3, Heavy Industrial District to B-6, Riverfront District as modified and shown on the map entitled "Riverfront/Downtown Revitalization Program – Proposed Zoning, February 15, 1994".
- On July 13, 1993, City Council approved the City of Lynchburg's petition for a CUP to allow the construction of a preschool playground facility at the existing Daniel's Hill Recreation Center in an R-3, Medium Density, Two-Family Residential District at Cabell Street and D Street.
- On May 12, 1992, City Council approved the City of Lynchburg's petition for a CUP to allow the construction of an off-street parking area for one hundred and five (105) vehicles in an R-3, Medium Density, Two-Family Residential District at Lucado Place and Clay Street.
- On August 13, 1985, City Council approved Peggy Esthimer's petition for a CUP to allow the use of an existing building as an adult care facility in an R-3, Medium Density, Two-Family Residential District at 404 Cabell Street.
- On January 11, 1983, City Council approved Lynchburg Historical Association's petition for a CUP to allow the minor expansion and use of an existing structure as a church in an R-3, Medium Density, Two-Family Residential District at 215 Cabell Street.
- On June 23, 1981, City Council approved Berry/Haley's petition for a CUP to allow the use of an existing building as a counseling facility in an R-3, Medium Density, Two-Family Residential District at 405 Cabell Street.
- On October 9, 1979, City Council approved H. L. Carr's petition to allow the use of an existing building as a restaurant and dance hall at 513 Church Street.

5. **Site Description.** The subject property includes a two hundred thirty thousand, four hundred and thirty four (230,434) square foot manufacturing facility at the intersection of Adams Street and 7th Street. The property is bound to the north and east by the James River and single-family homes in Amherst County and to the south and west by Blackwater Creek and the commercial and residential uses that comprise Downtown Lynchburg and the 5th Street Corridor, respectively.

6. **Proposed Use of Property.** The purpose of this petition is to allow construction of a fifty-two thousand seven hundred (52,700) square foot manufacturing addition within the limits of the one hundred (100)-year floodplain. The City has complied with Section 15.2 -2204 of the Code of Virginia and notified Amherst County about the proposed changes within the City. Jeremy Bryant, Director of the County's Planning and Zoning Department, had no concerns about the proposed CUP.

   The site is currently served by City water and sewer and no additional public services would be required for the addition. Utility area screening would be required by the City's *Zoning Ordinance* if the new areas are visible from a public street. It is likely that the utility areas would be sufficiently screened by the existing buffer along the perimeter of the site, adjacent to the James River; however, these areas will be evaluated during the final site design of the project.

   The representative conducted an engineering study to demonstrate that the building would not increase the flood levels at the upstream and downstream limits of the property. The comparison of the results of the model water surface elevation change before and after the proposed building addition indicates that there is no increase in the one hundred (100)-year flood water surface elevation. FEMA will not require that a LOMR be issued for the project since there is no change in the water surface elevation as a result of the addition. The representative also provided a new floodway determination to verify the location shown on the 1993 LOMR. The floodway location was generated using the original 1993 Hydrologic Engineering Center (HEC)-2 model and a HEC-River Analysis System (RAS) model to establish the limits of the floodway. The "Corrected Effective HEC-RAS Model Floodway" is indicated on the concept plan for reference.

City staff requested that designer indicate the location of the existing canal and note that it would not be impacted as a result of the project. It was also recommended that the petitioner maintain the characteristics of the James River channel at base flow by preserving the existing buffer. The concept plan indicates the limits of clearing will not impact the existing canal or the existing buffer adjacent to the James River and that the City's water supply through the canal and downstream culvert would be maintained.

7. **Traffic, Parking and Public Transit.** The City's Transportation Engineer had no concerns regarding the proposed addition.

   Parking requirements for the manufacturing use are established by the City's *Zoning Ordinance* as two (2) spaces per three (3) employees on the main shift. Griffin Pipe maintains one hundred and forty-six (146) employees on its main shift, which would require a total of ninety-eight (98) parking spaces. The site includes two hundred and twelve (212) parking spaces, thus meeting the requirements of City Code.

   Public transit is available at the intersection of 7th Street and Commerce Street via Routes 1A and 1B of the Greater Lynchburg Transit Company. The closest stop is approximately nine hundred (900) feet from the site.

8. **Stormwater Management.** The existing site consists of buildings and paved areas, with nearly one hundred percent (100%) impervious. Since the amount of new impervious area for the addition does not exceed the one thousand (1,000) square foot threshold, a stormwater management plan to address water quantity and quality will not be required for the construction.

9. **Emergency Services.** Following his review of the project, the City's Fire Marshal noted that fire hydrants must be located within four hundred (400) feet of all parts of the structure for buildings without a sprinkler system and within six hundred (600) feet of buildings with a sprinkler system. The final location of the hydrants will be determined during the final site design and will be located such that they meet the requirements of the City's *Fire Code*.

   The City Police Department commented that the parking lot area surrounding the building should be well lit and recommended wall-mounted lights on the sides of the building, as well as motion sensor flood lights along the building. It was also noted that the final site design should include directional signage for traffic in the parking area, entrance signage for the building and "No Trespassing" signage to prevent unauthorized use of the facility. The applicant has noted that the facility maintains a guard station with twenty-four (24)-hour security. Final lighting layout and signage would be determined during the site plan review processes.

10. **Impact.** The construction of a fifty-two thousand seven hundred (52,700) square foot manufacturing addition on this site would have limited impact on the surrounding area. The applicant's study indicates that there would be no rise in the flood level as a result of the addition. Also, the model does not take into account the ability for flood water to flow through the buildings, which would also minimize the impact on the water surface elevation. Traffic, parking, stormwater management and emergency services concerns have all been addressed to the satisfaction of City staff and the result is a project that would allow for the expansion of a major industry within our community.

11. **Technical Review Committee.** The Technical Review Committee (TRC) reviewed the preliminary site plan on May 19, 2009. Comments related to the proposed plan use were minor in nature and have or will be addressed by the developer prior to final site plan approval.

VI. PLANNING DIVISION RECOMMEND MOTION(S):

Based on the preceding Findings of Fact, the Planning Commission recommends to City Council approval Griffin Pipe Product Inc.'s petition for a Conditional Use Permit petition to allow the construction of a fifty-two thousand seven hundred (52,700) square foot building addition within the 100-year floodplain at 10 Adams Street, subject to the following condition:

1. **The property shall be developed in substantial compliance with the concept plan for the Griffin Pipe Building Expansion designed by Wiley & Wilson and dated May 29, 2009.**

This matter is respectfully offered for your consideration.

William T. Martin, AICP
City Planner

pc: Mr. L. Kimball Payne, III, City Manager
Mr. Walter C. Erwin, City Attorney
Ms. Charlene B. Montford, Director of Community Development
Mr. J. Lee Newland, City Engineer
Ms. Cynthia L. Kozerow, Lynchburg Police Department
Battalion Chief Greg Wormser, Fire Marshal
Mr. Gerry L. Harter, Traffic Engineer
Mr. Robert Drane, Building Commissioner
Mr. Robert S. Fowler, Zoning Administrator
Mr. Kent L. White, Senior Planner
Mrs. Erin B. Hawkins, Environmental Reviewer
Mr. Robert Ingram, Applicant, Griffin Pipe Products, Inc.
Mr. Jay Lewis, Representative, Wiley and Wilson

VII. ATTACHMENTS

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

MINUTES FROM THE JUNE 10, 2009 PLANNING COMMISSION MEETING (MINUTES HAVE NOT BEEN APPROVED):

b. Petition of Griffin Pipe Products, Inc. for a conditional use permit to allow fill within the limits of the 100-year floodplain for a building and manufacturing expansion at 10 Adams Street.

Mr. Martin addressed the commissioners with the following comments. The request is for a conditional use permit to allow fill within the 100-year floodplain to facilitate the construction of a 52,700 square foot manufacturing addition to the existing Griffin Pipe facility. Mr. Martin would like to commend the petitioners for meeting with city staff very early in the process, took staff to the facility and worked with them very closely to get to this point. The property is zoned I-3, Heavy Industrial and the *Future Land Use Map* does recommend an Employment 2 use for the property. The proposed use of the property is in compliance with those documents.

The representative has conducted engineering analysis that demonstrates there will be no rise in the 100-year floodplain elevations upstream or downstream from this property. That is one of the requirements of allowing fill in the floodplain. The design of the building will also allow water to flow through it in the case of flooding, which will minimize any impact on water surface elevations in times of flooding. The proposed additions are on areas that are essentially impervious now. Since the construction would not increase impervious area over 1,000 square feet, there is no stormwater management plan required.

The Police and Fire Departments had some comments and concerns, but those have or will be addressed prior to final site plan approval. Those comments were primarily about fire hydrant locations and security. Griffin Pipe does have full-time security on site. Planning Division recommends approval of the conditional use permit.

Mr. Jay Lewis of Wiley and Wilson came forward as the representative for the petitioner. Mr. Bob Ingram of Griffin Pipe was also present. Mr. Ingram will explain the nature of the project and Mr. Lewis will speak to the technical portions of the engineering study.

Mr. Bob Ingram, the Director of Manufacturing for Griffin Pipe, explained that he has been at the Lynchburg plant since 1992. He has seen it change over the years and this is a very exciting time for them to be able to do an expansion in a down economy. The company is planning an expansion that would increase its casting and finishing capacity at this plant. Griffin has had three plants that produce casting, ductile iron pipe. Due to the economic conditions, they have had to close their Florence, New Jersey plant. There is another one in Council Bluffs, Iowa and this one in Lynchburg. That is plenty for the economy as it is now. In a couple of years, they feel like it will not be enough capacity, so they need to do something else. New Jersey was not an easy place to do business, and Mr. Ingram is glad that the company has decided to do an expansion in Lynchburg.

In order to do this, they need to add more casting machines and finishing operations to what they have. They are actually making a change. They have three casting machines that make from three-inch to sixteen-inch, eighteen-foot long ductile iron pipe. Their customers have indicated that they would rather have twenty foot pipe, so they have less joints. The company took this time to do an expansion and buy four new casting machines that will made from six-inch to twenty-four-inch, twenty-foot long pipe. The company is going to get rid of two of its existing machines and keep one to make three- and four-inch pipe. This is a good range for the company to have. The existing finishing operation will not handle twenty-foot pipe. That is what the new building will hold—the new finishing line that will be as automated as they can make it and as good as they can make it. They have torn down one old building to make room, and when the building design is complete, they will be taking out parts of a couple other old buildings. Coleman Adams has been given the contract to do the design and installation and demolition that they are doing right now. It probably won't look a lot different from the bridge as any of the other buildings, except that it will be new.

There are a lot of details that have to be worked out as far as the design. The company's engineering group is here this week and meeting to go over some of the specifications for the machinery. Mr. Ingram does believe that once they get this facility in, this will be a world class operation in Lynchburg.

Mr. Jay Lewis remarked that Griffin is really proactive on this project. They have met with the City and when they contacted Wiley and Wilson, they were really concerned with what the major issues would be. Meeting with the City, the first issue was the construction of the building in the floodplain. Over the years, the location of the floodplain and floodway has been revised, which is summarized in the report. They took the 1993 flood study that was submitted and approved by FEMA and made revisions to that to include the new building. They demonstrated that there was no rise in the water surface elevation and provided a flood study report to the City for review that illustrated that along with all the background data. They have demonstrated no rise and by doing so have addressed the major issue of the conditional use permit request.

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

Commissioner Sale commented that he has seen the upriver site from the river and has noticed the shoreline. It is his understanding that the shoreline is not going to change. It is a fill on top of what currently exists in order to accommodate this building. Mr. Lewis and Mr. Ingram said that is correct. Commissioner Sale remarked that he has heard comments and wondered if they could clean up the shoreline because there is a lot of debris thrown the hill. Mr. Ingram assured him that they work on cleaning that up. They inherit a lot from upriver, but they continually work on trying to clean it up. Commissioner Sale remarked that residents are using the river more, and Griffin Pipe is a prime riverfront property. He hopes that they do look at this as a good partnership/community thing.

Commissioner Sale also noticed that there was a reference to where the old canal is located. The report says that staff requested that the designer indicate the location and note that it will not be impacted as a result of the project. Commissioner Sale asked Mr. Ingram to comment on that. Mr. Ingram stated that part of his agreement and the grant that goes back to King James to protect the City of Lynchburg—that Griffin Pipe agreed to do—was continue to keep the canal open with a piece of pipe. There is a pipe and there is flow through the canal and there will be after this project. Commissioner Sale said he was not aware that there is flow through the existing canal line through pipe. Mr. Ingram said there is pipe there that is capable of handling flow. They do not normally open up the locks up there, but when it rains or flood, the water does come through there. Commissioner Sale asked where it comes out. Mr. Ingram said it comes out through a pipe in the middle of their plant that is an open area and has a pipe that goes to the river. Griffin Pipe has agreed to keep that open. In his opinion, the City messed up a few years ago when they built the bridge. The City had the water that would come all the way down to there and it discharged. But the City decided to close that and came to Griffin Pipe to make sure it would keep its end open. Commissioner Sale thanked him and said that is an important stewardship of Lynchburg.

Commissioner Sale asked Mr. Ingram how many additional employees they might hire, if any. Mr. Ingram stated that he is not sure. His goal would be to not have to hire any additional employees, but since the design is not finished yet, he is not sure. He does not think there will be any less people needed; there may be more. Commissioner Sale commented that there is sustainability here of the industry in Lynchburg as a result of this expansion. Mr. Ingram hopes that this addition will ensure the future of this plant here in Lynchburg.

Commissioner Sale commented on the design of the building to allow water to flow through it. Mr. Ingram said that the machines will remain there and water will flow through. They will have to clean it up when it floods. It is not a matter of if it will flood, it is when it will flood.

Chair Hamilton asked Mr. Martin who ensures that there is no rise in the floodplain. What is the enforcement mechanism or is it just based on the models that predict that there will be none? Mr. Martin stated that it is based on the models.

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

"That the Planning Commission recommends to City Council approval of Griffin Pipe Product Inc.'s petition for a Conditional Use Permit petition to allow the construction of a fifty-two thousand seven hundred (52,700) square foot building addition within the 100-year floodplain at 10 Adams Street, subject to the following condition:

1. **The property shall be developed in substantial compliance with the concept plan for the Griffin Pipe Building Expansion designed by Wiley & Wilson and dated May 29, 2009."**

Commissioner Swienton commented that this is a classic example of why a site plan visit is really valuable. When he hears about fill in the floodplain, that gets his attention. But going out to the site and with the use of the site plan, he realized that a good part of it is an existing structure that will be torn down. The floodplain has really already been filled in; now it is just a matter of modernizing an existing building. What the Commission pushes for a lot as a goal is the redevelopment of brownfields. What is being done is taking an older manufacturing facility and redeveloping that site. He thinks that is a very worthwhile pursuit.

Commissioner Swienton also got a visual perspective as to when it floods, how it is not going to increase the downstream projections. When you see how open the buildings are, you see that there is already a mechanism for the water to disperse on site without decreasing the channel width. Commissioner Swienton thinks this is a great plan. He was also thinking of how positive an economic development this is when you have a manufacturing company expanding in Lynchburg.

The motion then passed by the following vote:

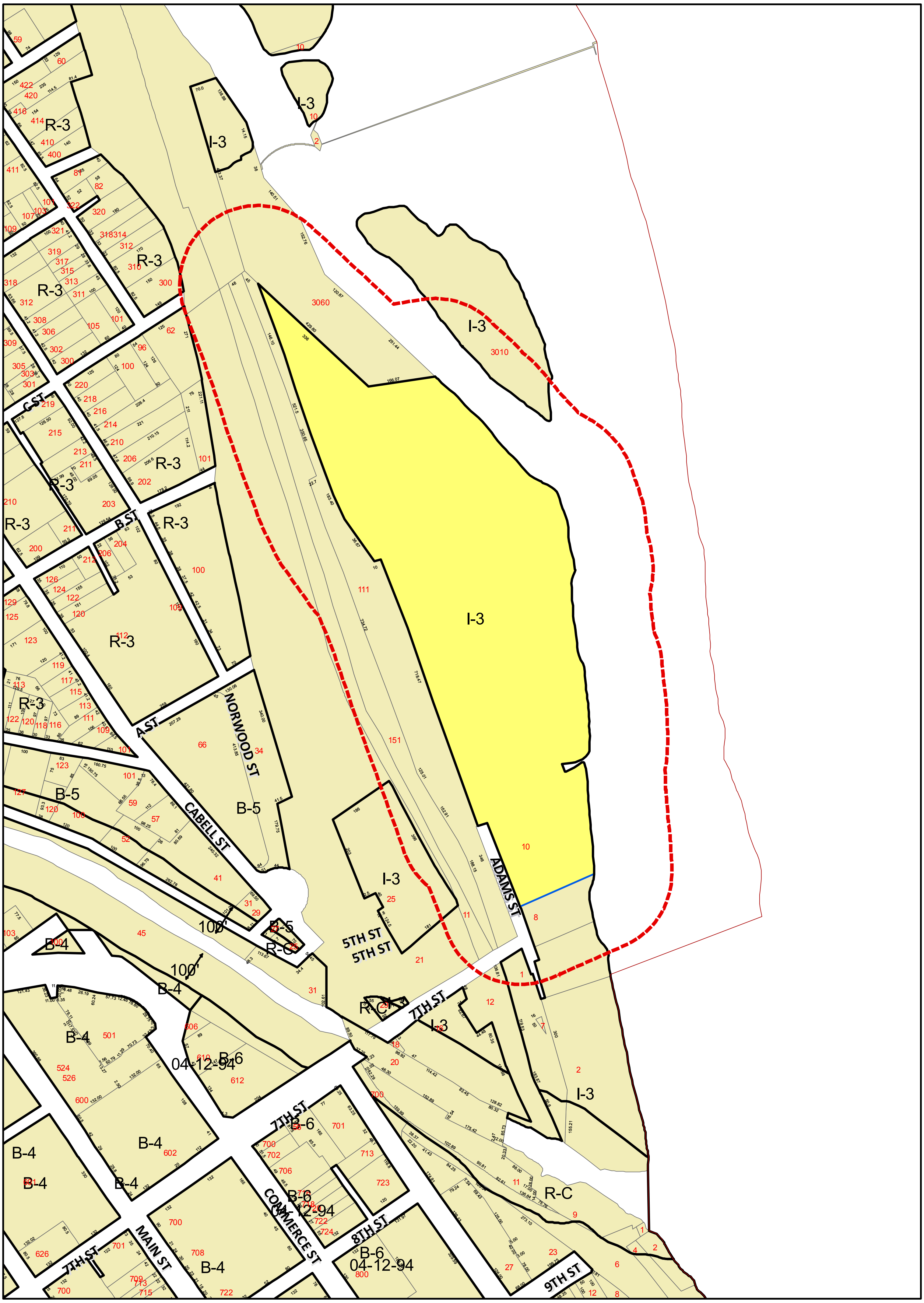
AYES:	Hamilton, Oglesby, Sale and Swienton	4
NOES:		0
ABSTENTIONS:		0
ABSENT:	Barnes, Hannon and Worthington	3

GRIFFIN PIPE

10 Adams Street
PIN# 045-10-001
Conditional Use Permit Request
Petitioner-Griffin Pipe

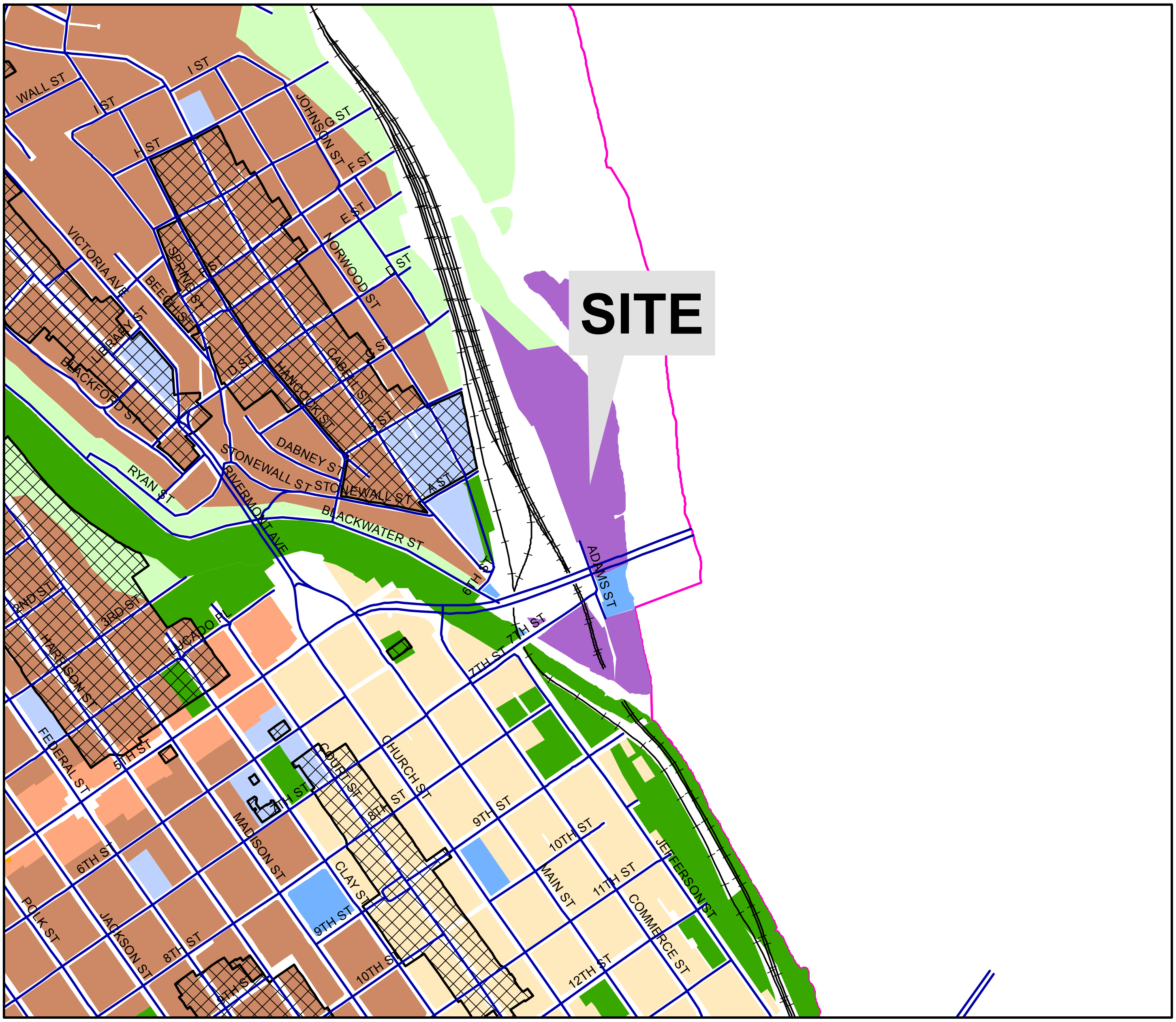
Subject Property

200FT Buffer



GRIFFIN PIPE CUP ADJOINING OWNERS

PIN	Owner	LocAddr
04415007	AMERICAN ELECTRIC POWER C/O JAY DIVERS	300 JOHNSON ST
04418005	CSX TRANSPORTATION INC TAX DEPT C/O DAVID YOUNG	40 G ST
04418006	NORFOLK/SOUTHERN CORP C/O LLOYD CLINGENPEEL	50 G ST
04503003	DAWKINS JOHN H & LUWATHA O	62 C ST
04509004	NORFOLK/SOUTHERN CORP C/O LLOYD CLINGENPEEL	21 7TH ST
04509005	CSX TRANSPORTATION INC TAX DEPT C/O DAVID YOUNG	11 7TH ST
04509006	NORFOLK/SOUTHERN CORP C/O LLOYD CLINGENPEEL	25 7TH ST
04509008	GRIFFIN PIPE PRODUCTS CO INC	1 ADAMS ST
04509010	GRIFFIN PIPE PRODUCTS CO INC	111 ADAMS ST
04510001	GRIFFIN PIPE PRODUCTS CO INC	10 ADAMS ST
04510002	CITY OF LYNCHBURG C/O STEVE LAWSON	8 ADAMS ST
04510003	GRIFFIN PIPE PRODUCTS CO INC	3010 ADAMS ST
04510004	GRIFFIN PIPE PRODUCTS CO INC	151 ADAMS ST
04513003	COMMONWEALTH OF VA VDOT LYNCHBURG DIST OFC ROW & UTILS DIV	12 7TH ST
04513004	CITY OF LYNCHBURG C/O STEVE LAWSON	4 ADAMS ST
04519001	LUMINAIRE TECHNOLOGIES INC	3060 ADAMS ST
Owner	GRIFFIN PIPE PRODUCTS CO INC	
Petitioner	GRIFFIN PIPE PRODUCTS CO INC	
Representative	JAMES LEWIS/WILEY & WILSON	



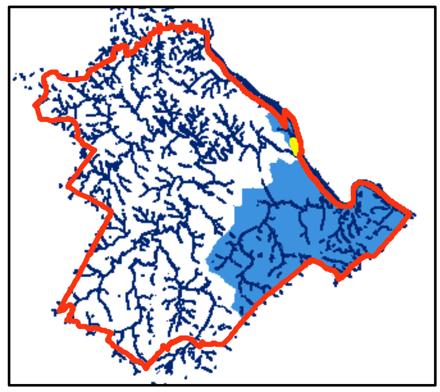
- LocalHistoricDistrict
- Traditional Residential
- Low Density Residential
- Medium Density Residential
- High Density Residential
- Neighborhood Commercial
- Community Commercial
- Regional Commercial
- Employment 1
- Employment 2
- Office
- Institution
- Downtown
- Public Use
- Public Parks
- Resource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

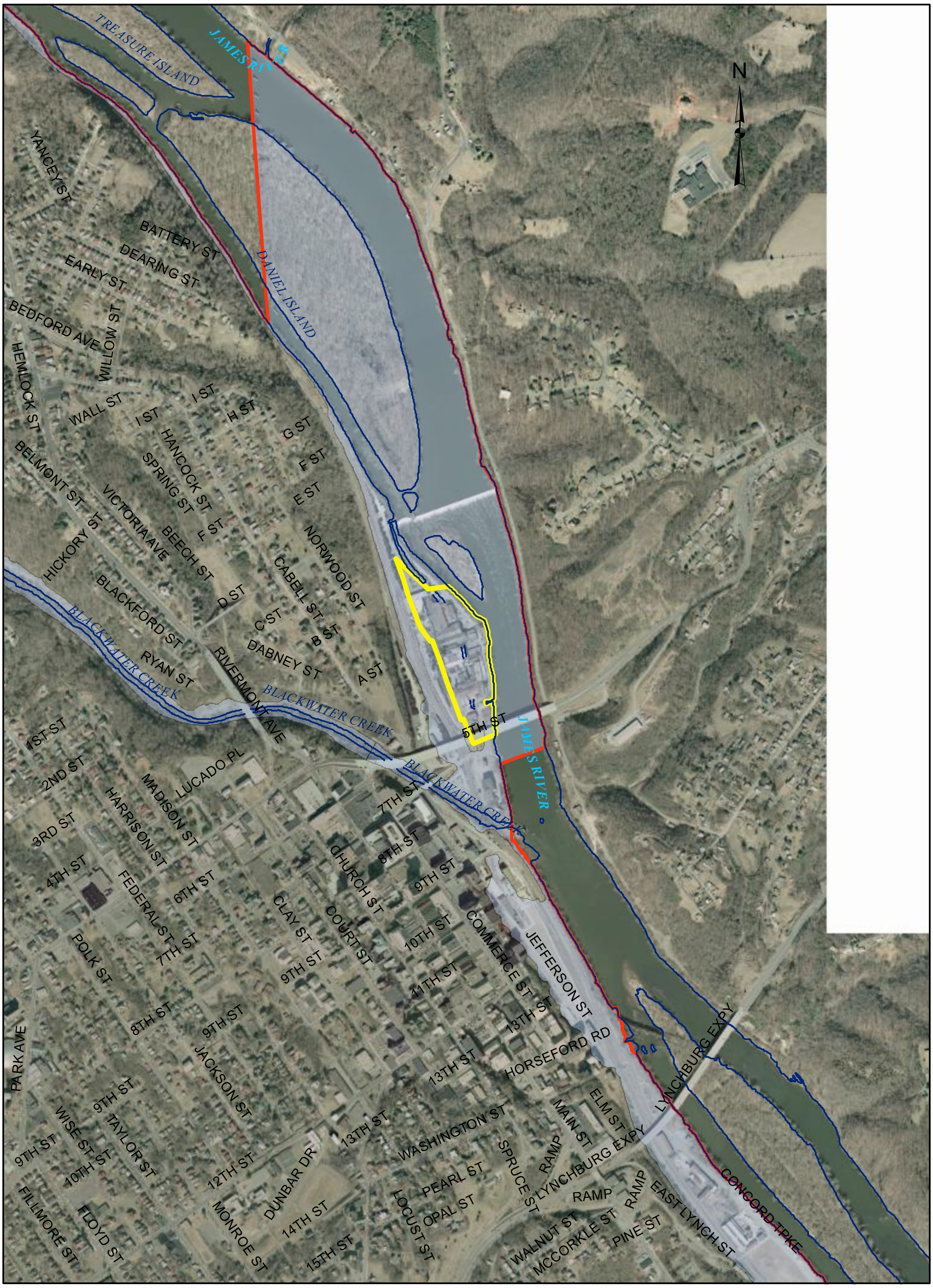
GRIFFIN PIPE
10 ADAMS STREET
LAND USE PLAN

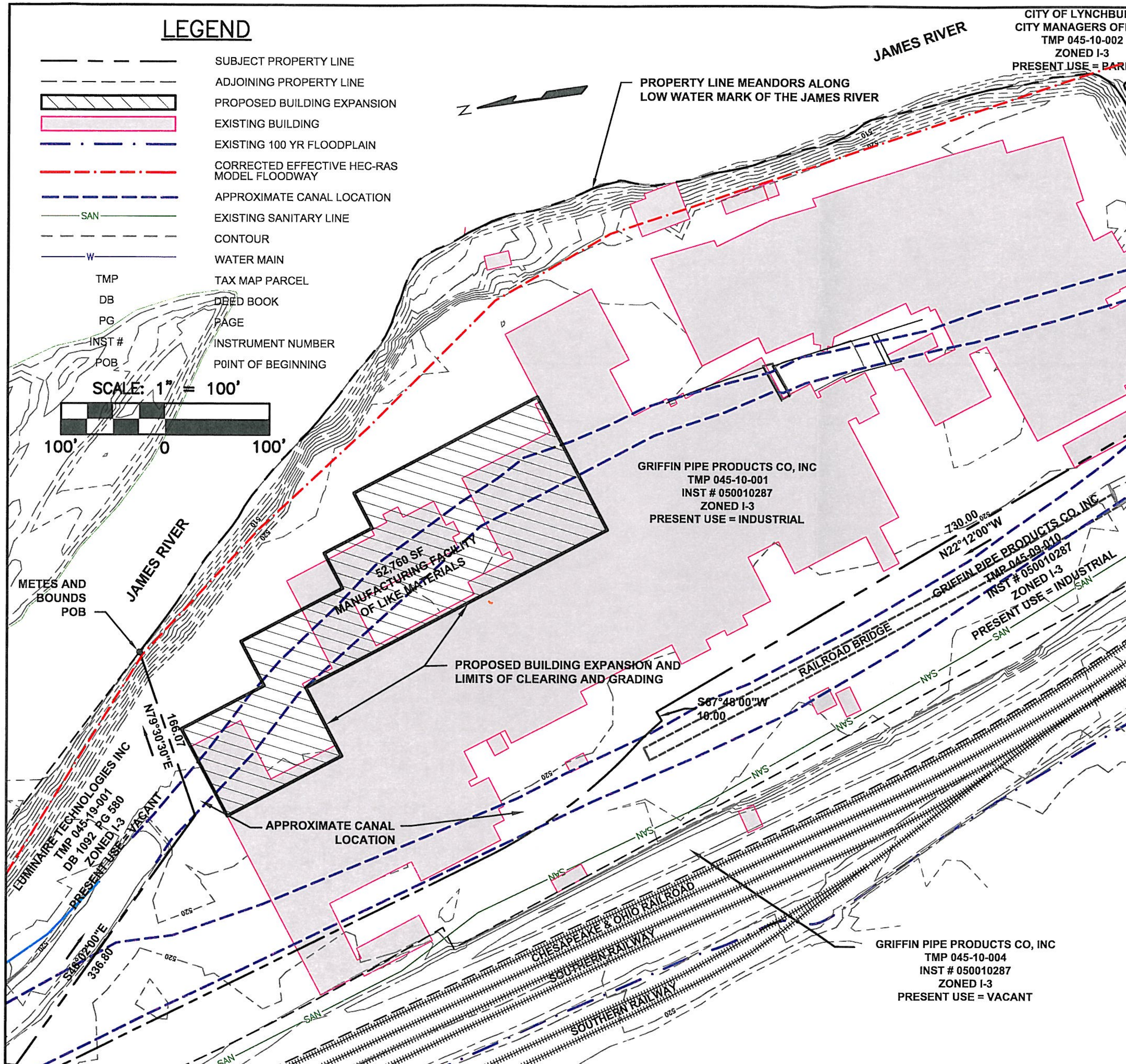
Griffin Pipe

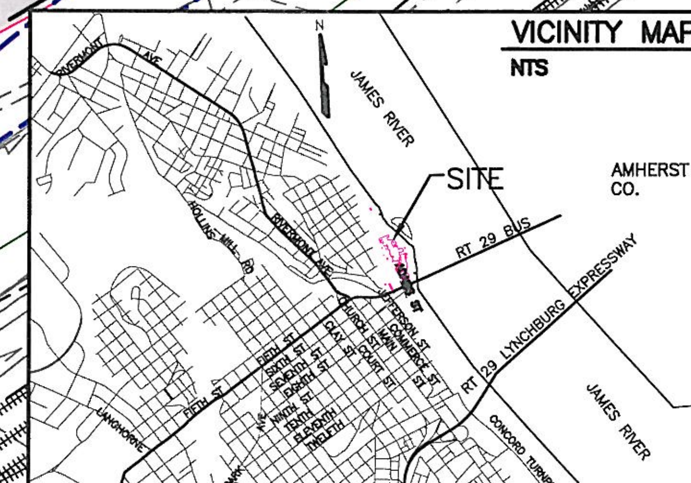
Watershed Location Map

- Project Site
- FloodzoneAE
- Fishing Creek/ James River
- CorporateLimit









NOTES:

1. BASE MAPPING, FLOODWAY AND FLOOD PLAIN INFORMATION PROVIDED BY CITY OF LYNCHBURG GIS.
2. 100 YR WATER SURFACE ELEVATION AT THE UPSTREAM PROPERTY BOUNDARY = 531.8', AND THE DOWNSTREAM PROPERTY BOUNDARY = 527.4'.
3. THE OWNER/PETITIONER FOR THIS CONDITIONAL USE PERMIT IS:

   GRIFFIN PIPE PRODUCTS CO, INC
   10 ADAMS STREET
   LYNCHBURG, VA 24504
4. ZONING DATA FOR THIS PARCEL AND SURROUNDING PARCELS WAS OBTAINED FROM THE CITY ZONING OFFICE.
5. ALL LIGHTING WILL BE GLARE SHIELDED AND NON-DIRECTIONAL TO PREVENT ILLUMINATION ACROSS PROPERTY LINES.
6. PROPOSED IMPROVEMENTS WILL NOT IMPACT THE OPERATION OF THE EXISTING CANAL AND CULVERT, WATER SUPPLY WILL BE MAINTAINED.

Wiley|Wilson
Constant Progress
127 Nationwide Drive
Lynchburg, Virginia 24502-4272

PROJECT: GRIFFIN PIPE BUILDING EXPANSION
LYNCHBURG, VA

RECEIVED
JUN 01 2009
COMMUNITY DEVELOPMENT

TITLE: PRELIMINARY SITE PLAN FOR CONDITIONAL USE PERMIT

COMM. NO. 209069.00	
DRAWN BSH	CHECKED JJL
DWG. REFERENCE NO. 09069_C101	
SKETCH NO. C-101	
DATE 5-29-09	REV. 1

LYNCHBURG CITY COUNCIL
Agenda Item Summary

MEETING DATE: **July 14, 2009**		AGENDA ITEM NO.: 8
CONSENT:	REGULAR: **X**	CLOSED SESSION: (Confidential)
ACTION: **X**	INFORMATION:	

ITEM TITLE: **Conditional Use Permit (CUP): Ward Bed and Breakfast – 2144 Rivermont Avenue**

RECOMMENDATION: Approval of the CUP petition.

SUMMARY: Allen Ward is petitioning for a CUP to allow the operation of a bed and breakfast with up to five (5) guest rooms in an existing home. The primary use of the home will remain a residence.
The Planning Commission recommended approval of the CUP petitions because:

- The petition agrees with the *Comprehensive Plan* which recommends a Traditional Residential use in this area.
- The proposed improvements to the property were approved by the Historic Preservation Commission at its April 20, 2009 meeting.
- The proposed project fulfills one of the goals of the Lower Rivermont Neighborhood Conservation Area by encouraging the rehabilitation and renovation of older houses.

PRIOR ACTION(S):
April 20, 2009: Earlier modifications approved by the Historic Preservation Commission

June 10, 2009: Planning Division recommended approval of the CUP petition.

June 10, 2009: Planning Commission recommended approval of the CUP petition (4-0, with three members absent, Hannon, Barnes and Worthington) subject to the following conditions:

1. The property shall be developed in substantial compliance with the concept plan received by the Department of Community Development on May 20, 2009.
2. All lighting shall be glare shielded and non-directional.
3. Exterior lighting fixtures shall be approved by the Historic Preservation Commission.
4. A maximum of five (5) guest rooms are permitted.

BUDGET IMPACT: None

CONTACT(S):		
	Charlene Montford	455-3902
	Tom Martin	455-3909

ATTACHMENT(S):
- Resolution
- Planning Commission Report
- Planning Commission Minutes
- Vicinity Map
- Vicinity Proposed Land Use Map
- Watershed Location Map
- Concept Plan
- Speaker Sign Up Sheet

REVIEWED BY: lkp

RESOLUTION: #R-09-

A RESOLUTION GRANTING A CONDITIONAL USE PERMIT TO ALLOW THE OPERATION OF A BED AND BREAKFAST WITH UP TO FIVE (5) GUEST ROOMS IN AN EXSTING HOME AT 2144 RIVERMONT AVENUE.

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF LYNCHBURG that the petition of Allen Ward to allow the operation of a bed and breakfast with up to five (5) guest rooms in an existing home at 2144 Rivermont Avenue, where the primary use of the existing home would remain a residence, be, and the same is hereby, approved subject to the following condition:

1. The property shall be developed in substantial compliance with the concept plan received by the Department of Community Development on May 20, 2009.
2. All lighting shall be glare shielded and non-directional.
3. Exterior lighting fixtures shall be approved by the Historic Preservation Commission.
4. A maximum of five (5) guest rooms are permitted.

Adopted:

Certified: ________________________
Clerk of Council

068L

The Department of Community Development

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

To: Planning Commission
From: Planning Division
Date: June 10, 2009
Re: **CONDITIONAL USE PERMIT (CUP): Ward Bed & Breakfast, 2144 Rivermont Avenue**

I. PETITIONER

Allen Ward, 1315 Beverly Drive, Richmond, VA 23229
Representative: Allen Ward, 1315 Beverly Drive, Richmond, VA 23229 (Contract Purchaser)

II. LOCATION

The subject property includes one (1) tract totaling ninety-three hundredths (0.93) of an acre at 2144 Rivermont Avenue.

Property Owner: Jerome A. and Treva M. Babcock, 3604 Ridgecroft Drive, Lynchburg, VA 24503

III. PURPOSE

The purpose of this petition is to allow the operation of a bed and breakfast with up to five (5) guest rooms in an existing home. The primary use of the home will remain a residence.

IV. SUMMARY

- Petition agrees with the *Comprehensive Plan* which recommends a Traditional Residential use in this area.
- Petition agrees with the *Zoning Ordinance* in that tourist homes and bed and breakfast uses are permitted in an R-3, Medium Density Two-Family Residential District with approval of a CUP by City Council.

The Planning Division recommends approval of the CUP petition.

V. FINDINGS OF FACT

1. **Comprehensive Plan.** The Lynchburg *Comprehensive Plan* recommends a Traditional Residential use in this area. According to the plan, Traditional Residential areas encompass the City's older neighborhoods, generally built before World War II and before the City was zoned. Consequently, for many of the houses here, lot sizes, setbacks, and/or building heights do not conform to the standards of the City's residential zoning districts. Most of these neighborhoods are identified as Neighborhood Conservation Areas on the Plan Framework Map and are planned for further study for appropriate zoning changes, public investment and community building efforts. Infill residential development in these neighborhoods should be designed to complement the style and type of housing there and to utilize comparable setbacks, yards and building heights. Small retail, personal service, office and restaurant uses are often found within Traditional Residential neighborhoods. These uses may continue, although expansion is not recommended unless supported by a recommendation in a Neighborhood Conservation Area Plan. **(page 5.6)**

   The property is within the Lower Rivermont Neighborhood Conservation Area. This area is rich in historic and cultural fabric, but also faces challenges of reinvestment and rehabilitation. Citizens in public meetings have expressed concerns regarding inappropriate infill development and teardowns, where the style and size of new construction does not blend well with the architectural character of existing homes on the block. Maintaining the existing housing stock and encouraging public and private investment that supports neighborhood character is critical to neighborhood stabilization. **(page 4.7)** The proposed project fulfills one of the goals of the Neighborhood Conservation Area by encouraging the rehabilitation and renovation of older houses.

The property is also part of the Rivermont Avenue Historic District. *The Guide to the Historic Districts of Lynchburg, VA* notes that Rivermont was planned primarily as a suburban residential community, although it was also envisioned that commercial enterprises and even light industry would be located in the neighborhood. The area, which originated in 1890, is significant as one of the nation's first planned communities. The proposed improvements to the property were approved by the Historic Preservation Commission at its April 20, 2009 meeting.

2. **Zoning.** The existing R-3, Medium Density Two-Family Residential District was established in 1978 with the adoption of the current *Zoning Ordinance*.
3. **Board of Zoning Appeals (BZA).** The Zoning Official has determined that no variances will be needed for the development of the property as proposed.
4. **Surrounding Area.** There have been several items requiring City Council approval in the immediate area:
   - On May 13, 2008, City Council approved Hernan and Guadalupe Garces's CUP petition to allow the use of an existing residence as a bed and breakfast with up to three (3) guest rooms in an R-2, Low-Medium Density Single-Family Residential District at 1 Vista Avenue.
   - On November 14, 2006, City Council approved Randolph-Macon Woman's College's CUP petition to allow the construction of a gym expansion, studio theater, pool expansion and associated parking at 5 Quinlan Street, 136-155 Norfolk Avenue and 2500 Rivermont Avenue.
   - On August 13, 2002, City Council approved Randolph-Macon Woman's College's CUP petition to allow college related offices and guest housing in an existing structure at 2615 Rivermont Avenue.
   - On May 8, 2001, City Council approved Rivermont Presbyterian Church's CUP petition to allow the construction of two (2) building additions and associated parking at 2424 Rivermont Avenue.
   - On May 8, 2001, City Council approved Randolph-Macon Woman's College's CUP petition to allow the construction of athletic fields on the existing campus at 2500 Rivermont Avenue.
   - On March 10, 1998, City Council approved George and Joanne Caylor's CUP petition to operate a bed and breakfast for up to ten (10) guests in an existing structure and to provide parking for up to four (4) vehicles in an R-3, Medium Density Two-Family Residential District at 2460 Rivermont Avenue.
   - On August 12, 1997, City Council approved Rivermont Presbyterian Church's CUP petition to allow the construction of two (2) parking lots at 2424 Rivermont Avenue.
   - On June 11, 1996, City Council approved Vernon and Patty Brewer's CUP petition to operate a bed and breakfast for up to eight (8) guests in an existing structure in an R-4, Medium-High Density Multi-Family Residential District at 2601 Rivermont Avenue.
   - On April 3, 1996, petitioners Joseph and Karen Lovell withdrew their CUP petition to operate a bed and breakfast for up to eight (8) guests in an existing structure in an R-4, Medium-High Density Multi-Family Residential District at 2601 Rivermont Avenue.
   - On September 14, 1993, City Council approved Holy Trinity Lutheran Church's CUP petition for the installation of a columbarium at 1000 Langhorne Road.
   - On July 10, 1990, City Council denied Reginald Barrack's CUP petition to operate a bed and breakfast with three (3) guest rooms in an R-3, Medium Density Two-Family Residential District at 2450 Rivermont Avenue.
   - On May 8, 1990, City Council approved Rivermont Presbyterian Church's CUP petition to allow the construction of a building addition, two (2) play areas and associated parking at 2424 and 2426 Rivermont Avenue.
   - On February 13, 1990, City Council approved Virginia School of the Arts' CUP petition to allow the use of an existing apartment building as a school dormitory at 2131 Rivermont Avenue.

- On January 10, 1989, City Council approved the City of Lynchburg's CUP petition to allow the construction of a fire station in Riverside Park.
- On April 12, 1988, City Council approved M. Van and Carrie Lewis's CUP petition to allow the construction of an educational facility with boarding capabilities at 1000 Villa Road.
- On July 14, 1987, City Council approved Virginia School of the Arts' CUP petition to allow the use of an existing duplex as a school dormitory at 2245-2247 Rivermont Avenue.
- On November 11, 1986, City Council approved First Christian Church's CUP petition to allow a building addition for classrooms and offices and a parking expansion at 3109 Rivermont Avenue.
- On May 13, 1986, City Council approved Seven Hills School's CUP petition to allow the use of an existing residence as classrooms and faculty offices at 1917 Rivermont Avenue.
- On August 13, 1985, City Council approved Rivermont Presbyterian Church's CUP petition to allow the use of the church as a nursery school and the construction of a play area at 2424 and 2426 Rivermont Avenue.

5. **Site Description.** The subject property includes an existing residence and carriage house and is located on the corner of Rivermont Avenue and Ash Street. The site is bound to the north by Riverside Park and the James River; to the east by single-family homes; to the south by single-family homes; and to the west by single-family homes and the Virginia School of the Arts.

6. **Proposed Use of Property.** The purpose of this petition is to allow the operation of an existing home as a bed and breakfast. The primary use of the home will remain a residence. Within an R-3, Medium Density Two-Family Residential District, R-4, Medium-High Density Multi-Family Residential District and R-5, High Density Multi-Family Residential District, up to five (5) guest rooms with not more than four (4) persons per room are allowed. The proposed bed and breakfast would have five (5) rooms to comply with the requirement for an R-3, Medium Density Two-Family Residential District. The site is served by City water and sewer and the only proposed improvement for the property would be a one hundred and twenty (120) square foot pool house. Landscaping would comply with the requirements of the City's *Zoning Ordinance* which would require foundation plantings for the proposed structure.

7. **Traffic, Parking and Public Transit.** The City's Transportation Engineer had no concerns regarding the proposed bed and breakfast expansion.

   Parking requirements for tourist homes and bed and breakfast uses are set at one (1) space for each room used for this purpose by the *Zoning Ordinance.* The five (5) proposed rooms would require five (5) parking spaces. The standard two and a half (2.5) parking spaces per dwelling unit will be required for the residential use. Combined, the required parking totals seven and a half (7.5) spaces. The existing driveway from Rivermont Avenue provides access to eight (8) existing parking spaces, thus meeting the requirement of City Code.

   Public transit is currently accessible in this area. The Greater Lynchburg Transit Company Routes 3C and 3D are available at the intersection of Rivermont Avenue and Ash Street at the corner of the property.

8. **Storm Water Management.** New impervious areas will not exceed one thousand (1,000) square feet; as such, a stormwater management plan will not be required for the project. Existing landscaping will be maintained on the property and new landscaping would be provided for the pool house addition, which would provide an additional water quality benefit for the site.

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

   The City Police Department commented that the perimeter of the buildings and parking areas need to be well illuminated, using pole lights, wall mounted lights and motion sensor lighting; these should be non-directional and glare shielded. Decorative safety fencing was also recommended around the pool area. The final lighting layout and fencing design would be determined during the site plan and building plan review processes, respectively. Any new exterior lighting would also need to be approved by the Historic Preservation Commission.

10. **Impact.** The proposed bed and breakfast would include five (5) guest rooms and have limited impact on the surrounding area. Traffic, parking, stormwater management and public safety concerns have all been addressed to the satisfaction of City staff, and the result is a project that would fit into the fabric of the existing neighborhood.

11. **Technical Review Committee.** The Technical Review Committee (TRC) reviewed the preliminary concept plan on April 21, 2009. Comments related to the proposed use were minor in nature and have or will be addressed by the developer prior to final site plan approval.

VI. PLANNING DIVISION RECOMMENDATION

Based on the preceding Findings of Fact, the Planning Commission recommends to City Council approval of Allen Ward's petition for a conditional use permit at 2144 Rivermont Avenue, subject to the following conditions:

1. **The property shall be developed in substantial compliance with the concept plan received by the Department of Community Development on May 20, 2009.**
2. **All lighting shall be glare shielded and non-directional.**
3. **Exterior lighting fixtures shall be approved by the Historic Preservation Commission.**
4. **A maximum of five (5) guest rooms are permitted.**

This matter is respectfully offered for your consideration.

William T. Martin, AICP
City Planner

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

VII. ATTACHMENTS

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

MINUTES FROM THE JUNE 10, 2009 PLANNING COMMISSION MEETING (MINUTES HAVE NOT BEEN APPROVED):

a. Petition of Allen Ward for a conditional use permit to allow the use of an existing residence at 2144 Rivermont Avenue as a bed and breakfast with up to five guest rooms and associated parking in an R-3, Medium Density Two-Family Residential District.

Mr. Martin addressed the commissioners with the following comments. The petition proposes the use of an existing residence for a bed and breakfast with up to five guest rooms. The property is currently zoned R-3, Medium-High Density Residential. The *Future Land Use Map* recommends a Traditional Residential use for the property. These are areas that were primarily constructed prior to World War II. Any type of additions into these areas are encouraged to be in keeping with single-family homes in design and scale. There are currently eight parking spaces available on the site, thus meeting the requirements of the *Zoning Ordinance*, one for each of the bed and breakfast rooms and two and a half spaces for the residence. The proposal also calls for the construction of a 120 square foot pool addition, which has been reviewed by the Historic Preservation Committee, and approval given at its April 20, 2009 meeting.

New impervious areas for the property will not exceed 1,000 square feet, thus a stormwater management plan is not required. The primary use of this structure will remain a residence. Planning Division does recommend approval of the conditional use permit with the conditions outlined in the report.

Mr. Allen Ward, the petitioner, came forward. He stated that he did not have anything to add to what Mr. Martin had already said other than the fact that his main mission is to restore the property to its original integrity and maintain it as such. Chair Hamilton asked him if he would also be living there, and he said possibly.

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

Commissioner Sale asked Mr. Ward if he has talked with the surrounding neighbors. He stated that he has, and that everyone he has spoken to was in favor. It is his understanding that someone had called the Community Development office and expressed concern over it becoming commercialized. It is not Mr. Ward's intention to do anything other than maintain it as a residence, even though it is a bed and breakfast. There will be very minimal signage. His primary focus is the restoration and preservation of the house itself.

Chair Hamilton mentioned that Ms. Snyder of the Lynchburg Historical Foundation expressed positive comments about the rehabilitation of this project and gave Mr. Ward big kudos for what he has done so far.

Commissioner Swienton asked Mr. Ward if he has done a bed and breakfast before. He stated that he has not. Commissioner Swienton thought a notification sign should be on Rivermont Avenue and not on Ash Street. Mr. Ward stated that there is a sign on Rivermont Avenue, as well as Ash Street, but it is hard to see because of the hedge. Mr. Ward had asked if he could put the sign in the median between the sidewalk and the street for higher visibility but it became an issue with signage and liability in case it fell on someone.

Commissioner Oglesby stated that she had no questions and thought that it was going to be beautiful. Chair Hamilton agreed.

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

"The Planning Commission recommends to City Council approval of Allen Ward's petition for a conditional use permit at 2144 Rivermont Avenue, subject to the following conditions:

1. **The property shall be developed in substantial compliance with the concept plan received by the Department of Community Development on May 20, 2009.**
2. **All lighting shall be glare shielded and non-directional.**
3. **Exterior lighting fixtures shall be approved by the Historic Preservation Commission.**
4. **A maximum of five (5) guest rooms are permitted."**

Commissioner Sale stated that this is a good use in the historic district. It is a good location. He hopes it is successful. There have been different kinds of success in historic districts with larger houses. He wishes Mr. Ward well and stated the preservation of the house is a very laudable goal for Lynchburg, as well as Mr. Ward's commercial interests. Mr. Ward thanked him.

The motion then passed by the following vote:

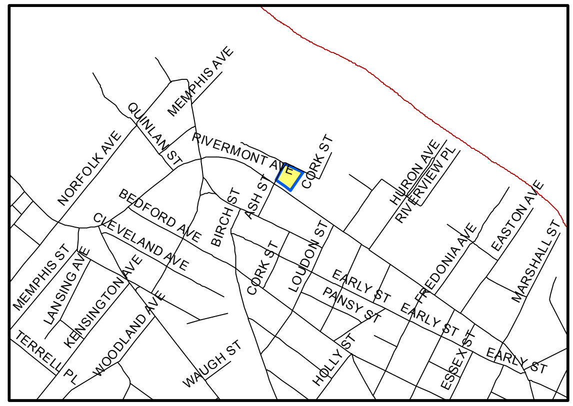
AYES:	Hamilton, Oglesby, Sale and Swienton	4
NOES:		0
ABSTENTIONS:		0
ABSENT:	Barnes, Hannon and Worthington	3

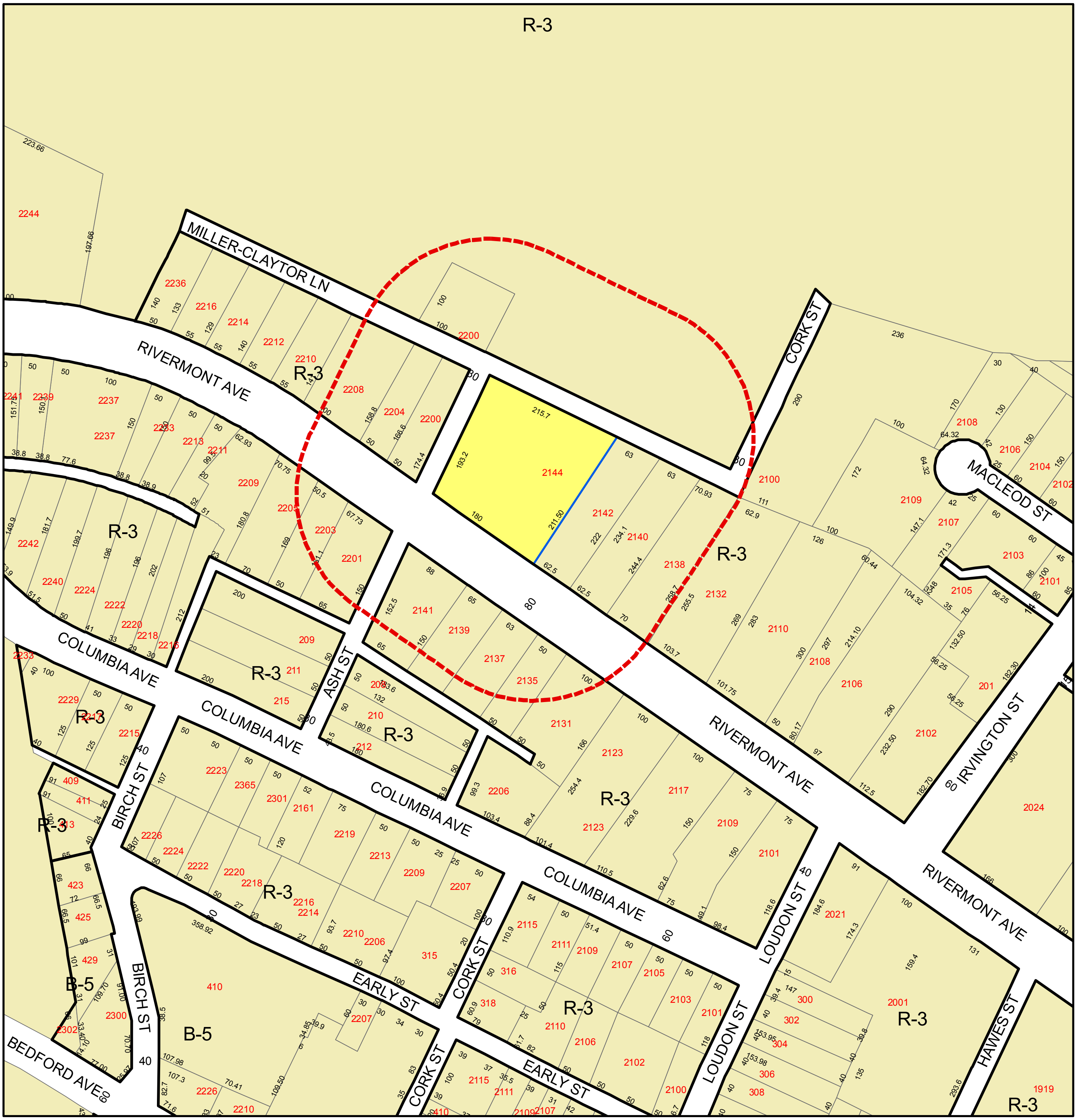
WARD BED & BREAKFAST

2144 Rivermont Avenue
PIN# 020-02-014
Conditional Use Permit Request
Petitioner-Allen Ward

Subject Property

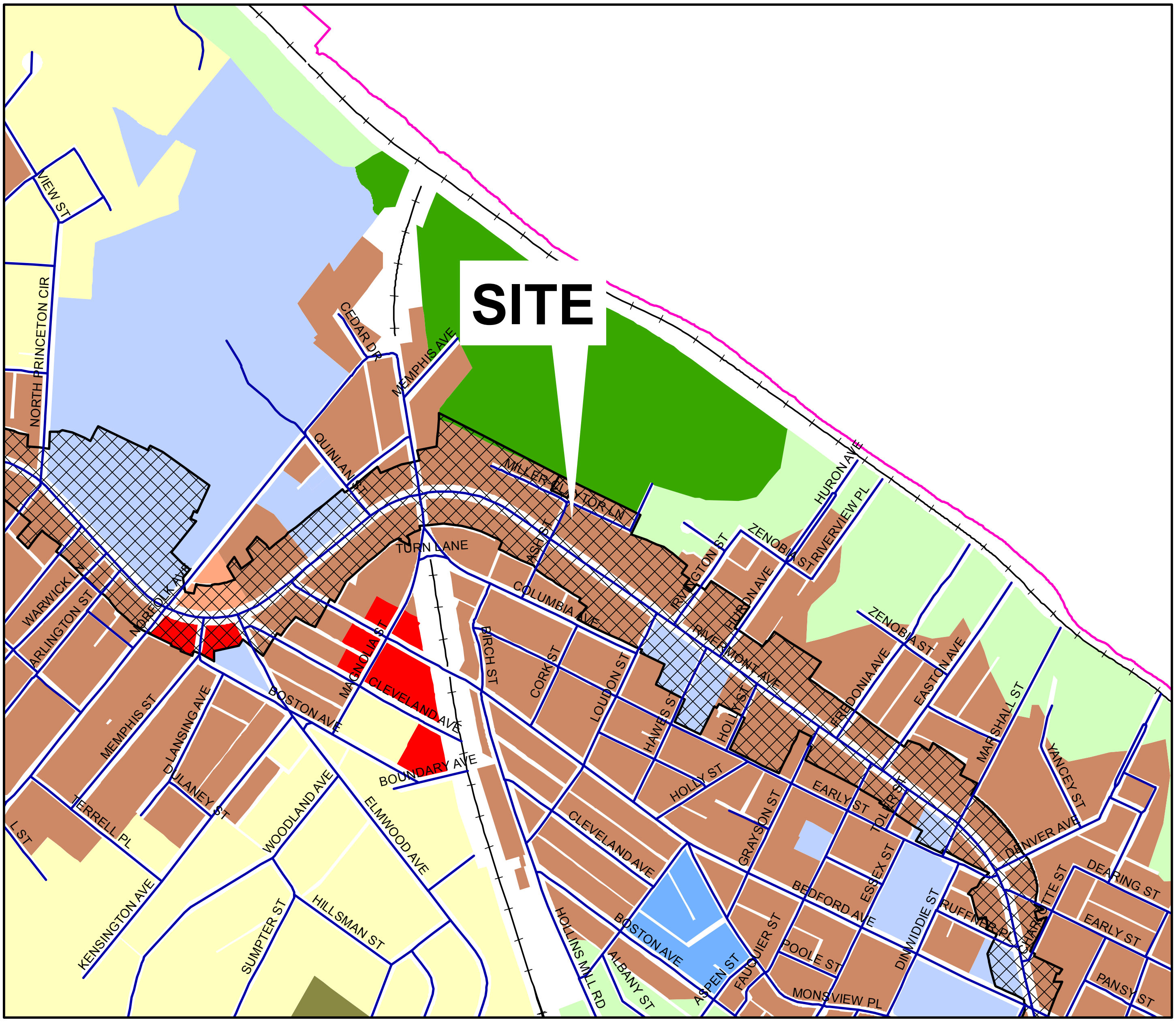
200 FT Buffer





Ward CUP Adjoining Owners

PIN	Owner	LocAddr
02001001	CITY OF LYNCHBURG C/O STEVE LAWSON	2238 RIVERMONT AVE
02001018	LYBG HISTORICAL FOUNDATION	2200 MILLER-CLAYTOR LN
02002010	NUCKOLS CHARLES M & PATRICIA A DRINKARD-NUCKOLS	2132 RIVERMONT AVE
02002011	KENT THOMAS R JR & JOHNSON ELIZABETH P	2138 RIVERMONT AVE
02002012	DOUCETTE MICHAEL R & ELIZABETH P	2140 RIVERMONT AVE
02002013	LARZELERE HENRY B & MARIE T	2142 RIVERMONT AVE
02002014	BABCOCK JEROME A & TREVA M	2144 RIVERMONT AVE
02002015	MORRIS STEPHEN E & KATHY B	2100 MILLER-CLAYTOR LN
02003006	ROBERTS CERISE M	2208 RIVERMONT AVE
02003007	BARKER PETER F & MONICA L	2204 RIVERMONT AVE
02003008	CRITES GREGORY D & SHARON R	2200 RIVERMONT AVE
02006010	DEMPSEY JANIE H	2205 RIVERMONT AVE
02006011	FLOYD FREDERICK D & LISA W	2203 RIVERMONT AVE
02006012	ANTROM TIMOTHY M & YEVETTE WRIGHT	2201 RIVERMONT AVE
02007001	WOLFE DOUGLAS S	2141 RIVERMONT AVE
02007002	WILLS STEVEN E	2139 RIVERMONT AVE
02007003	DEDDENS JOHN C & RACHEL C	2135 RIVERMONT AVE
02007004	ULLMANN PROPERTIES LLC	2131 RIVERMONT AVE
02007013	MAYS G KENLEY & PARI R	2137 RIVERMONT AVE
Owner	BABCOCK JEROME A & TREVA M	
Petitioner	ALLEN WARD	
Representative	ALLEN WARD	



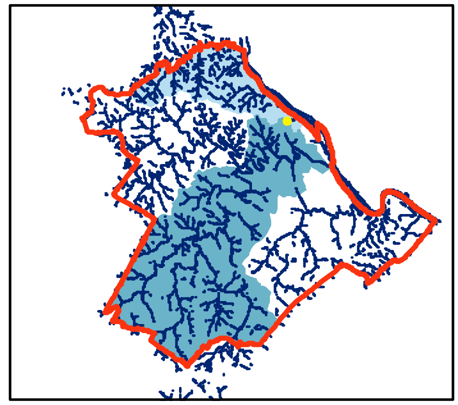
- LocalHistoricDistrict
- Traditional Residential
- Low Density Residential
- Medium Density Residential
- High Density Residential
- Neighborhood Commercial
- Community Commercial
- Regional Commercial
- Employment 1
- Employment 2
- Office
- Institution
- Downtown
- Public Use
- Public Parks
- Resource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

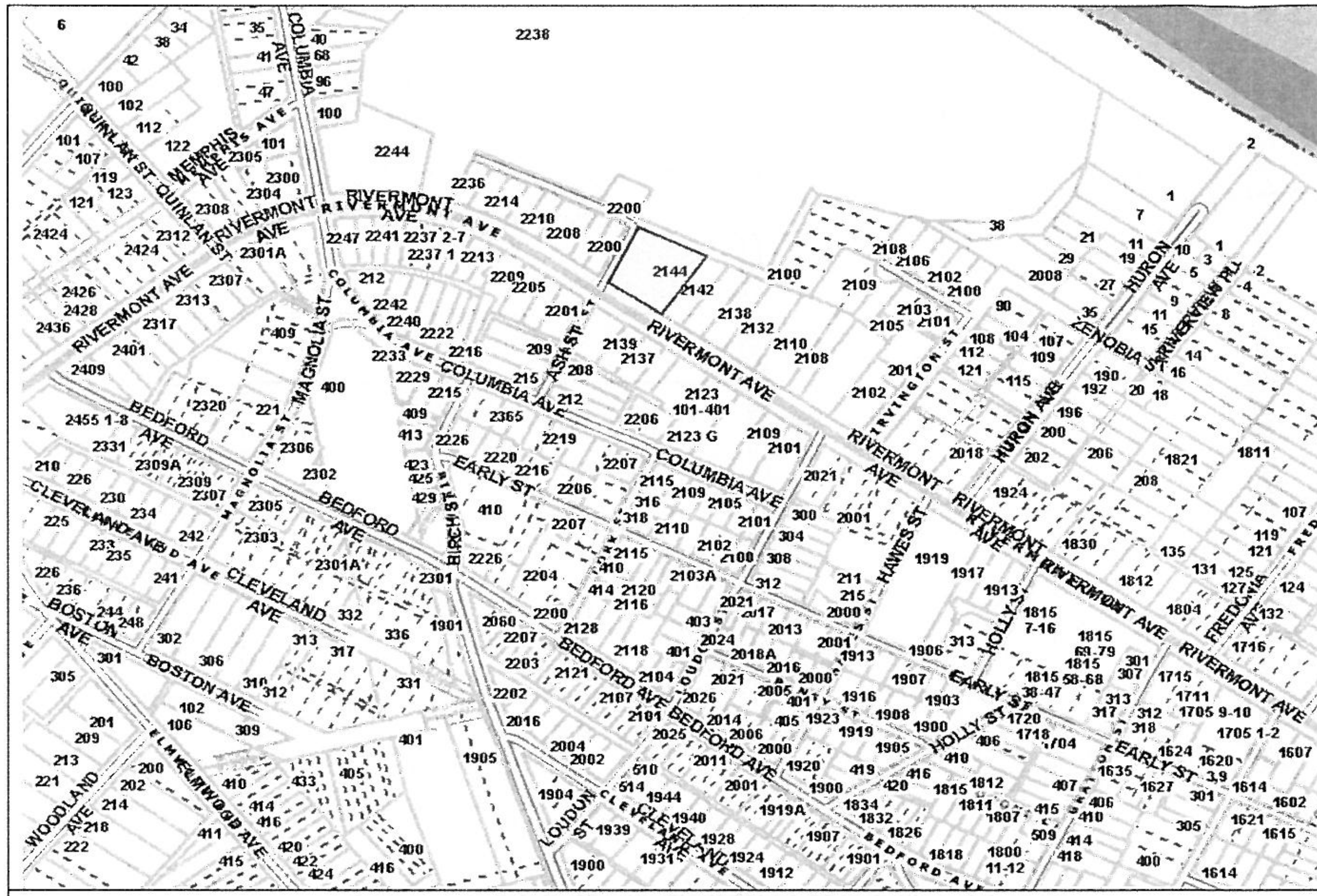
WARD BED & BREAKFAST
2144 RIVERMONT AVENUE
LAND USE PLAN

Ward Bed & Breakfast

Watershed Location Map

- Project Site
- FloodzoneAE
- Blackwater Creek
- Judith Creek
- Corporate Limit





Existing Zoning: R-3
Conditional Use Permit: Allow use of an existing building as a bed & breakfast

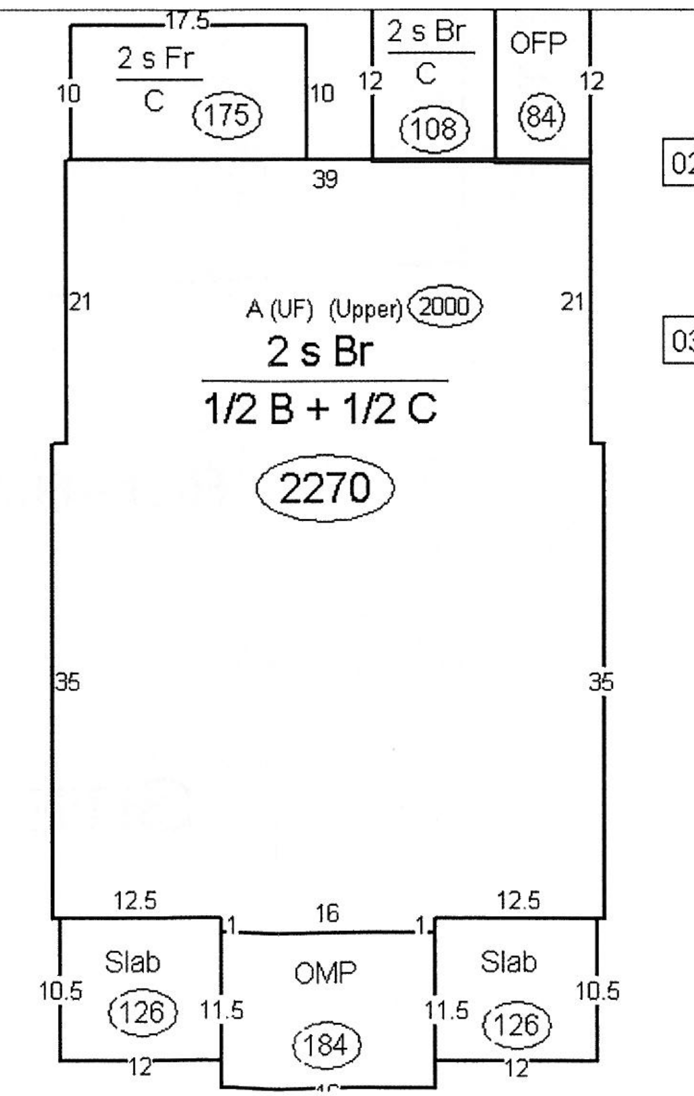
Current Use:
Single-Family Residential

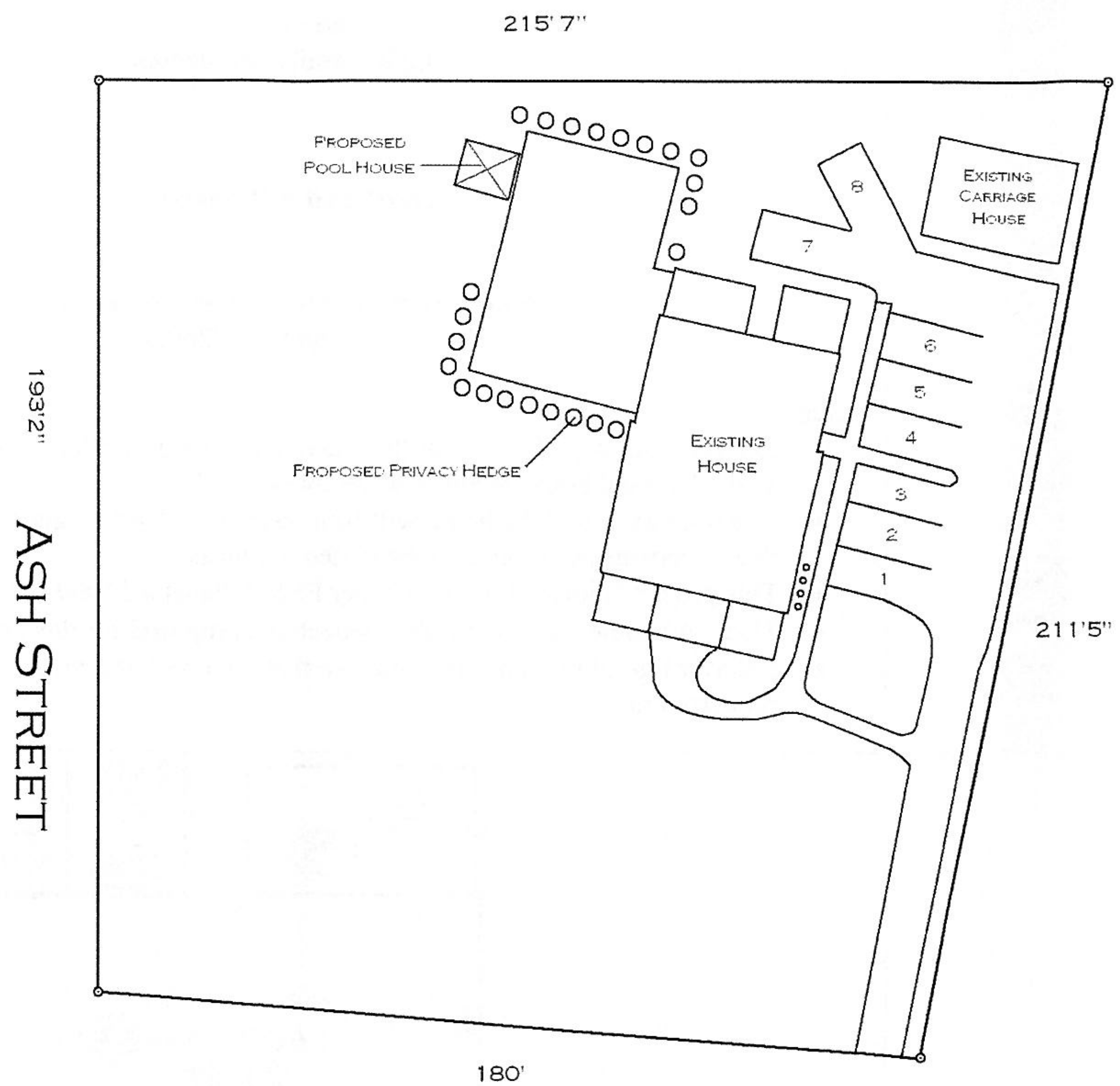
Ward Bed & Breakfast

Project Address: 2144 Rivermont Avenue
Parcel ID Number: 02002014

Notes:

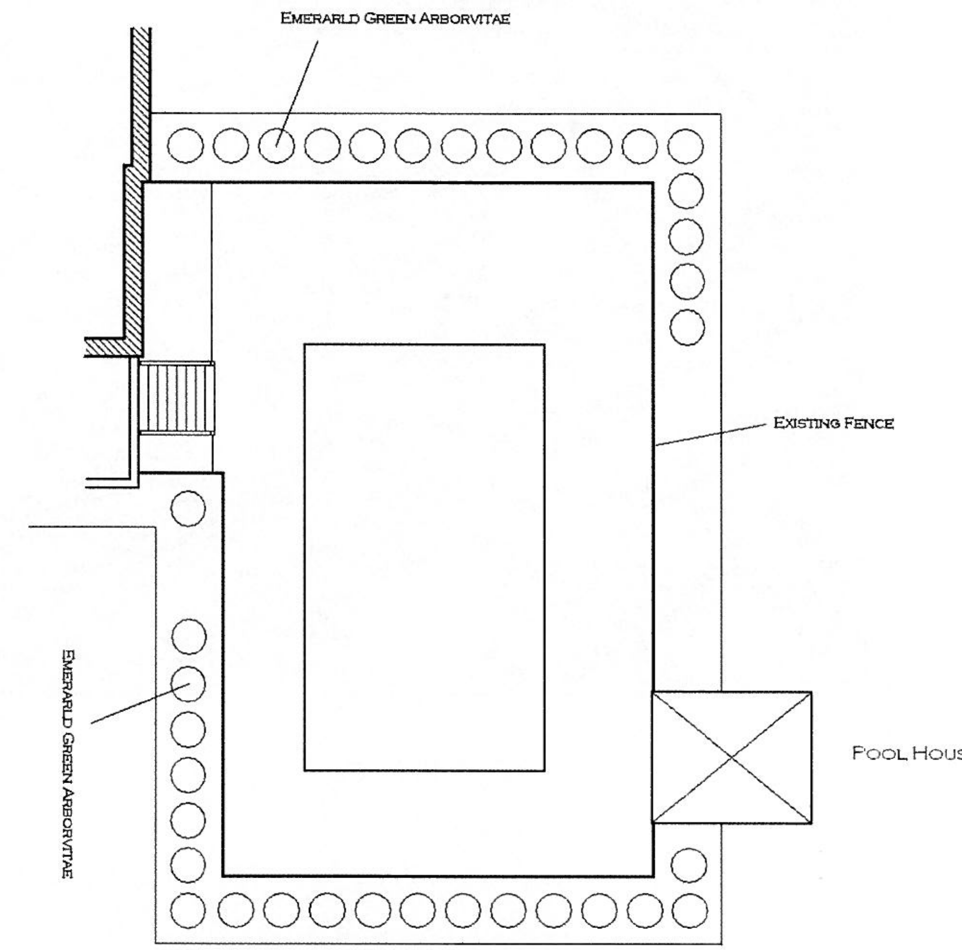
- The proposal would allow for the use of an existing residence as a bed and breakfast; a 10'x12' pool house would also be constructed.
- The primary use of the home will be a residence. Up to 5 guest rooms with no more than 4 persons per room may be rented to guests.
- This project is located in Zone X per FEMA Panel # 5100930041D, June 8, 2003
- There are no new public utility connections proposed for this project.
- Exterior lighting will be controlled so that no direct illumination will occur beyond any property line





Rivermont Ave

Site Plan



Privacy Hedge for the Pool

LYNCHBURG CITY COUNCIL
Agenda Item Summary

MEETING DATE: **July 14, 2009**		AGENDA ITEM NO.: 9
CONSENT:	REGULAR: **X**	CLOSED SESSION: (Confidential)
ACTION: **X**	INFORMATION:	

ITEM TITLE: **Rezoning: R-2, Low-Medium Density, Single-Family Residential District to B-5C, General Business District (Conditional) – 224 Lake Crest Lane**

RECOMMENDATION: Denial of the rezoning petition.

SUMMARY: Thomas P. Bell is petitioning to rezone the subject property to allow the use of an existing structure as a contractor's office and shop with associated parking. The City has complied with Section 15.2 - 2204 of the Code of Virginia and notified Bedford County about the proposed changes within the City. The county would require a conditional use permit for the contractor establishment if the project were approved by City Council.
The Planning Commission recommended denial of the petition because:

- The property would be accessed by an unimproved, private road in a primarily residential neighborhood.
- Although a number of properties along the U.S. 221/Lakeside Drive corridor in the City of Lynchburg are zoned commercial, none of the commercial uses identified by the *Future Land Use Map* are classified by the appropriate designation for the contractor establishment.
- The proposed concept plan was considered "piecemeal" and only addressed one parcel rather than the whole property.

PRIOR ACTION(S):
May 27, 2009: Planning Division recommended denial of the rezoning petition.

May 27, 2009: Planning Commission recommended denial of the rezoning petition (6-0, with one member absent, Oglesby)

BUDGET IMPACT: None

CONTACT(S):	Charlene Montford	455-3902
	Tom Martin	455-3909

ATTACHMENT(S):

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

REVIEWED BY: lkp

ORDINANCE:

AN ORDINANCE CHANGING A CERTAIN AREA LOCATED AT 224 LAKE CREST LANE FROM R-2, LOW-MEDIUM DENSITY, SINGLE-FAMILY RESIDENTIAL DISTRICT TO B-5C, GENERAL 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 224 Lake Crest Lane from R-2, Low-Medium Density, Single-Family Residential District to B-5C, General Business District (Conditional).

The area embraced within the following boundaries…

BEGINNING AT A POINT, said point being northwest corner of the existing parcel and of the area to be rezoned thence S 25°52'44" W, 125.25 feet to a point, thence S 61°15'14" E, 152.30 feet to a point, thence S 34°11'29" E, 75.00 feet to a point, thence S 42°26'53" E, 278.20 feet to a point, thence N 55°26'19" E, 116.27 feet to a point, thence N 31°43'23" W, 103.88 feet to a point, thence N 29°44'35" E, 62.52 feet to a point, thence N 24°16'32" E, 67.00 feet to a point, thence N 65°48'00" W, 447.82' to the POINT OF BEGINNING.

CONTAINING: 90,169 square feet or 2.07 acres of land, more or less.

… is hereby changed from R-2, Low-Medium Density, Single-Family Residential District to B-5C, General Business District (Conditional) subject to the conditions set out hereinbelow which were voluntarily proffered in writing by the owner, namely Thomas P. Bell, to wit:

1. The property will be developed in substantial compliance with the “Plan Showing Future Proposed Use and Area to be Rezoned on the Property of Thomas P. Bell” prepared by Perkins & Orrison, dated May 1, 2009.
2. Commercial use for the property will be restricted to that required for a contractor’s establishment.
3. There will be no outside storage of materials or equipment on site.
4. The existing private entrance road will have aggregate base material added and tree limbs cleared to improve accessibility for emergency vehicles. This work will be done to the satisfaction of the City Fire Marshall.

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

070L

The Department of Community Development

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

To: Planning Commission
From: Planning Division
Date: May 27, 2009
Re: **REZONING: R-2, Low-Medium Density Single-Family Residential District to B-5C, General Business District (Conditional) at 224 Lake Crest Lane**

I. PETITIONER

Thomas P. Bell, 224 Lake Crest Lane, Lynchburg, VA 24502
Representative: Norm Walton, Perkins and Orrison, 27 Green Hill Drive, Forest, VA 24551

II. LOCATION

The subject property includes one (1) tract totaling approximately thirteen and forty-five hundredths (13.45) acres at 224 Lake Crest Lane; two and four hundredths (2.04) acres would be rezoned as part of this petition.

Property Owner: Thomas P. Bell, Theodore L. and Sherry A. Bell, 224 Lake Crest Lane, Lynchburg, VA 24502

III. PURPOSE

The purpose of this petition is to allow the use of an existing structure as a contractor's office and shop with associated parking.

IV. SUMMARY

- The *Comprehensive Plan* recommends a Low Density Residential use in this area.
- Petition agrees with the *Zoning Ordinance* in that a contractor's office and shop is a use permitted in a B-5, General Business District.
- The property is surrounded by residential dwellings that are zoned R-2, Low-Medium Density Single-Family Residential District.

<u>The Planning Division recommends denial of the rezoning petition.</u>

V. FINDINGS OF FACT

1. **Comprehensive Plan.** The City's *Future Land Use Map* (*FLUM*) recommends a Low Density Residential use in this area. Low Density Residential areas are dominated by single-family detached housing at densities up to four (4) dwelling units per acre. **[page 5.5]** The adjacent zoning includes a mixture of residential and commercial zoning for all of the neighboring properties and the *FLUM* includes Resource Conservation, Community Commercial, Medium Density Residential and Institutional uses in the surrounding area. Existing land uses within the vicinity of the site primarily include undeveloped forestall land and single-family detached homes; a variety of commercial businesses are located in Bedford County and the City of Lynchburg along the U.S. 221/Lakeside Drive Corridor.

   The petitioner has voluntarily proffered to exclude all uses (except for the contractor office and shop) permitted "by right" in a B-5, General Business District and that there would be no outside storage of equipment or materials on site to reduce the potential impact on the surrounding residential properties. A vegetative buffer would be provided along the perimeter of the property and significant landscaping is also proposed for the site to screen the proposed business from the adjacent homes.

2. **Zoning.** The subject property was annexed into the City in 1976. The existing R-2, Low-Medium Density Single-Family Residential District was established on October 13, 1992 with the adoption of the City's Graves Mill Road/U.S. 221 Area Land Use Study – Growth Management Program.

3. **Proffers.** The petitioner voluntarily submitted the following proffers with the rezoning application:

   1) The property will be developed in substantial compliance with the "Plan Showing Future Proposed Use and Area to be Rezoned on the Property of Thomas P. Bell" prepared by Perkins & Orrison, dated May 1, 2009.
   2) Commercial use for the property will be restricted to that required for a contractor's establishment.
   3) There will be no outside storage of materials or equipment on site.
   4) The existing private entrance road will have aggregate base material added and tree limbs cleared to improve accessibility for emergency vehicles. This work will be done to the satisfaction of the City Fire Marshal.

4. **Board of Zoning Appeals (BZA).** The Zoning Official has determined that no variances will 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 September 13, 2005, City Council approved Clarion Investments' petition to rezone five and three tenths (5.3) acres from B-3, Community Business District and R-4, Medium-High Density Multi-Family Residential District to B-5C, General Business District (Conditional) to allow for the construction of an automobile dealership, service department, parking and vehicle display area at 2639 Lakeside Drive.

   - On September 14, 2004, City Council approved Heritage Baptist Church's CUP petition to expand an existing parking lot at 239 and 329 Breezewood Drive.

   - On April 13, 1999, City Council approved Heritage Baptist Church's CUP petition to amend their master development plan and allow an addition to their multi-purpose building at 219 Breezewood Drive.

   - On February 9, 1999, City Council approved Richlyn LLC's petition to rezone twelve (12) acres off Breezewood Drive from R-1, Low Density Single Family Residential District to R-3(C), Medium Density Two-Family Residential District (Conditional) and three (3) acres from R-1, Low Density Single Family Residential District to R-4(C), Medium-High Density Multi-Family Residential District (Conditional). City Council subsequently approved Richlyn LLC's CUP petition to develop forty-three (43) acres at the terminus of Breezewood Drive for about seventy-four (74) single-family attached units (townhouses), two hundred and sixty-two (262) apartments and eighty (80) housing units for the elderly as a Planned Unit Development in an R-C, Resource Conservation District, an R-1, Low Density Single-Family Residential District, an R-3(C), Medium Density Two-Family Residential District (Conditional) and an R-4(C), Medium-High Density Multi-Family Residential District (Conditional).

   - On October 13, 1998, City Council approved Pavilion Development's CUP petition to allow the construction of a single-bay car wash next to the existing food court building at 2625 Lakeside Drive.

   - On June 9, 1998, City Council approved Southern Air's petition to rezone seven (7) acres at 2655 Lakeside Drive from R-4, Multi-Family Residential District to B-5C, General Business District (Conditional) to allow expansion of an outdoor storage area.

   - On May 12, 1998, City Council approved Heritage Baptist Church's CUP petition to amend their master development plan and allow additional buildings, as well as a revised layout at 219 Breezewood Drive.

   - On April 12, 1994, City Council approved Heritage Baptist Church's CUP petition to amend their master development plan and allow additional classroom space, as well as an enclosed hall at 219 Breezewood Drive.

   - On October 12, 1993, City Council approved Heritage Baptist Church's CUP petition to amend their master development plan and allow two additional classroom trailers at 219 Breezewood Drive.

   - On February 9, 1993, City Council approved Heritage Baptist Church's CUP petition to allow expansion of the existing church complex at 219 Breezewood Drive.

- On October 13, 1992, City Council rezoned properties along Graves Mill Road and Lakeside Drive as part of the Graves Mill Road/ U.S. 221 Area Land Use Study - Growth Management Program – May 11, 1992 to promote economic vitality, convenience, general welfare and good zoning practice.
- On January 14, 1992, City Council approved Heritage Baptist Church's CUP petition to allow for the use of a modular classroom and expansion of a parking area at 219 Breezewood Drive.
- On May 14, 1991, City Council approved Southern Air's petition to rezone one and eight-tenths (1.8) acres at 2650 Lakeside Drive from I-3, Heavy Industrial District to B-3, Community Business District to allow it to be used as a contractor supply facility.
- On July 10, 1990, City Council approved Heritage Baptist Church's CUP petition to allow for the construction of a classroom building at 219 Breezewood Drive.
- On December 8, 1987, City Council approved Heritage Baptist Church's CUP petition to allow for the construction of a multi-purpose building and additional parking at 219 Breezewood Drive.
- On May 14, 1985, City Council approved Heritage Baptist Church's CUP petition to allow for an educational wing and offices at 219 Breezewood Drive.
- On May 10, 1983, City Council approved Heritage Baptist Church's Temporary CUP petition for a tent revival at 219 Breezewood Drive.

6. **Site Description.** The property currently includes a single-family home, a two (2)-story brick garage and several outbuildings; the balance of the property is undeveloped and has been recently cleared. An existing pond and an unnamed tributary of Tomahawk Creek form the southern border of the site. Access to the property is through Lake Crest Lane, an unimproved private road in Bedford County. The site is bound to the north by a combination of single-family homes and commercial businesses; to the east by single-family residences, as well as commercial and industrial buildings; to the south by single-family homes; and to the west by commercial businesses in Bedford County.

7. **Proposed Use of Property.** The petition would rezone a portion of the subject property to allow use of an existing garage as a contractor's establishment with associated parking. The structure includes three (3) garage doors that could be used for maintenance of construction equipment and the second story would be used for the petitioner's office area. City water or sewer is not currently available to the site and utilities would be provided through an existing well and septic system. The petitioner has indicated that any exterior lighting would be shielded to prevent direct illumination beyond any property line. Parking area landscaping, vegetative buffering and utility area screening would be required by the City's *Zoning Ordinance* for the project. In addition, the concept plan includes foundation plantings, parking area screening and additional plantings along the perimeter of the site. The significant landscaping would provide for a minimum twenty (20)-foot riparian buffer along the existing pond and stream at its headwaters.

   Since a portion of the property is located in Bedford County, the representative and Planning Division staff notified Mary Zirkle, Chief of Planning for Bedford County about the proposed rezoning. Mrs. Zirkle stated that, if the rezoning were approved by Lynchburg City Council, a CUP would be required from Bedford County for the proposed use.

8. **Traffic, Parking and Public Transit.** The City's Transportation Engineer expressed concern about the rezoning petition, noting an unimproved private road off of a public street would be the sole access point to the wide range of commercial uses allowed in a B-5, General Business District. The petitioner has voluntarily proffered the only commercial use that would be allowed on the site would be the proposed contractor's establishment. The proffer would significantly limit the number of average daily trips compared to the majority of commercial uses; as such, impacts to the public road system would be minimal and satisfy the traffic concerns of the City's Transportation Engineer.

   Parking requirements for the proposed development are set at one (1) space per three hundred (300) square feet of floor area by the City's *Zoning Ordinance*. The proposed contractor's establishment includes three thousand six hundred (3,600) square feet of floor area, which would require a total of twelve (12) parking spaces. The concept plan indicates that twelve (12) parking spaces are provided, thus meeting the requirements of City Code.

Greater Lynchburg Transit Company service is not available within this area.

9. **Stormwater Management.** New impervious area for the project would exceed the one thousand (1,000) square foot threshold; as such, a stormwater management plan to address water quantity and quality would be required for the construction. Stormwater from the development would be directed to a proposed detention pond before being released into the pond and/or the Tomahawk Creek tributary at a rate not to exceed the pre-development run-off rate. Preliminary review of the stream indicates that the channel is adequate to receive the water from the basin. Stormwater quality would be addressed through an approved structural measure, as detailed within the City's stormwater design manual.

10. **Emergency Services.** The City's Fire Marshal had initial concerns that there would not be sufficient fire flow protection within the area to service the proposed building. Fire code requires that at least one thousand (1,000) gallons per minute at twenty (20) pounds per square inch residual pressure would be required and a fire hydrant would need to be located within four hundred (400) feet of all parts of the structure. The designer has provided that a dry hydrant could be installed to provide the necessary fire flow volume and pressure from the existing pond. The proposed option is acceptable to the Fire Marshal.

    The City Police Department had no comments regarding the proposed rezoning.

11. **Impact.** The use of the existing building as a contractor's establishment in a primarily residential community would have potential impacts to the surrounding area that must be considered. The petitioner has significantly limited the commercial uses that would be permitted on the property and excluded outside material and equipment storage. The concept plan includes significant landscaping, including vegetative buffers along all sides of the property that would screen the property from the neighboring residences and provide riparian protection for the headwaters of the Tomahawk Creek tributary. Stormwater and public safety concerns have also been addressed to the satisfaction of City staff.

    Although a number of properties along the U.S. 221/Lakeside Drive corridor in the City of Lynchburg and Bedford County are zoned for commercial business, this property would be accessed by an unimproved, private road in a primarily residential neighborhood. Similarly, while the *FLUM* identifies uses other than residential in the surrounding area, none of the commercial uses identified on the adjacent lands provide an appropriate designation for the contractor establishment. Therefore, despite the proffers and measures provided on the concept plan, staff cannot support the petition.

12. **Technical Review Committee.** The Technical Review Committee (TRC) reviewed the preliminary site plan on April 21, 2009. Comments related to the proposed use were minor in nature and have or will be addressed by the developer prior to final site plan approval.

VI. PLANNING DIVISION RECOMMENDATION

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

Based on the preceding Findings of Fact, the Planning Commission recommends to City Council denial of Thomas P. Bell's petition to rezone two and seven hundredths (2.07) acres located at 224 Lake Crest Lane from R-2, Low-Medium Density Single-Family Residential District to B-5C, General Business District (Conditional).

This matter is respectfully offered for your consideration.

William T. Martin, AICP
City Planner

pc: Mr. L. Kimball Payne, III, City Manager
Mr. Walter C. Erwin, City Attorney
Ms. Charlene B. Montford, Director of Community Development

Mr. J. Lee Newland, City Engineer
Mr. Gerry L. Harter, Traffic Engineer
Mr. Robert Drane, Building Commissioner
Mr. Robert Fowler, Zoning Administrator
Battalion Chief Greg Wormser, Fire Marshal
Ms. Cynthia L. Kozerow, Lynchburg Police Department
Mr. Kent L. White, Senior Planner
Mrs. Erin Hawkins, Environmental Reviewer
Mr. Thomas P. Bell, Applicant
Mr. Norm Walton, Perkins & Orrison, Representative

VII. ATTACHMENTS

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

MINUTES FROM THE MAY 27, 2009 PLANNING COMMISSION MEETING (MINUTES HAVE BEEN APPROVED):

a. Petition of Thomas Bell to rezone 2.07 acres at 224 Lake Crest Lane from an R-2, Low-Medium Density Single-Family Residential District to a B-5C, General Business District (Conditional) to allow the use of an existing building and property for a contractor's office and shop with associated parking.

Mr. Martin addressed the commissioners with the following comments. The petition proposes the use of an existing structure as a contractor's shop and office with associated parking. The building was constructed without a building permit and the land is currently zoned R-2, Low-Medium Density Residential. The contractor's establishment would require a minimum of B-5, General Business District zoning, which is the most intensive commercial zone classification in the City. The *Future Land Use Map* for this area recommends a Low Density use for the property and the surrounding area. These areas are characterized by single-family homes with densities of up to four units per acre.

Access to the property is from Lake Crest Lane, which is an unimproved private street coming in from Bedford County. Fire protection, as proposed, would be through the use of a dry hydrant through an existing pond on the property. That is acceptable to the Fire Marshal's office. Petitioner has voluntarily proffered substantial compliance with the site plan by adding base material, trimming tree limbs, not having outside storage at the contractor's establishment and restricting the use of the property to only a contractor's establishment.

Mary Zirkle of the Bedford County Planning Department was contacted, and she indicated that if the rezoning was approved in the City, the county would require a special use permit for the small portion of the property located in Bedford County.

Despite the submitted proffers, Planning Division does not support the rezoning and recommends denial of it based on surrounding zoning patterns and the *Future Land Use Map.*

Mr. Norm Walton of Perkins and Orrison came forward to represent the petitioner. Mr. Thomas Bell, the developer of the property, was also present. Mr. Walton explained that the property is right on the Lynchburg City/Bedford County line. Mr. Bell is seeking a rezoning from R-2 to B-5C. He is asking for 2.07 acres of the property be rezoned for a contractor's establishment. The building has already been started and a picture has been provided to the commissioners. It has some nice architectural elements and blends in with the surrounding community. There are several other reasons they do not feel that this rezoning will be a detriment to the adjoining neighbors. One, the access to this is going to be through the existing private Lake Crest Lane, which is in Bedford County. It is the access to the property as a whole. There are similar uses to this in the area on 221—Scott's Mulch and More, as well as Duke Fencing. Both are in Bedford County, but within close proximity of this site. There is also Southern Air, which is in the City. They are all between the Expressway and Graves Mill Road. The adjacent zoning in Bedford County is C-2, which is general commercial. There would be a special use permit required from Bedford County, if this rezoning is approved by City Council.

There have been several proffers submitted. There will be no outside storage of materials and equipment in order to be a good neighbor and not to stand out as a contractor's yard. The proffers also restrict this area to be used only as a contractor's establishment. The Fire Marshal and Mr. Walton have had lengthy conversations about several elements, one is the use of the pond as a dry hydrant. The Fire Marshal has agreed that there is enough volume of water there to fight a fire; that has been proven with calculations based on a fire event of a structure this size. The Fire Marshal also asked that Lake Crest Lane be improved by adding some base aggregate to ensure a fire truck loaded with water would be able to get in with no problems. That has been agreed to and proffered. It has also been proffered to build the remainder of the site in compliance with the submitted site plan. Mr. Walton also commented that Mr. Bell submitted for a building permit today.

Chair Hamilton asked for anyone else present to speak in favor of the petition. No one came forward. She asked if there was anyone present to speak in opposition to the petition or with questions. Mr. Garland Hunt came forward. He commented that his property is directly adjacent to what Mr. Bell wants to rezone. He and the rest of the neighbors in the subdivision south of this development are concerned about the subdividing when this piece of property is landlocked. Several years ago, Mr. Hunt had approached the City about subdividing his lot and taking a piece of the lot next to Gatti Road. The City said it could not be subdivided because it is landlocked. There is no public access to Mr. Bell's property. He and the neighbors are concerned about setting a precedent. In addition, all the property in the City around Mr. Bell's property is single-family residences.

Chair Hamilton asked if there was anyone else present to speak in opposition to the proposal. No one came forward. She asked those present in opposition to raise their hands, and two people raised their hands. Chair Hamilton asked Mr. Bell and Mr. Walton to come back to address Mr. Hunt's questions.

Mr. Walton commented that they are not creating a subdivision of the property. This is creating a zoning line. The remainder of the property would continue to be R-2. This still remains one contiguous property. There is the potential of having a residential subdivision in the future, but at this time, they are strictly focusing on the rezoning and not any future plans.

Chair Hamilton asked Mr. Hunt if he had a rebuttal. Mr. Hunt stated that he differed with Mr. Walton's opinion because he is subdividing 2.07 acres to be rezoned for a different purpose.

Chair Hamilton closed the public hearing portion of the petition and opened it up to the commissioners for comments and questions. Commissioner Sale wanted to clarify that Lake Crest Lane is a private street and not chartered by the county in any regard. Mr. Martin said not to his knowledge. Commissioner Sale clarified that the county assumes no responsibility for it. He wondered if the street was just laid out by the people who put their houses there. Mr. Martin said that as far he knows there are a lot of private roads like that in the county. Mr. Hunt said he could answer that question, and Chair Hamilton said they would call him up in a few minutes. Commissioner Sale clarified that this road could be closed by anyone at any time. Mr. Martin said that Commissioner Hannon could probably answer that better, but there is a right of use to that road, probably easements involved, but it is not a public right-of-way. The City would not allow any subdivision of that property without access on a public street. Commissioner Sale clarified that this road is in the county, and Mr. Martin said they have no control over that anyway. Commissioner Sale said that he is curious about the history of that road.

Commissioner Barnes asked Mr. Bell about the timing of constructing the building without a building permit and without the rezoning. Commissioner Barnes was out there yesterday, and there is construction being done on the property now. Mr. Bell clarified that Chris Mayberry owns a piece in Bedford County where they are bringing in the sewer, and they have signed an easement for that. Mr. Bell has no good excuse for starting the building without a permit. They stopped work on it and haven't missed any inspections. Commissioner Barnes asked him if the garage was originally constructed for another purpose. Mr. Bell said it was to be some sort of office. He is trying to do this the right way by getting a rezoning instead of operating a business in a residential area.

Commissioner Hannon asked him what is planned for the future development of the remainder of the property. Mr. Bell said they are going to try and do a 26-lot subdivision. It would be a by-right subdivision that has been laid off already. Commissioner Hannon asked him where the access would be. Mr. Bell stated that it would come in where the road dies off at Gatti Road. Commissioner Hannon asked him if that would be over property that Mr. Bell owns. Mr. Bell stated that he does not have an easement yet, but he talked to Mrs. Parnell last year about bringing a road through there. At the time, there were no issues. It is something they need to address before they submit the plans.

Commissioner Swienton asked who is responsible for maintaining Lake Crest Lane. Mr. Bell said that there are certain things that he will need to do to satisfy the Fire Marshal, but at the present time, he pretty much maintains it. He fills in the potholes and cuts the grass. Commissioner Swienton asked what kind of trucks he envisions going to the garage. Mr. Bell said that right now he has several work vans and pickup trucks. It would be a place to work on those as well as having an office there. There would be no big dump trucks or things like that.

Commissioner Hannon asked Mr. Bell if he owned the fee for Lake Crest Lane. Mr. Bell said that just where it comes in at the top left corner. Where it turns off at Phillips Circle, there are four homes there.

Chair Hamilton asked Mr. Hunt to give them some of the history of Lake Crest Lane. Mr. Hunt stated that years ago, Lake Crest Lane was the main highway between Lynchburg and Bedford County. The State improved the road and straightened it out, and then abandoned the old road bed. Mr. Hunt's plat shows the abandoned road bed. That is the only access Mr. Hunt has to his property on the top side. It doesn't belong to anyone. When the road was abandoned, the property lines went back to the center of the road. That is the way it is shown on his plat. The people continue to use it, and it is not maintained by anyone. He asked if he could comment on something and Chair Hamilton said he could. Mrs. Parnell is here today, and she has not agreed to an easement across her property. Chair Hamilton thanked him for that information, but stated that they are just considering the rezoning at this point.

Chair Hamilton asked Commission Hannon is he could comment on the access. He stated that it does appear that it is logical to assume that you could access the property through Gatti Road, but it is problematic. Commissioner

Worthington asked if after a time, there is some kind of common law usage implied. Commissioner Hannon said that at this time, you would probably have a lawsuit if a landowner tried to close any portion of it because there is some implied dedication of public use. It has been open for the statutory period and you have a right of access across it. It is probably in that status—a public right-of-way, not a government right-of-way.

Commissioner Sale asked Mr. Bell if he has spoken with the Bedford County authorities with regard to establishing that road as a county road. Mr. Walton said that they have not talked about improving that road more than it stands right now. He thinks that everyone views it as the current access to the property. The only discussions they have had with Bedford County were in conjunction with the planning staff and regarding whether they would have any opposition to this rezoning and how it would fit with their land use plan for this area. They were just general questions and not really site specific.

Chair Hamilton asked Mr. Bell what kind of traffic he thinks he will have coming into the site. He said it wouldn't change much from what they have now. He builds houses now and has about five guys that work for him. They all come to the house in the morning and get their vans and tools and go out to the job sites. The large equipment he has stays at the job sites. He only brings them over to do work on the road. He has maintained the road and bought a lot of gravel and other things because it was a mess when he bought the house. He thought it would be nice to have the office so people could come there instead of to a job site or his kitchen. Mr. Walton pointed out that Mr. Bell resided in the home on this property until recently. He is moving out of this home at the present time and relocating to a home in Forest. Chair Hamilton asked him who would occupy the house after he moves out. Mr. Bell said he would be keeping the home.

Commissioner Hannon asked about the timing of the future subdivision. Mr. Bell said he would like to start it immediately. Commissioner Hannon wondered about his decision not to subdivide this piece that he is hoping to rezone. Mr. Walton said that they wanted to address the rezoning first. The zoning line they have chosen is in conjunction with the remaining development provided they can overcome some of the hurdles they have heard today. If things don't happen, they still have this overall piece of property to sell. Mr. Walton said he guessed they were planning on a by-right subdivision coming after the rezoning and didn't see the need of establishing a boundary line now.

Mr. Walton asked if that made sense and Commissioner Hannon said somewhat, but asked if the proposed property line is where the subdivision would go. Mr. Walton said that is correct and they are willing to commit to that.

Someone wished to speak from the floor, and Chair Hamilton said the public hearing was closed. The woman stated she needed to hear some discussion before she knew what her questions were. Commissioner Sale wished to give her the opportunity to ask her questions and Chair Hamilton asked her to come forward. Ms. Nancy Oliver stated that she is one of the adjacent property owners. She had a question about the pond and its effect on the stream. She wondered if the zoning is changed, if the pond will be used for anything and if there will be any impact on the stream. She also wondered if Mr. Bell is not selling the property, it was her understanding that the owner has to live there in order to rent the property.

Chair Hamilton asked Mr. Bell and Mr. Walton to address these questions. Mr. Walton said that the pond is not going to be impacted. There is a stormwater management pond identified right behind the parking area. Stormwater quality and quantity will be addressed with this project, as well as the residential project, as it occurs. They are going to try to have no impact to the existing pond or stream. The stream does follow generally the southerly property line. They also have an area identified for proposed stormwater management for the overall subdivision of the property, which Mr. Walton provided for their viewing.

Commissioner Swienton asked how much fill dirt they expected to need to move the road to where the proposed road is marked on the site plan. Commissioner Swienton was at the site and it looks like the road would need to be moved to create the 20-foot buffer. It looks like it would be sloped where the new road would go. Mr. Walton thought it would be cut in front of the building. He thinks they could make the site balance. They would need to do some grading with the residential subdivision as well. Mr. Walton said that it slopes down to the pond. The area behind the garage is higher than the building. He thinks they would be cutting down in order to make that level, and he doesn't see a problem with the grading. Commissioner Swienton thought they would need a retaining wall. Mr. Walton commented that they can do plantings on a slope. He had not considered this as being an obstacle. They have not completely engineered the site, but Mr. Walton does not feel that this would be a problem.

Commissioner Barnes remarked that the subdivision plan is contingent upon them getting access from Gatti Road. That has not been granted yet and Commissioner Barnes asked them to comment on the status of that. Mr. Walton said they need to talk with that property owner. Mr. Bell said he has not talked to that owner since last year. Commissioner Hannon asked if it would be possible to bring in access through Lake Crest Lane. Mr. Walton said that planning staff would probably have issues with a residential subdivision having access through a commercial site. They have the same issues either way they go with obtaining easements. Mr. Martin commented that one issue is coming through the commercial site. The other issue is that in order to subdivide in the City, you have to have frontage on an improved City street. He thinks they would have problems having an improved City street coming off a private access road. It would most likely have to be improved at least to State standards all the way out to 221. Mr. Martin is not sure how cost prohibitive that would become. The only feasible way to do that would be off Gatti Road.

Commissioner Hannon commented that the property is essentially landlocked now. Mr. Walton said that is correct. Commissioner Hannon clarified that if this property is rezoned, they would not be creating a landlocked situation.

Commissioner Worthington asked Mr. Hunt if his concern was with this commercial rezoning or with the whole parcel being developed. Mr. Hunt said that their concern is that there will be a lawsuit filed and Mrs. Parnell will lose her front yard because somebody thinks it is necessary for him to have a subdivision. He knows that is a very slim chance. Commissioner Worthington asked him if he feels like if you let a little water in, then the dam will break. Mr. Hunt said that is their concern. Mr. Hunt pointed out the Skinnell property. They have an easement across Mr. Bell's property. Commissioner Worthington said that might not be the case. Mr. Hunt said they have been using it for many years. Commissioner Hannon said that if they have a deeded access, that will be the case whether it is residential or commercial.

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

"That the Planning Commission recommends to City Council denial of Thomas P. Bell's petition to rezone two and seven hundredths (2.07) acres located at 224 Lake Crest Lane from R-2, Low-Medium Density Single-Family Residential District to B-5C, General Business District (Conditional)."

Commissioner Swienton commented that he had initially thought that this proposal made perfect economic sense. He was also looking at the other houses on Lake Crest Lane and if the other commercial property on 221 is developed, they are going to have commercial property across the street. However, that is Bedford County. He was looking at the *Comprehensive Plan* referring to the future growth of this being residential. The part that he does not think he can make an opinion on is the order of this. He thinks that he has to exclude the fact that normally buildings go after a permit is obtained. He ultimately looks at this being business use and he feels that the best use of this property is residential. As this land develops, he would like to see it flow as much as possible and not go through commercial to get to residential. He has concerns about the road issues and the future impact of traffic. While he supports Mr. Bell's business use and liked the property itself and its location, he would like to stick with the *Comprehensive Plan* and current zoning.

Commissioner Sale thought that was well said and he had the same concerns. He looks at Lake Crest Lane and there needs to be some discussions with the neighbors in regard to that street. This is essentially landlocked property and to approve a commercial site seems to be bad planning. He also agrees that R-2 is the right zoning. There are a lot of plans for the future but nothing that secures this, in his opinion, such as deeded access from Gatti Road. It is a nice thought, but it is not a good plan. There are some pieces that have gone in too fast and that concern him also as far as plans down the road. The *Comprehensive Plan* calling for R-2 is a reasonable way to go as far as keeping this a consistent pattern of development.

Commissioner Hannon commented that he has been trying to figure out a way to vote for this. His philosophy is generally that people ought to be able to do what they want with their property provided that it is consistent with good planning. There are so many things that are left up in the air regarding the subdivision. Even if Mr. Bell goes with his original subdivision plan, there would be a funny piece of land out there. You could make a nice house lot out of two acres. It is not as if they are trying to deprive him of any use of it. With the access issues and everything else, Commissioner Hannon finds it difficult—it is not gelling in his mind that this is a good idea.

Commissioner Barnes concurred with a number of comments that have been made. He is concerned with the piecemeal nature of this. He would like to see Mr. Bell come back with a plan that addressed some of the access concerns and was a plan for the whole property rather than for just the one parcel. This puts Mr. Bell in an awkward position, since the building has already been constructed, but he should have obtained a permit first. Commissioner Barnes is inclined to vote against this, but he would like to see Mr. Bell come back with a more comprehensive plan including the subdivision.

Commissioner Worthington shared Commissioner Hannon's comments. He has also been trying to figure how to make this work. It is on the *Future Land Use Map* as residential, but there is no plan for how to access it. That doesn't seem like very good planning to him. He does not know what the solution is, but it seems to him that to have a little piece of this land business and the rest of it residential, which would probably make sense to him, you need to fix the access. You can't reasonably expect Bedford County to fix Lake Crest Lane to have somebody develop a bunch of land in the City of Lynchburg. He is inclined to have Mr. Bell fix the basic problem and come back with a big plan. He is not sure that will fit with Mr. Hunt because you will end up with a residential development rather than a small piece being commercial, but he thinks that's what needs to be done.

Chair Hamilton thought that everyone has said it very well. It is a little like putting the cart before the horse.

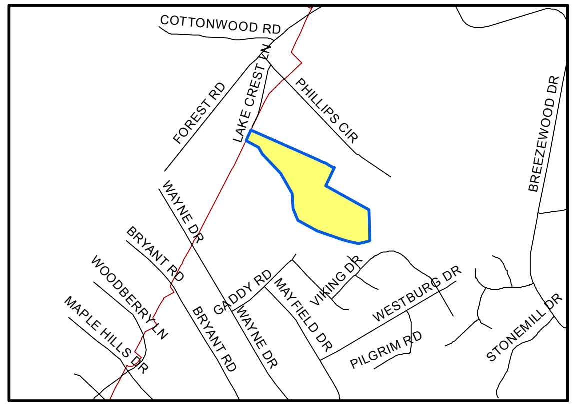
The motion then passed by the following vote:

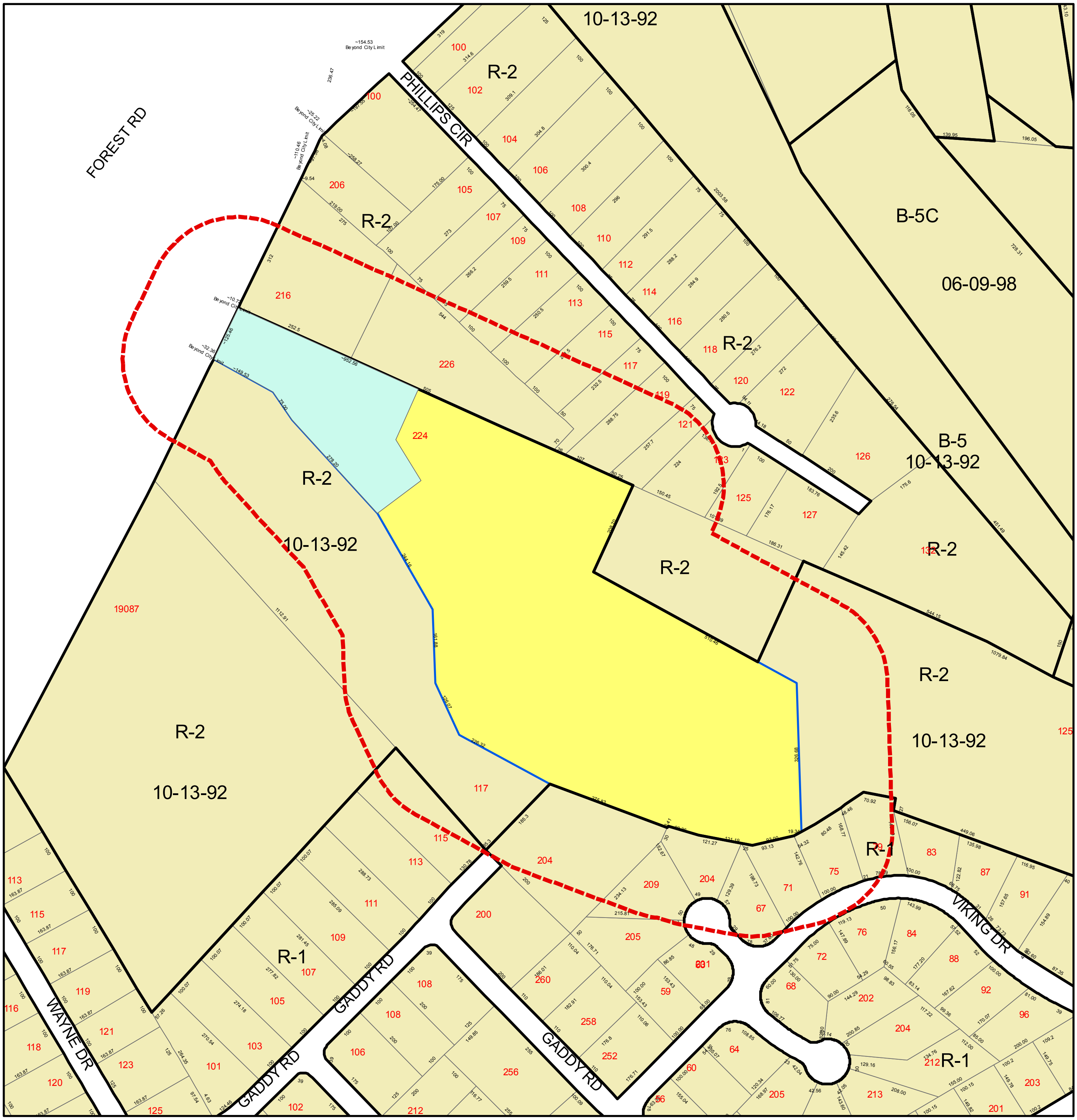
AYES:	Barnes, Hamilton, Hannon, Sale, Swienton and Worthington	6
NOES:		0
ABSTENTIONS:		0
ABSENT:	Oglesby	1

BELL PROPERTY

224 Lake Crest Lane
PIN# 234-13-001
Rezoning from R-2 to B-5C
Petitioner-Thomas Bell

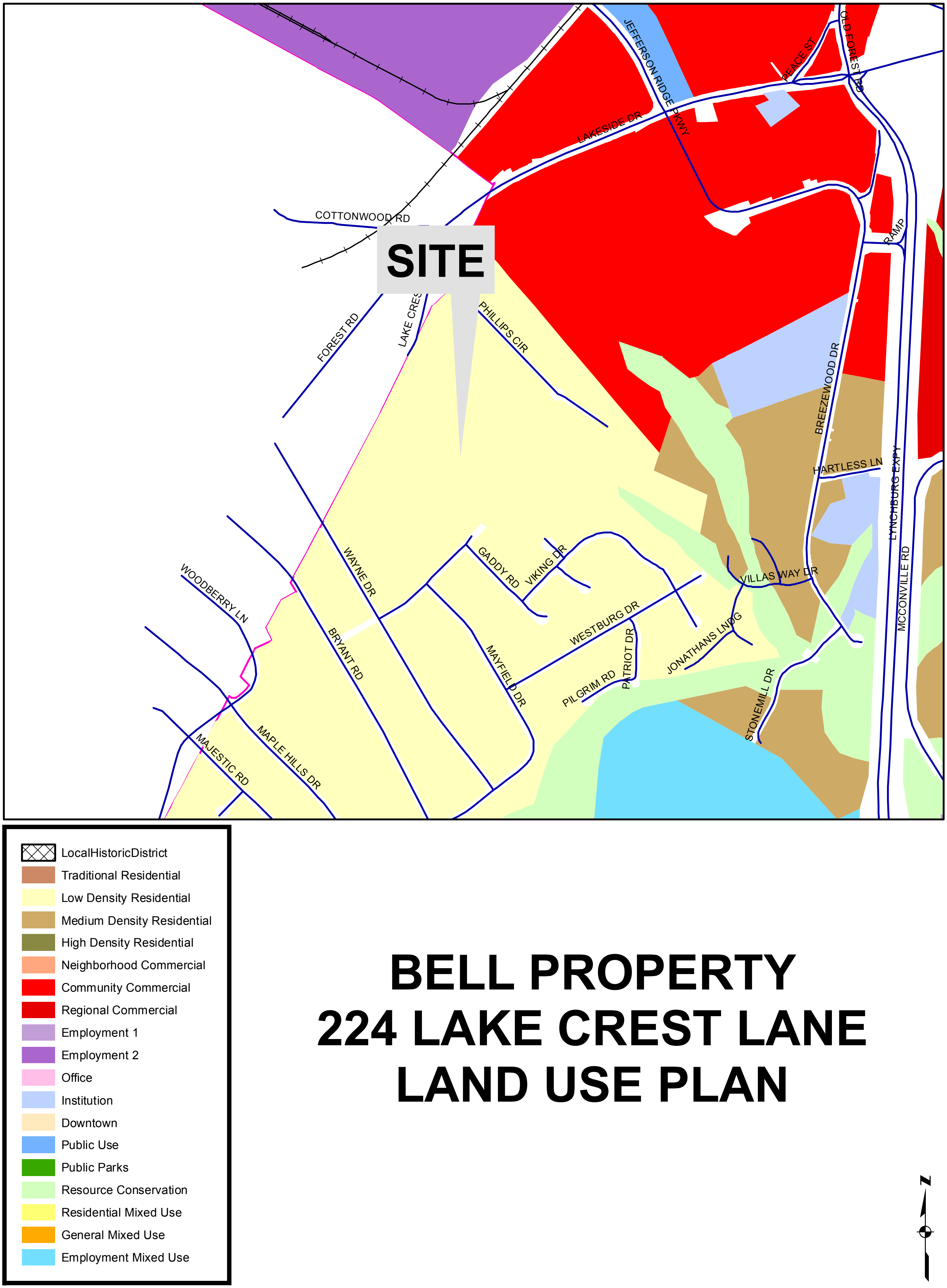
Proposed Rezoning
Subject Property
200 FT Buffer



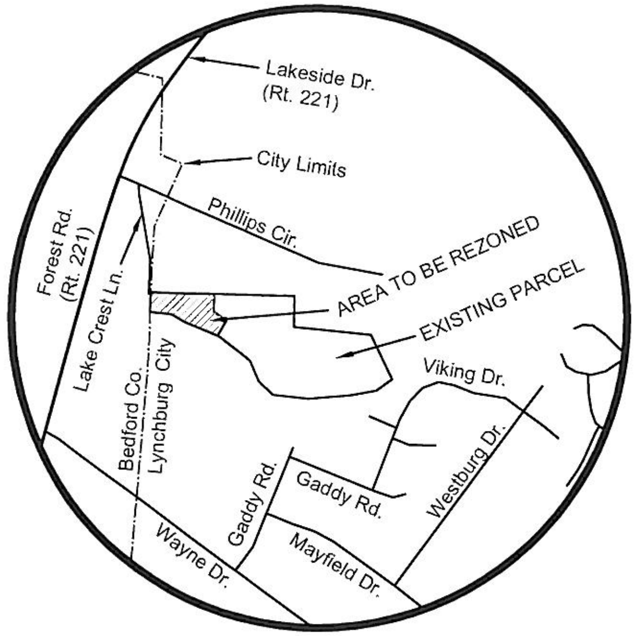


Bell Rezoning Adjoining Owners

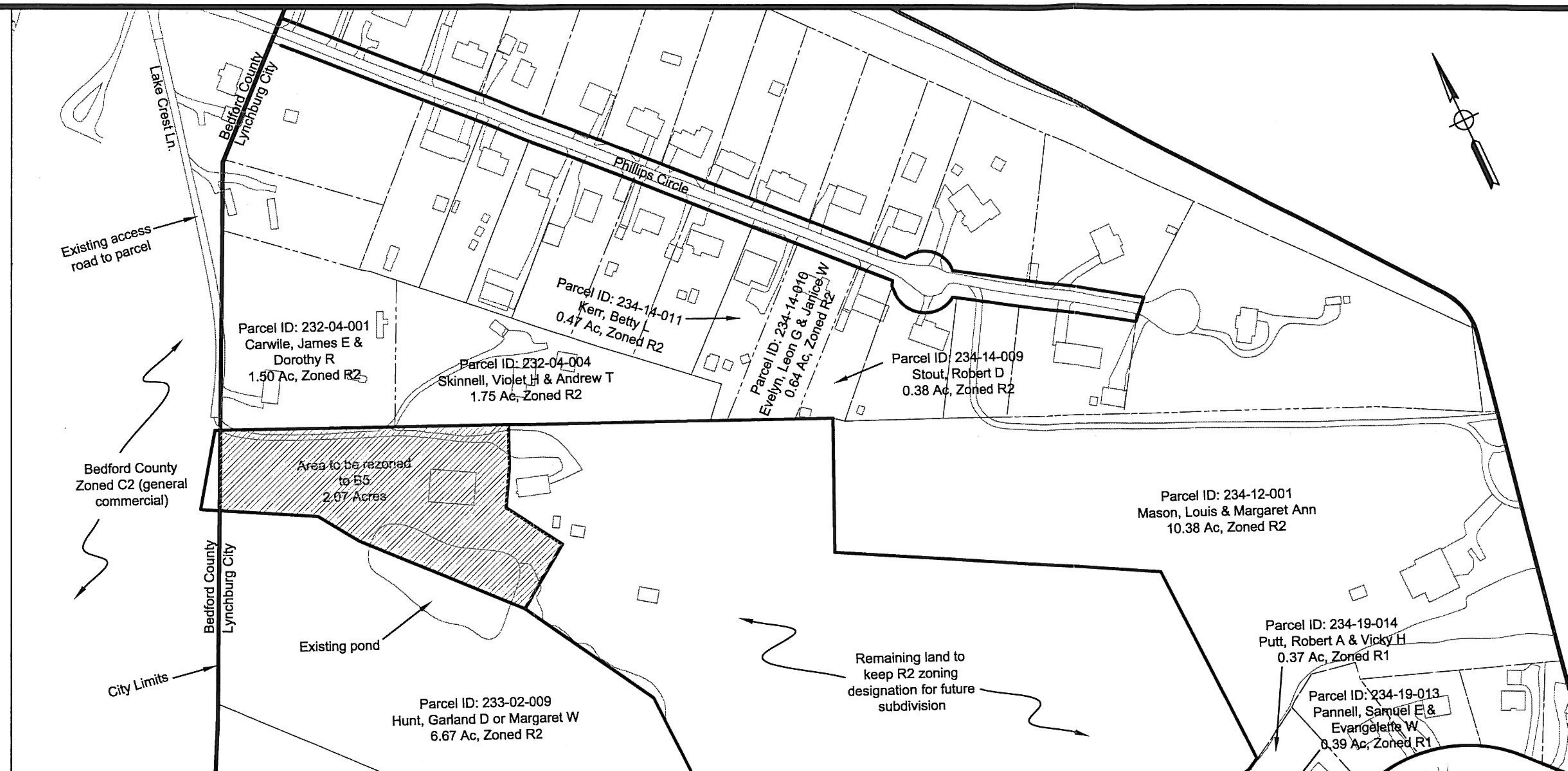
PIN	Owner	LocAddr
23113010	RING THOMAS W & PATRICIA K	115 PHILLIPS CIR
23113011	PATTERSON BRANDON L & KRISTI A	113 PHILLIPS CIR
23113012	TAYLOR HOWARD W & DOROTHY M	111 PHILLIPS CIR
23203004	HATCHER CHARLES H & MARY G	107 PHILLIPS CIR
23203005	CONTARINO MARY N &NORRIS MICHAEL R	109 PHILLIPS CIR
23204001	CARWILE JAMES E & DOROTHY R	216 LAKE CREST LN
23204004	SKINNELL VIOLET H & ANDREW T	226 LAKE CREST LN
23301001	THOMPSON JOHN H & HALL WILLIAM D	19087 FOREST RD
23302008	HUNT GARLAND D or MARGARET W TRS	115 GADDY RD
23302009	HUNT GARLAND D or MARGARET W TRS	117 GADDY RD
23411001	POHNL LYNDA L	204 GADDY RD
23412001	MASON LOUIS & MARGARET ANN	125 PHILLIPS CIR
23413001	BELL THOMAS P BELL THEODORE L & BELL SHERRY A	224 LAKE CREST LN
23414007	MASON LOUIS & MARGARET ANN	125 A PHILLIPS CIR
23414008	BRAMMER DORIS M & JERRY E TRUSTEES	123 PHILLIPS CIR
23414009	STOUT ROBERT D	121 PHILLIPS CIR
23414010	EVELYN LEON G & JANICE W	119 PHILLIPS CIR
23414011	KERR BETTY L	117 PHILLIPS CIR
23419003	CRIVELLO GREGORY M & KRISTEN H	205 CASCADE CT
23419004	CORMIER MELANIE D	209 CASCADE CT
23419005	CHAD D KLACYNSKI CONSTRUCTION CO	204 CASCADE CT
23419006	OLIVER JOHN D & NANCY O	67 VIKING DR
23419013	PANNELL SAMUEL E & EVANGELETTE W	71 VIKING DR
23419014	PUTT ROBERT A & VICKY H	75 VIKING DR
23419015	BURFORD RICKY S & FELISSA S	79 VIKING DR
Bedford County		
101 A 18A	ROBERTSON EARLENE & JEARLENE	19325 FOREST RD
101 A 19	THOMPSON JOHN H & HALL WILLIAM D	
101 A 21B	M & N DEVELOPERS LLC	
Owner	BELL THOMAS P BELL THEODORE L & BELL SHERRY A	
Petitioner	BELL THOMAS P	
Representative	NORM WALTON/PERKINS & ORRISON	

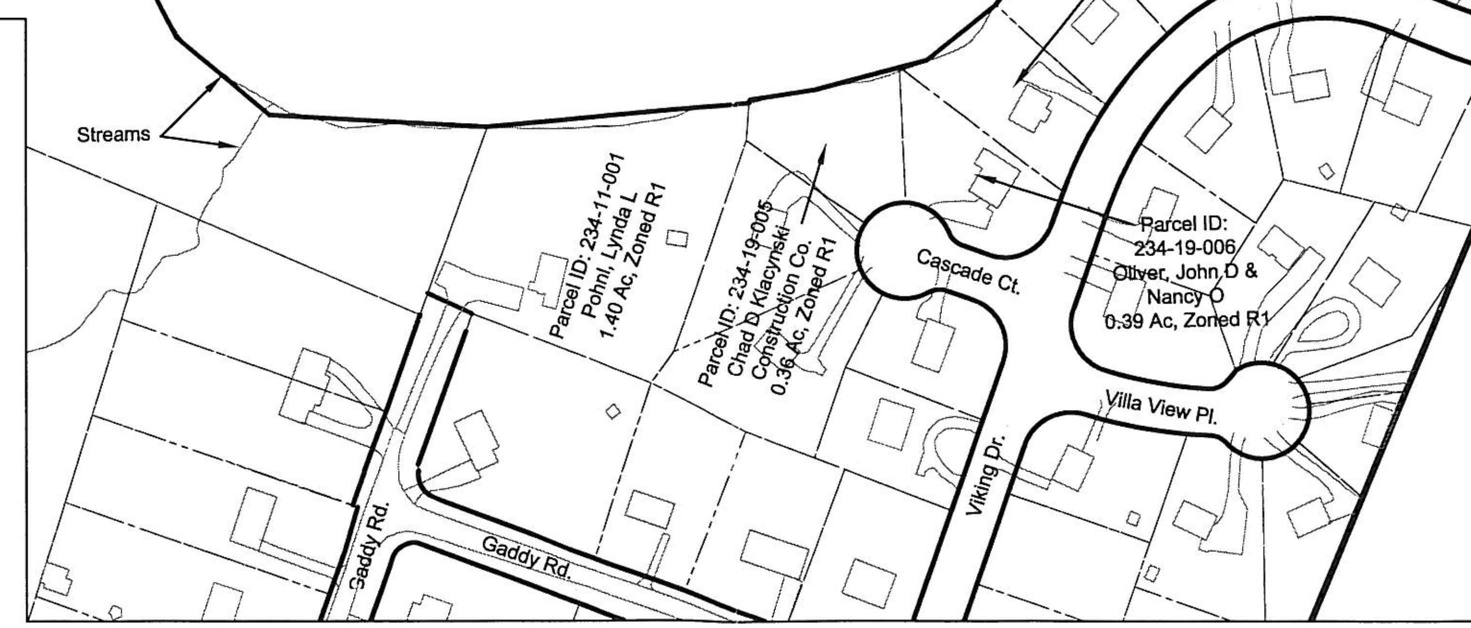


BELL PROPERTY
224 LAKE CREST LANE
LAND USE PLAN



VICINITY MAP
NO SCALE





PROPERTY INFORMATION:

Parcel ID: 234-13-001

Property Address: 224 Lake Crest Ln.
Lynchburg, VA 24502

Owner(s): Thomas P. Bell, Theodore L. Bell, and Sherry A. Bell.

Total Acreage: 13.45

Total Area To Be Rezoned: 2.07 Ac.

Current Zoning: R2

Proposed Zoning: 2.07 Ac. is to be rezoned to B5. The remaining property will keep the R2 zoning designation.

Current Use: Residential (There is one dwelling on the property and the rest is undeveloped.)

Proposed Use: Commercial (homebuilding contractor's establishment)

NOTES:

1) A small detention pond will be created on the parcel to be rezoned to reduce runoff to less than pre-developed rates. Stormwater quality will be handled by means of one of the structural measures on the City's approved list.

2) Stormwater for the property to be rezoned will be handled separately from stormwater for any future residential subdivision created from the remaining property.

3) Discharge into an adequate receiving channel will be verified with site design of the parcel to be rezoned.

4) This property is not located within a FEMA 100 year flood zone. (FEMA panel #5100930038D)

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.

Parking Calculations (office for business):

Required: 1 space per 300 sq ft of floor area = 3600 sq ft / 300 sq ft = 12 spaces

12 spaces provided

RECEIVED
APR 30 2009
COMMUNITY DEVELOPMENT

LEGEND

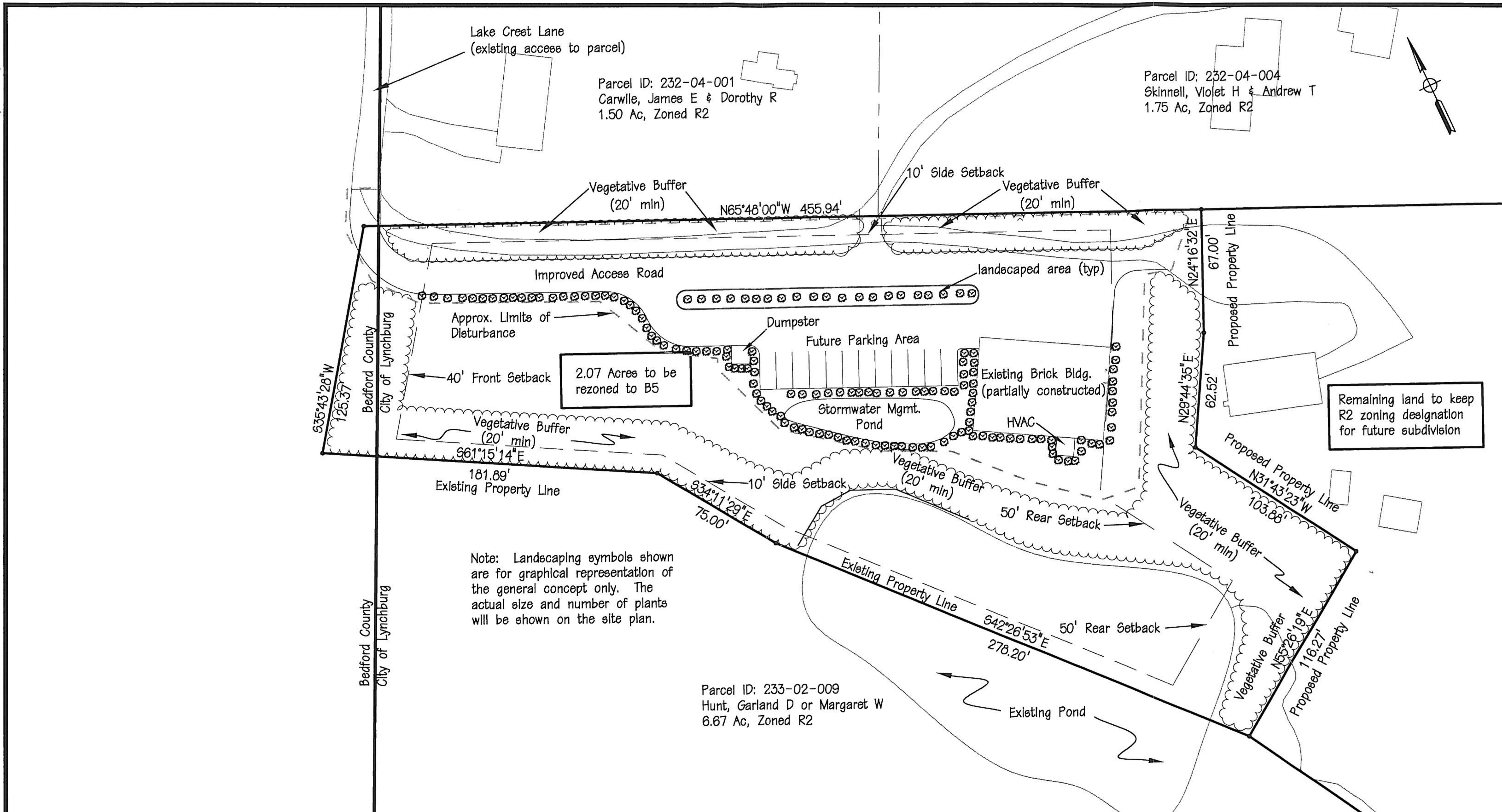
AREA TO BE REZONED

PERKINS & ORRISON
ENGINEERS ▲ PLANNERS ▲ SURVEYORS

PLAN SHOWING FUTURE PROPOSED USE AND AREA TO BE REZONED
ON THE PROPERTY OF
THOMAS P. BELL
LYNCHBURG, VIRGINIA

27 Green Hill Drive Forest, Virginia 24551	Office: 434-525-5985 Fax: 434-525-5986 E-Mail: pno@perkins-orrison.com	200 0 200 GRAPHIC SCALE	DATE: 5/1/09	JOB#: 06053 DWG: C-SP-06053.dwg DWN: JAC

SHEET 1 OF 3



PERKINS & ORRISON
ENGINEERS ▲ PLANNERS ▲ SURVEYORS

PLAN SHOWING FUTURE PROPOSED USE AND AREA TO BE REZONED ON THE PROPERTY OF

THOMAS P. BELL

LYNCHBURG, VIRGINIA

27 Green Hill Drive Forest, Virginia 24551	Office: 434-525-5985 Fax: 434-525-5986 E-Mail: pno@perkins-orrison.com	50 0 50 GRAPHIC SCALE	DATE: 5/1/09	JOB#: 06053 DWG: C-SP-06053.dwg DWN: JAC

SHEET 2 OF 3

PHOTO OF EXISTING BUILDING

PERKINS & ORRISON
ENGINEERS ▲ PLANNERS ▲ SURVEYORS

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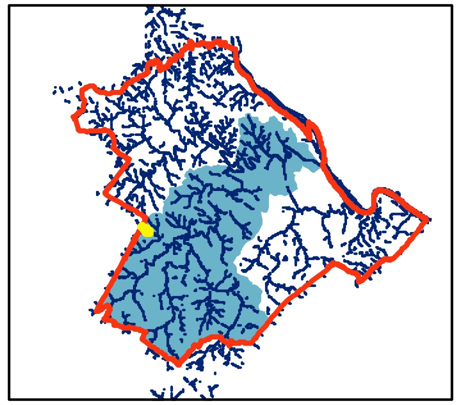
Thomas Bell Property

Watershed Location Map

- Project Site
- Blackwater Creek
- Corporate Limit



LYNCHBURG CITY COUNCIL
Agenda Item Summary

MEETING DATE: **July 14, 2009** AGENDA ITEM NO.: 10

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

ACTION: **X** INFORMATION:

ITEM TITLE: **Police and Sheriff Application for Byrne JAG Grant Funding**

RECOMMENDATION: Allow for public comment regarding a Byrne Justice Assistance Grant (JAG) Program application and approve submittal of the grant application in the amount of $57,361.

SUMMARY: The Police Department and Sheriff's Office are eligible for $57,361 in Byrne JAG Grant funding; this money is earmarked for the City of Lynchburg's Criminal Justice System Agencies. Staff is asking to apply for this funding to support the upgrade of the Criminal Justice Information Sharing Program through the purchase of two software program modules and computers and related technology.

While a grant application would typically be handled by the Finance Committee, this grant requires review of the application by the governing body.

PRIOR ACTION(S): None

FISCAL IMPACT: There is a recurring annual maintenance fee on the software programs that will be absorbed by the Police Department and Sheriff's Office in future years. There is no other fiscal impact as there is no match required for this grant.

CONTACT(S): Captain Brandon V. Zuidema, Police Department (455-6052)
Major Don Sloan, Sheriff's Office (847-1301)

ATTACHMENT(S): Grant Application, Program Narrative, Budget Narrative, Review Narrative, Abstract

REVIEWED BY: lkp

072L

Edward Byrne Memorial Justice Assistance Grant Program
Abstract for Lynchburg, Virginia application

Applicant: Mr. Kimball Payne, City Manager

Project Title: Criminal Justice Information Sharing Program

Project Goals and Strategies:

- Increase the ability to share information among our law enforcement officers by adding in car computers to four (4) new police vehicles.

- Increase the ability to share information with our citizens by purchasing and integrating Sungard's "Police 2 Citizen" software module

- Increase the ability for the Sheriff's Office to conduct civil processes by upgrading their software to Sungard's "Civil Process" module and upgrading their desktop computers.

APPLICATION FOR FEDERAL ASSISTANCE	2. DATE SUBMITTED	Applicant Identifier
1. TYPE OF SUBMISSION Application Non-Construction	3. DATE RECEIVED BY STATE	State Application Identifier
	4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

5.APPLICANT INFORMATION	
Legal Name City of Lynchburg	Organizational Unit Lynchburg Police Department
Address 900 Church St. Lynchburg, Virginia 24504-1603	Name and telephone number of the person to be contacted on matters involving this application Payne, Kimball (434) 455-3990
6. EMPLOYER IDENTIFICATION NUMBER (EIN) 54-6001405	7. TYPE OF APPLICANT Municipal
8. TYPE OF APPLICATION New	9. NAME OF FEDERAL AGENCY Bureau of Justice Assistance
10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: 16.738 CFDA TITLE: EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT PROGRAM	11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT Criminal Justice Information Sharing Program

12. AREAS AFFECTED BY PROJECT Information sharing in the context of Law Enforcement Services and Civil Process Service in the City of Lynchburg, Virginia.	
13. PROPOSED PROJECT Start Date: August 01, 2009 End Date: December 31, 2009	14. CONGRESSIONAL DISTRICTS OF a. Applicant b. Project VA06

15. ESTIMATED FUNDING		
Federal	$57,361	16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS? Program is not covered by E.O. 12372
Applicant	$0	
State	$0	
Local	$0	
Other	$0	
Program Income	$0	17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT? N
TOTAL	$57,361	

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS REQUIRED.

Edward Byrne Memorial Justice Assistance Grant Program
Budget Narrative for Lynchburg, Virginia application

EQUIPMENT

For use primarily by the Lynchburg Police Department:

- Sungard (OSSI) "Police 2 Citizen" software module — $18,500.00

  These funds will be used to purchase the software module that is designed by our current software manufacturer to integrate with our database for information sharing with the public via the Internet.

- Software maintenance for "Police 2 Citizen" software implementation and first year of use — $ 2,000.00

  These funds will be used to purchase the necessary maintenance program for the software during implementation; the police department will assume this financial responsibility in year two and subsequent years of use.

- Four (4) "In-car" laptop computers and necessary software to run our existing database and CAD programs ($4650.00 each) — $18,600.00

  These funds will be used to purchase four laptop computers and the appropriate software for use in patrol vehicles being added to our patrol fleet.

Lynchburg Police subtotal: $39,100.00

For use primarily by the Lynchburg Sheriff's Office:

- Sungard (OSSI) "Civil Process" software module — $14,000.00

  These funds will be used to purchase the software module that is designed by our current software manufacturer to integrate with the Sheriff's software and database.

- Desktop computer upgrades — $ 4,261.00

  These funds will be used to go toward the upgrading of the desktop computers in the Sheriff's Office to ensure compatibility with the software.

Lynchburg Sheriff subtotal: $18,261.00

Total Equipment Funding Request: $57,361.00

Note: we do not intend to fund personnel, benefits, travel or supplies with this grant funding.

Edward Byrne Memorial Justice Assistance Grant Program
Program Narrative for Lynchburg, Virginia application

The City of Lynchburg Police Department and Sheriff's Office work collaboratively to deliver law enforcement and civil process services to the citizens in our community. In order to accomplish our organizational missions, we have implemented several programs through the integration of information technology systems. Currently we have programs underway that will allow us to share information more effectively and efficiently. The timely sharing of information and the ability to access this information will enhance officer safety as our personnel strive to serve the community and increase the quality of life for our citizens.

Since the unthinkable terrorist attacks on our nation, law enforcement professionals have improved information sharing. The Lynchburg Police Department and the Lynchburg Sheriffs' Office share a common records management system (Sungard - OSSI Pistol RMS). We are also in the final stages of implementing the Law Enforcement Information Exchange (LinX) in the Central Virginia region. In order to provide our police officers with the ability to access this data and intelligence while in the field, we need to purchase in car computers for four (4) patrol vehicles that are being added to our vehicle fleet. The Lynchburg Sheriff's Office needs to upgrade desktop computers and their civil process software. By improving upon our existing technology, we will be able to provide better service through the increased ability to share information. Finally, in an effort to improve our ability to provide our citizens with important and timely information, we will utilize this grant funding to enhance our ability to share information with the public by purchasing Sungard's Police 2 Citizen software. This technology will allow citizens to access approved and allowable information from our existing records management system via the Internet to include, but not be limited to, crime mapping, incident report verification, and accident report verification.

It will cost us approximately $57,000 to fund these projects (see the attached budget narrative for this project).

The implementation of these technology upgrades will be possible as a result of this grant funding. On behalf of the City of Lynchburg, we would like to thank you for your time and consideration of this request funding.

Edward Byrne Memorial Justice Assistance Grant Program
Review Narrative for Lynchburg, Virginia application

This application and program narrative were provided to the Lynchburg City Manager in May 2009 in accordance with established local procedure for grant review.

The formal governing body for the City of Lynchburg is the Lynchburg City Council. This application will be submitted to that governing body on July 14, 2009 which is the next scheduled City Council meeting.

The City Council will provide an opportunity during that open-to-the-public meeting for public comment on the grant application in accordance with established local procedure. Additionally, the City Council agenda and meeting minutes are made available to the public for review via the City of Lynchburg website at www.lynchburgva.gov .

On behalf of the City of Lynchburg, we would like to thank you for your time and consideration.

LYNCHBURG CITY COUNCIL
Agenda Item Summary

MEETING DATE: **July 14, 2009**		AGENDA ITEM NO.: **11**
CONSENT:	REGULAR: **X**	CLOSED SESSION: (Confidential)
ACTION: **X**	INFORMATION:	

ITEM TITLE: **Issuance of and not to exceed $48,300,000 New General Obligation Public Improvement Bonds for FY 2010 Capital Projects.**

RECOMMENDATION:
1. Advertise and conduct a public hearing to authorize the issuance of up to and not to exceed $48,300,000 principal amount General Obligation Public Improvement Bonds of the City in accordance with the Virginia Public Finance Act.

2. Adopt a resolution authorizing the issuance of General Obligation Public Improvement Bonds not to exceed $48,300,000 in principal to finance the costs of various public improvement projects in the amounts set forth below. Also, refunding opportunities for previous bond issues may exist at the time of the bond sale due to the low interest rates. An estimate as of this time for a refunding is approximately $19,100,000 across numerous Funds, including the General Fund. For any refunding bond issue(s) that may occur with this bond sale, City Council previously provided authorization for the refunding simultaneously with the authorization for the original debt issue(s). Based on advice from the City's financial advisor, there are provisions in this resolution for the City consider Buy America Bonds (BABs) in the event that it proves to be the best financing option. These bonds were created as part of the Stimulus Act in February 2009 to broaden the market for municipal debt by permitting state and local governments to sell taxable bonds instead of tax-exempt bonds. They can be issued until December 31, 2010 and are sold either as a 35% direct issuer subsidy or a 35% investor tax credit subsidy. To date for other issuers, the direct issuer subsidy has been the method chosen. The subsidy is received at each interest payment date. An economic analysis would determine the lowest cost of borrowing when considering these bonds. This bond issue could result in a blend of taxable and tax exempt bonds. With the bond sale scheduled for July 21, 2009, this resolution provides options for the City to consider for a total financing approach.

3. Adopt a resolution amending the FY 2010 General, Water, Sewer and Airport Funds' Operating Budgets to provide appropriations of $422,936 for costs associated with a total issuance of $48,300,000 General Obligation Public Improvement Bonds and bond refundings currently estimated at $19,100,000. The issuance costs are funded from bond proceeds.

SUMMARY:
Based on projected cash needs, current available funds and pay-as-you-go funding, the following summarizes the proposed total $48,300,000 FY 2010 Bond issue.

Project Category Title	FY 2010 Expenditures Estimate
Schools	$19,000,000
Public Buildings	819,492
Transportation	7,328,805
Parks and Recreation	1,201,703
Water Improvement Projects	16,275,000
Sewer Improvement Projects	3,675,000
Total	**$48,300,000**

The following is a summary of the proposed costs of issuance:

Cost Component	FY 2010 Estimate
Bond Counsel	$65,000
Bond Ratings	90,000
Financial Advisor	177,758
Official Statement Preparation & Printing	5,000
Advertising	1,000
Verification	4,000
Copying, Postage, & Overnight Mailings, etc.	10,000
Miscellaneous	6,500
Total	**$359,258**

PRIOR ACTION(S):
Adopted FY 2010 Operating Budget and Appropriated FY 2010 Capital Improvement Program. City Council will be considering the FY 2010 - FY 2014 Capital Improvement Plan on June 23, 2009.
Finance Committee, June 23, 2009

FISCAL IMPACT:
New long-term debt issued and issuance costs funded by bond proceeds. Potential long-term debt service savings based on the outcome of any refunding. The FY 2010 Adopted Budget for all funds includes total debt service of $1,460,900 for a new bond issue. FY 2010 impact exclusive of any refunding is estimated to be a total reduction of $600,828 for all funds included in this bond issue.

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

ATTACHMENT(S):
Resolutions (2)

REVIEWED BY: lkp

RESOLUTION:

BE IT RESOLVED THAT the FY 2010 General, Water, Sewer, and Airport Funds' Operating Budgets are amended for funding of $188,991, $110,170, $58,438 and $1,659 respectively, for expenses associated with the issuance of the FY 2010 General Obligation Public Improvement Bonds. These costs are financed through the FY 2010 bond proceeds. City Administration is authorized to realign appropriations for issuance costs among the Funds as necessary because of any bond refundings that occur. City Administration also is authorized to record appropriations associated with underwriter's discounts and expenses as determined with the bond sale and funded with bond proceeds.

Introduced: Adopted:

Certified: ________________________________
Clerk of Council

067LA

A RESOLUTION AUTHORIZING THE ISSUANCE OF NOT TO EXCEED SIXTY-NINE MILLION THREE HUNDRED THOUSAND DOLLARS ($69,300,000) PRINCIPAL AMOUNT OF GENERAL OBLIGATION PUBLIC IMPROVEMENT AND REFUNDING BONDS OF THE CITY OF LYNCHBURG, VIRGINIA, OF WHICH NOT TO EXCEED FORTY-EIGHT MILLION THREE HUNDRED THOUSAND DOLLARS ($48,300,000) PRINCIPAL AMOUNT SHALL BE ISSUED FOR THE PURPOSE OF PROVIDING FUNDS TO PAY THE COST OF THE ACQUISITION, CONSTRUCTION, RECONSTRUCTION, IMPROVEMENT, EXTENSION, ENLARGEMENT AND EQUIPPING OF VARIOUS PUBLIC IMPROVEMENT PROJECTS OF AND FOR THE CITY AND OF WHICH NOT TO EXCEED TWENTY-ONE MILLION DOLLARS ($21,000,000) PRINCIPAL AMOUNT SHALL BE ISSUED FOR THE PURPOSE OF PROVIDING FUNDS TO REFUND IN ADVANCE OF THEIR STATED MATURITIES AND REDEEM CERTAIN OUTSTANDING GENERAL OBLIGATION PUBLIC IMPROVEMENT BONDS OF SUCH CITY; AUTHORIZING THE SALE OF SUCH BONDS; FIXING THE FORM, DENOMINATION AND CERTAIN OTHER DETAILS OF SUCH BONDS; PROVIDING FOR THE SALE OF SUCH BONDS AND DELEGATING TO THE CITY MANAGER CERTAIN POWERS WITH RESPECT THERETO; AUTHORIZING THE PREPARATION AND DELIVERY OF THE PRELIMINARY OFFICIAL STATEMENT AND FINAL OFFICIAL STATEMENT RELATING TO SUCH BONDS; AUTHORIZING THE CITY MANAGER TO EXECUTE AND DELIVER A CONTINUING DISCLOSURE CERTIFICATE OR A CONTINUING DISCLOSURE AGREEMENT RELATING TO SUCH BONDS; AUTHORIZING THE APPOINTMENT OF AN ESCROW AGENT; AUTHORIZING THE EXECUTION AND DELIVERY OF AN ESCROW DEPOSIT AGREEMENT BY AND BETWEEN THE CITY AND SUCH ESCROW AGENT AND THE PURCHASE OF THE SECURITIES TO BE HELD THEREUNDER; AND AUTHORIZING THE DESIGNATION OF THE REFUNDED BONDS FOR REDEMPTION

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF LYNCHBURG, VIRGINIA, AS FOLLOWS:

SECTION 1. The Council of the City of Lynchburg, Virginia (the "City"), hereby finds and determines as follows:

(a) Pursuant to Chapter 26 of Title 15.2 of the Code of Virginia, 1950, and resolutions duly adopted by the Council (the "Council" or this "Council") of the City, there were authorized to be issued, sold and delivered the City's Seventeen Million Eight Hundred Five Thousand Dollars ($17,805,000) principal amount of General Obligation Public Improvement and Refunding Bonds, Series 1999, dated June 1, 1999 and maturing in varying amounts on June 1 in each of the years 1999 through 2018, both inclusive (the "Series 1999 Bonds").

(b) Pursuant to Chapter 26 of Title 15.2 of the Code of Virginia, 1950, and resolutions duly adopted by this Council, there were authorized to be issued, sold and delivered the City's Fourteen Million Six Hundred Twenty Thousand Dollars ($14,620,000) principal amount of General Obligation Public Improvement Bonds, Series 2001, dated August 1, 2001 and maturing in varying amounts on August 1 in each of the years 2002 through 2021, both inclusive, on August 1, 2026 and on August 1, 2031 (the “Series 2001 Bonds”).

(c) The City has been advised by the City’s Financial Advisor that the refunding in advance of their stated maturities of all or a portion of the Series 1999 Bonds and the Series 2001 Bonds and certain maturities of certain other currently outstanding issues of general obligation public improvement bonds of the City would result in annual debt service cost savings to the City.

(d) The Council desires to authorize the issuance and sale of General Obligation Public Improvement Refunding Bonds to provide for the refunding in advance of their stated maturities and redemption of all or a portion of the Series 1999 Bonds and the Series 2001 Bonds and certain maturities such other outstanding general obligation public improvement bonds, the refunding of which shall be recommended by the City’s Financial Advisor (such bonds to be refunded in advance of their stated maturities being referred to hereinafter as the “Refunded Bonds”).

(e) Pursuant to Article 5 of Chapter 26 of Title 15.2 of the Code of Virginia, 1950 (the same being referred to herein as the “Public Finance Act of 1991”), the City is authorized to issue refunding bonds to refund all or a portion of its bonds in advance of their stated maturities.

(f) In the judgment of this Council, it is necessary and expedient to authorize the issuance and sale of General Obligation Bonds of the City in the principal amount of not to exceed Sixty-Nine Million Three Hundred Thousand Dollars ($69,300,000), of which not to exceed Forty-Eight Million Three Hundred Thousand Dollars ($48,300,000) shall be issued for the purpose of providing funds to pay the cost of public improvement projects of and for the City and of which not to exceed Twenty-One Million Dollars ($21,000,000) shall be issued for the purpose of refunding all or a portion of the Refunded Bonds, and paying certain costs related to the issuance of such bonds.

SECTION 2. (a) Pursuant to the Public Finance Act of 1991 and the Charter of the City, there are authorized to be issued not to exceed Sixty-Nine Million Three Hundred Thousand Dollars ($69,300,000) general obligation bonds of the City, of which not to exceed Forty-Eight Million Three Hundred Thousand Dollars ($48,300,000) principal amount shall be issued for the purpose of providing funds to pay the cost of public improvement projects of and for the City set forth in Section 8 hereof, such general obligation bonds to be designated “City of Lynchburg, Virginia, General Obligation Public Improvement Bonds, Series 2009A” (the “Series 2009A Bonds”), and of which not to exceed Twenty-One Million Dollars ($21,000,000) principal amount shall be issued for the purpose of refunding the Refunded Bonds and paying certain costs related to the issuance of such bonds, such general obligation bonds to be designated “City of Lynchburg, Virginia, General Obligation Public Improvement Refunding Bonds, Series 2009B” (the “Series 2009B Bonds” and, collectively with the Series 2009A Bonds, the “Bonds”).

(b) The Bonds shall be issued and sold in their entirety at one time, or from time to time in part in series, as shall be determined by the Director of Financial Services. The Bonds may be sold at the same time as other general obligation bonds are sold by the City. The Bonds shall be issued in fully registered form and shall be in the denomination of $5,000 or any integral multiple thereof. The Bonds shall be numbered from R-2009A-1 upwards in order of issuance in the case of the Series 2009A Bonds and from R-2009B-1 upwards in order of issuance in the case of the Series 2009B Bonds; shall mature annually, commencing in such year and on such date in each year and in such amount in each year as shall be determined by the Director of Financial Services; and shall bear interest at such rate or rates per annum as shall be determined by the City Manager pursuant to the provisions of Section 8 hereof, such interest being payable on the day which is not more than one (1) year from the date of the Bonds of such series and semiannually thereafter and, unless otherwise provided in the proceedings authorizing the issuance of the Bonds of any such series, such interest shall be computed on the basis of a three hundred and sixty (360) day year comprised of twelve (12) thirty (30) day months. The Director of Financial Services is authorized to determine, in accordance with and subject to the provisions of this Resolution: the date or dates of the Bonds; the interest payment dates thereof; the maturity dates thereof (*provided* that the final maturity of the Bonds of any series shall be not later than forty (40) years from the date the first Bonds of such series are issued under this Resolution); the amount of principal maturing on each maturity date; the place or places of payment thereof and the paying agent or paying agents therefor; the place or places of registration, exchange or transfer thereof and the registrar therefor; and whether or not the Bonds shall be subject to redemption prior to their stated maturity or maturities and if subject to such redemption, the premiums, if any, payable upon such redemption and the respective periods in which such premiums are payable.

(c) In the event the Bonds of any series shall be dated as of a date other than the first day of a calendar month or the dates on which interest is payable on such series are other than the first days of calendar months, the provisions of Section 3 hereof with regard to the authentication of such Bonds and of Section 11 with regard to the forms of such Bonds shall be modified as the Director of Financial Services shall determine to be necessary or appropriate.

(d) If the Bonds of a given series are subject to redemption and if any Bonds of such series (or portions thereof in installments of $5,000 or any integral multiple thereof) are to be redeemed, notice of such redemption specifying the date, numbers and maturity or maturities of the Bond or Bonds to be redeemed, the date and place or places fixed for their redemption, and if less than the entire principal amount of a Bond called for redemption is to be redeemed, that such Bond must be surrendered in exchange for payment of the principal amount thereof to be redeemed and the issuance of a new Bond or Bonds equalling in principal amount that portion of the principal amount of the Bond to be surrendered not to be redeemed, shall be mailed not less than thirty (30) days prior to the date fixed for redemption, by first class mail, postage prepaid, to the registered owner of such Bond at his address as it appears on the books of registry kept by the registrar for the Bonds (the "Registrar") as of the close of business on the forty-fifth (45th) day next preceding the date fixed for redemption. If any Bonds shall have been called for redemption and notice thereof shall have been given as hereinabove set forth, and payment of the principal amount of such Bonds (or the principal amount thereof to be redeemed) and of the accrued interest payable upon such redemption shall have been duly made or provided for, interest on such Bonds shall cease to accrue from and after the date so specified for their redemption.

(e) The Bonds shall be issued, upon initial issuance, in fully registered form and registered in the name of Cede & Co., a nominee of The Depository Trust Company, New York, New York ("DTC"), as registered owner of the Bonds, and immobilized in the custody of DTC. One fully registered Bond of the principal amount of each maturity of each series of the Bonds shall be registered to Cede & Co. Beneficial owners of Bonds shall not receive physical delivery of Bonds. Individual purchases of Bonds may be made in book-entry form only in principal amounts of $5,000 and integral multiples thereof. Principal and interest payments on the Bonds shall be made to DTC or its nominee as registered owner of such Bonds on the applicable payment date.

Transfers of principal and interest payments to the participants of DTC, which include securities brokers and dealers, banks, trust companies, clearing corporations and certain other organizations (the "Participants"), shall be the responsibility of DTC. Transfers of principal, premium, if any, and interest payments to beneficial owners of the Bonds by the Participants is the responsibility of the Participants and other nominees of such beneficial owners. The City shall notify DTC of any notice required to be given pursuant to this Resolution, not less than fifteen (15) calendar days prior to the date upon which such notice is required to be given; *provided* that the failure to provide such notice to DTC shall not invalidate any action taken or notice given by the City hereunder.

Transfers of ownership interests in the Bonds shall be made by DTC and its Participants, acting as nominees of the beneficial owners of the Bonds, in accordance with rules specified by DTC and its Participants. The City makes no assurance that DTC, its Participants or other nominees of the beneficial owners of the Bonds shall act in accordance with such rules or on a timely basis.

(f) Replacement Bonds (the "Replacement Bonds") shall be issued directly to beneficial owners of Bonds rather than to DTC, or its nominee, but only in the event that:

(i) DTC determines not to continue to act as securities depository for the Bonds; or

(ii) The City has advised DTC of its determination that DTC is incapable of discharging its duties; or

(iii) The City has determined that it is in the best interest of the beneficial owners of the Bonds not to continue the book-entry system of transfer.

Upon occurrence of the events described in clause (i) or (ii) above the City shall attempt to locate another qualified securities depository. If the City fails to locate another qualified securities depository to replace DTC, the City shall execute and deliver Replacement Bonds substantially in the form set forth in Section 11 hereof to the Participants. In the event the City makes the determination noted in clause (ii) or (iii) above (the City undertakes no obligation to make any investigation to make any such determination) and has made provisions to notify the beneficial owners of Bonds by mailing an appropriate notice to DTC, the City shall execute and deliver Replacement Bonds substantially in the form set forth in Section 11 hereof to any Participants making a request for such Replacement Bonds. The City shall be entitled to rely on the records provided by DTC as to the Participants entitled to receive Replacement Bonds. Principal of and interest on the Replacement Bonds shall be payable and such Replacement Bonds will be transferable and exchangeable in accordance with Section 4 of this Resolution.

So long as the Bonds shall be in book-entry form only and registered in the name of Cede & Co., as a nominee of DTC, the Director of Financial Services of the City shall serve as registrar and paying agent for the Bonds.

SECTION 3. (a) The Bonds shall be executed, for and on behalf of the City, by the manual or facsimile signature of the Mayor of the City and shall have an impression of the corporate seal of the City or a facsimile thereof embossed or imprinted thereon, attested by the manual or facsimile signature of the Clerk of Council of the City.

(b) The Director of Financial Services shall direct the Registrar for the Bonds of a given series to authenticate such Bonds and no such Bond shall be valid or obligatory for any purpose unless and until the certificate of authentication endorsed on each Bond shall have been manually executed by an authorized signator of the Registrar. Upon the authentication of any Bonds, the Registrar shall insert in the certificate of authentication the date as of which such Bonds are authenticated as follows: (i) if the Bond is authenticated prior to the first interest payment date, the certificate shall be dated as of the date of the initial issuance and delivery of the Bonds of the issue of which such Bond is one, (ii) if the Bond is authenticated upon an interest payment date, the certificate shall be dated as of such interest payment date, (iii) if the Bond is authenticated after the fifteenth (15th) day of the calendar month next preceding an interest payment date and prior to such following interest payment date, the certificate shall be dated as of such following interest payment date, and (iv) in all other instances the certificate shall be dated as of the actual date upon which the Bond is authenticated by the Registrar.

(c) The execution of the Bonds in the manner above set forth is adopted as a due and sufficient authentication of the Bonds.

SECTION 4. (a) The principal of and interest on the Bonds shall be payable in such coin or currency of the United States of America as at the respective dates of payment thereof is legal tender for public and private debts.

(b) Interest on the Bonds shall be payable by check mailed by the Registrar to the registered owners of such Bonds at their respective addresses as such addresses appear on the books of registry kept pursuant to the provisions of this Section 4; *provided, however,* that so long as the Bonds are in book-entry form and registered in the name of Cede & Co., as nominee of DTC, or in the name of such other nominee of DTC as may be requested by an authorized representative of DTC, interest on the Bonds shall be paid directly to Cede & Co. or such other nominee of DTC by wire transfer. Principal of the Bonds shall be payable on presentation and surrender thereof at the office of the Registrar.

(c) At all times during which any Bond of any series remains outstanding and unpaid, the Registrar for such series shall keep or cause to be kept at its office books of registry for the registration, exchange and transfer of Bonds of such series. Upon presentation at its office for such purpose the Registrar, under such reasonable regulations as it may prescribe, shall register, exchange or transfer, or cause to be registered, exchanged or transferred, on the books of registry the Bonds as hereinbefore set forth.

(d) The books of registry shall at all times be open for inspection by the City or any duly authorized officer thereof.

(e) Any Bond may be exchanged at the office of the Registrar for such series of Bonds for a like aggregate principal amount of such Bonds in other authorized principal sums of the same series, interest rate and maturity.

(f) Any Bond of any series may, in accordance with its terms, be transferred upon the books of registry by the person in whose name it is registered, in person or by his duly authorized agent, upon surrender of such Bond to the Registrar for such series of cancellation, accompanied by a written instrument of transfer duly executed by the registered owner in person or his duly authorized agent, in form satisfactory to the Registrar.

(g) All transfers or exchanges pursuant to this Section 4 shall be made without expense to the registered owners of such Bonds, except as otherwise herein provided, and except that the Registrar for such series of Bonds shall require the payment by the registered owner of a Bond requesting such transfer or exchange of any tax or other governmental charges required to be paid with respect to such transfer or exchange. All Bonds surrendered pursuant to this Section 4 shall be cancelled.

SECTION 5. The full faith and credit of the City are irrevocably pledged to the punctual payment of the principal of and interest on the Bonds as the same become due. In each year while the Bonds, or any of them, are outstanding and unpaid, the Council shall be authorized and required to levy and collect annually, at the same time and in the same manner as other taxes of the City are assessed, levied and collected, a tax upon all taxable property within the City, over and above all other taxes, authorized or limited by law and without limitation as to rate or amount, sufficient to pay when due the principal of and interest on the Bonds to the extent other funds of the City are not lawfully available and appropriated for such purpose.

SECTION 6. CUSIP identification numbers may be printed on the Bonds, but no such number shall constitute a part of the contract evidenced by the particular Bond upon which it is printed and no liability shall attach to the City or any officer or agent thereof (including any paying agent for the Bonds) by reason of such numbers or any use made thereof (including any use thereof made by the City, any such officer or any such agent) or by reason of any inaccuracy, error or omission with respect thereto or in such use. All expenses in relation to the printing of such numbers on the Bonds shall be paid by the City including the CUSIP Service Bureau charge for the assignment of such numbers.

SECTION 7. (a) To the extent it shall be contemplated at the time of their issuance that the interest on any Bonds issued hereunder shall be excludable from gross income for purposes of federal income taxation, the City covenants and agrees that it shall comply with the provisions of Sections 103 and 141-150 of the Internal Revenue Code of 1986 (the "1986 Code") and the applicable Treasury Regulations promulgated under such Sections 103 and 141-150 so long as any such Bonds are outstanding.

(b) In the event the City shall determine to issue all or a portion of the Bonds as taxable "Build America Bonds", the City Manager is hereby authorized to irrevocably elect to have Section 54AA of the 1986 Code apply to such Bonds and the City Manager, the Director of Financial Services and other City officials are hereby authorized to take all such actions as shall be necessary in order for such Bonds to meet the requirements of the Section 54AA of the 1986 Code and the applicable Treasury Regulations promulgated thereunder.

SECTION 8. The proceeds of the sale of the Series 2009A Bonds shall be applied to the payment of the cost of the following public improvement projects of and for the City in substantially the following respective amounts:

Purpose	Amount
Public Schools	$ 19,000,000
Public Buildings	819,492
Transportation	7,328,805
Parks and Recreation	1,201,703
Water Improvement Projects	16,275,000
Sewer Improvement Projects	3,675,000
	$ 48,300,000

If any project set forth above shall require less than the entire respective amount so set forth, the difference may be applied to any of the other projects so set forth.

SECTION 9. (a) The Bonds shall be sold in one or more series in accordance with the provisions of Section 2 at competitive or negotiated sale at not less than ninety-eight percent (98%) of the principal amount thereof (less any original issue discount) and on such other terms and conditions as are provided in the Notice of Sale thereof or in the Purchase Contract relating thereto.

(b) If the Bonds are sold at competitive sale, they may be sold contemporaneously with other bonds of the City under a combined Notice of Sale. If the Bonds are sold at competitive sale, the Director of Financial Services is hereby authorized to cause to be published and distributed a Notice of Sale of the Bonds in such form and containing such terms and conditions as the may deem advisable, subject to the provisions hereof. In lieu of publishing the full text of the Notice of Sale in accordance with the provisions of the immediately preceding sentence, the Director of Financial Services is hereby authorized to cause a Summary Notice of Sale in such form as the Director of Financial Services shall approve to be published in *The Bond Buyer* on a date selected by the Director of Financial Services.

(c) Upon the determination by the Director of Financial Services to sell the Bonds at competitive or negotiated sale, the City Manager is hereby authorized, without further notice to or action by the Council, to determine the rates of interest the Bonds shall bear; *provided* that:

(i) in no event shall the true interest cost for the Bonds exceed five and one-half percent (5.5%);

(ii) in no event shall the premium payable by the City upon the redemption of the Bonds exceed two percent (2%) of the principal amount thereof; and

(iii) the Bonds of any series issued to refund the Refunded Bonds may be issued and sold only if the refunding of the Refunded Bonds refunded thereby will result in net present value savings of not less then three percent (3%) to the City, calculated by using the amount of such net present value savings as the numerator and the Refunded Bonds refunded thereby which are subject to optional redemption as the denominator.

(d) If the Bonds are sold at negotiated sale, the Mayor is hereby authorized to, without further notice to or action by the Council, to select the underwriters for the Bonds (the "Underwriters") and to execute and deliver to the Underwriters a Bond Purchase Contract relating to the Bonds.

(e) The Director of Financial Services is hereby authorized to cause to be prepared and distributed a Preliminary Official Statement and a final Official Statement relating to the Bonds. Either or both of the City Manager and the Director of Financial Services is hereby further authorized to certify that the Preliminary Official Statement for the Bonds of each series authorized hereunder is "deemed final" for purposes of Rule 15c2-12 promulgated by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934. The Mayor is hereby authorized to execute and deliver the final Official Statement for the Bonds of each series authorized hereunder, and the City Manager, the Director of Financial Services and the City Attorney are hereby authorized to execute and deliver to the purchasers of the Bonds of each series certificates in the forms provided for in the Official Statement for the Bonds of such series.

SECTION 10. The City Manager is hereby authorized to execute and deliver to the purchasers of the Bonds of each series authorized hereunder a Continuing Disclosure Certificate or a Continuing Disclosure Agreement evidencing the City's undertaking to comply with the continuing disclosure requirements of Paragraph (b)(5) of such Rule 15c2-12 to the extent applicable to the Bonds, such Continuing Disclosure Certificate or Continuing Disclosure Agreement to be in such form as shall be approved by the City Manager upon the advice of counsel (including the City Attorney or Bond Counsel to the City), such approval to be conclusively evidenced by his execution of such Continuing Disclosure Certificate or Continuing Disclosure Agreement.

SECTION 11. The Bonds, the certificate of authentication of the Registrar and the assignment endorsed on the Bonds, shall be in substantially the forms set forth in Exhibit A together with such changes in format as may be appropriate to conform with customs and practices applicable to comparable securities.

SECTION 12. (a) Subject to the issuance, sale and delivery of the Bonds pursuant to this Resolution for the purpose of refunding the Refunded Bonds and paying certain costs related to the issuance of such Bonds, this Council hereby designates for redemption on such dates as shall determined by the City Manager or the Deputy City Manager the Refunded Bonds selected for refunding by the City Manager or the Deputy City Manager. The City Manager or the Deputy City Manager is hereby authorized and directed to select a bank or trust company to serve, or the City may itself serve, as Escrow Agent, if necessary, and to deliver to such Escrow Agent or applicable City officials irrevocable written instructions to give notices, or to cause such notices to be given, in the name and on behalf of the City, to the holders of the Refunded Bonds of the redemption of such Refunded Bonds on the date fixed for the redemption thereof, such notices to be given in the manner and at the time or times provided in proceedings authorizing the issuance of the Refunded Bonds. The City Manager or the Deputy City Manager is hereby further authorized and directed to select a verification agent, if necessary, in connection with effecting the redemption of the Refunded Bonds. The City Manager and the Deputy City Manager are hereby authorized to take all such actions as they shall deem to be necessary or desirable to effect the redemption of the Refunded Bonds.

(b) The City Manager or the Deputy City Manager is hereby authorized and directed to execute and deliver an Escrow Deposit Agreement by and between the City and the Escrow Agent in such form as shall be approved by the City Manager or the Deputy City Manager upon the advice of counsel (including the City Attorney or Bond Counsel), such approval to be conclusively evidenced by the execution of the Escrow Deposit Agreement by the City Manager or the Deputy City Manager.

(c) The City Manager and the Deputy City Manager, or either of them, are hereby authorized to execute, on behalf of the City, subscriptions for United States Treasury Obligations - State and Local Government Series, if any, to be purchased by the Escrow Agent from moneys deposited in the Escrow Deposit Fund created and established under any Escrow Deposit Agreement. Such United States Treasury Obligations - State and Local Government Series, if any, so purchased shall be held by the Escrow Agent under and in accordance with the provisions of the related Escrow Deposit Agreement. The City Manager and Deputy City Manager, or either of them, are hereby authorized to enter into such purchase agreements, including forward supply agreements, if any, as shall be required in connection with the purchase by the Escrow Agent, from moneys deposited in the Escrow Deposit Fund created and established under any Escrow Deposit Agreement, of Government Securities (as defined in the Escrow Deposit Agreement) other than United States Treasury Obligations - State and Local Government Series.

SECTION 13. The Council hereby authorizes the City to make expenditures for the purpose for which the Series 2009A Bonds are to be issued in advance of the issuance and receipt of the proceeds of the Series 2009A Bonds and to reimburse such expenditures from the proceeds of the Series 2009A Bonds. The adoption of this resolution shall be considered as an “official intent” within the meaning of Treasury Regulation Section 1.150-2 promulgated under the Internal Revenue Code of 1986.

SECTION 14. All actions and proceedings heretofore taken by this Council, the City Manager, the Deputy City Manager, the Director of Financial Services and the other officers, employees, agents and attorneys of the City in connection with the authorization, issuance and sale of the Bonds are hereby ratified, confirmed and approved.

SECTION 15. The City Attorney of the City is directed to file a copy of this Resolution, certified by the Clerk of Council of the City to be a true and correct copy hereof, with the Circuit Court of the City in accordance with Section 15.2-2607 of the Code of Virginia, 1950.

SECTION 16. All ordinances, resolutions and other proceedings in conflict herewith are, to the extent of such conflict, repealed.

SECTION 17. This Resolution shall take effect upon its adoption.

Adopted:

Certified: ______________________________
Clerk of Council

067LB

EXHIBIT A

UNITED STATES OF AMERICA
COMMONWEALTH OF VIRGINIA
CITY OF LYNCHBURG
GENERAL OBLIGATION PUBLIC IMPROVEMENT
[REFUNDING] BOND, SERIES 2009[A][B]

REGISTERED REGISTERED

NO. R-2009[A][B]-___ $_________

INTEREST RATE:	MATURITY DATE:	DATE OF BOND:	CUSIP NO.:

REGISTERED OWNER: CEDE & CO.

PRINCIPAL SUM: DOLLARS

The City of Lynchburg, a municipal corporation of the Commonwealth of Virginia (the “City”), for value received, acknowledges itself indebted and hereby promises to pay to the Registered Owner (named above), or registered assigns, on the Maturity Date (specified above) [unless this Bond shall have been duly called for previous redemption and payment of the redemption price duly made or provided for], the Principal Sum (specified above) and to pay interest on such Principal Sum until the payment of such Principal Sum in full, at the Interest Rate (specified above) per annum, on ________, ____ and semiannually on each _________ __ and _________ __ thereafter (each such date is hereinafter referred to as an “interest payment date”), from the date hereof or from the interest payment date next preceding the date of authentication hereof to which interest shall have been paid, unless such date of authentication is an interest payment date if interest shall have been paid to that date, in which case from such interest payment date, or unless such date of authentication is within the period from the sixteenth (16th) day to the last day of the calendar month next preceding the following interest payment date, in which case from such following interest payment date. *[To be substituted if the interest payment date is the 15th day of the month*: or unless such date of authentication is within the period from the first (1st) day to the fourteenth (14th) day of the calendar month in which the following interest payment date shall occur, in which event from such following interest payment date]. Such interest shall be computed on the basis of a three hundred and sixty (360) day year consisting of twelve (12) thirty (30) day months. Such interest is payable on each interest payment date by check mailed by the Registrar hereinafter mentioned to the Registered Owner hereof at his address as it appears on such books of registry kept by the Registrar, as of the close of business on the fifteenth (15th) day (whether or not a business day) of the calendar month next preceding each interest payment date. *[To be substituted if the interest payment date is the 15th day of the month*: Such interest is payable on each interest payment date by check mailed by the Registrar hereinafter mentioned to the Registered Owner hereof at his address as it appears on the books of registry kept by the Registrar, as of the close of business on the last day (whether or not a business day) of the calendar month next preceding each interest payment date.]; *provided, however,* that so long as this Bond is in book-entry only form and registered in the name of Cede & Co., as nominee of The Depository Trust Company ("DTC"), or in the name of such other nominee of DTC as may be requested by an authorized representative of DTC, interest on this Bond shall be paid directly to Cede & Co. or such other nominee of DTC by wire transfer.

The principal of this Bond is payable on presentation and surrender hereof at the office of the **Director of Financial Services of the City,** as Registrar, in the City of Lynchburg, Virginia. The principal of and interest on this Bond are payable in such coin or currency of the United States of America as at the respective dates of payment thereof is legal tender for public and private debts.

This Bond is one of an issue of Bonds aggregating ______________________ ______________ Dollars ($__________) in principal amount issued for the purpose of providing funds [to pay the cost of public improvement projects of and for the City] [to refund in advance of their stated maturities certain outstanding general obligation public improvement bonds of the City], under and pursuant to and in full compliance with the Constitution and statutes of the Commonwealth of Virginia, including Chapter 15.2 of the Code of Virginia, 1950 (the same being the Public Finance Act of 1991), the Charter of the City, and resolutions and other proceedings of the Council of the City duly adopted and taken under the Public Finance Act of 1991.

[The Bonds of the issue of which this Bond is one (or portions of the principal amount thereof in installments of $5,000 or any integral multiple thereof) maturing on and after ______________, __________ are subject to redemption at the option of the City prior to their stated maturities, on or after _________________, ________, in whole or in part on any date, in such order as may be determined by the City (except that if at any time less than all of the Bonds of a given maturity are called for redemption, the particular Bonds of such maturity or portions thereof in installments of $5,000 to be redeemed shall be selected by lot), upon payment of a redemption price equal to 100% of the principal amount of the Bonds to be redeemed, together with the interest accrued thereon to the date fixed for the redemption thereof.]

[If this Bond is redeemable and this Bond (or any portion of the principal amount hereof) shall be called for redemption, notice of the redemption hereof, specifying the date, number and maturity of this Bond, the date and place or places fixed for its redemption, and if less than the entire principal amount of this Bond is to be redeemed, that this Bond must be surrendered in exchange for the principal amount hereof to be redeemed and a new Bond or Bonds issued equalling in principal amount that portion of the principal amount hereof not to be redeemed, shall be mailed not less than thirty (30) days prior to the date fixed for redemption, by first class mail, postage prepaid, to the Registered Owner hereof at his address as it appears on the books of registry kept by the Registrar as of the close of business on the forty-fifth (45th) day next preceding the date fixed for redemption. If notice of the redemption of this Bond shall have been given as aforesaid, and payment of the principal amount of this Bond (or of the portion of the principal amount hereof to be redeemed) and of the accrued interest payable upon such redemption shall have been duly made or provided for, interest hereon shall cease to accrue from and after the date so specified for the redemption hereof.]

Subject to the limitations and upon payment of the charges, if any, provided in the proceedings authorizing the Bonds of the issue of which this Bond is one, this Bond may be exchanged at the office of the Registrar for a like aggregate principal amount of Bonds of other authorized principal amounts and of the same issue, interest rate and maturity. This Bond is transferable by the Registered Owner hereof, in person or by his attorney duly authorized in writing, on the books of registry kept by the Registrar for such purpose at the office of the Registrar, but only in the manner, subject to the limitations and upon payment of the charges, if any, provided in the proceedings authorizing the Bonds of the issue of which this Bond is one, and upon the surrender hereof for cancellation. Upon such transfer a new Bond or Bonds of authorized denominations and of the same aggregate principal amount, issue, interest rate and maturity as the Bond surrendered will be issued to the transferee in exchange herefor.

The full faith and credit of the City are irrevocably pledged to the punctual payment of the principal of and interest on this Bond as the same become due. In each year while this Bond is outstanding and unpaid, the Council of the City is authorized and required to levy and collect annually, at the same time and in the same manner as other taxes of the City are assessed, levied and collected, a tax upon all taxable property within the City, over and above all other taxes, authorized or limited by law and without limitation as to rate or amount, sufficient to pay when due the principal of and interest on this Bond to the extent other funds of the City are not lawfully available and appropriated for such purpose.

This Bond shall not be valid or obligatory unless the certificate of authentication hereon shall have been manually signed by or on behalf of the Registrar.

It is certified, recited and declared that all acts, conditions and things required to exist, happen or be performed precedent to and in the issuance of this Bond do exist, have happened and have been performed in due time, form and manner as required by law, and that the amount of this Bond, together with all other indebtedness of the City, does not exceed any limitation of indebtedness prescribed by the Constitution or statutes of the Commonwealth of Virginia or the Charter of the City.

IN WITNESS WHEREOF, the City has caused this Bond to be executed by the manual or facsimile signature of its Mayor; a facsimile of the corporate seal of the City to be imprinted hereon, attested by the manual or facsimile signature of the Clerk of Council of the City; and this Bond to be dated the date first above written.

CITY OF LYNCHBURG, VIRGINIA

[SEAL]

____
Mayor

Attest:

____
Clerk of Council

CERTIFICATE OF AUTHENTICATION

This Bond is one of the Bonds delivered pursuant to the within-mentioned proceedings.

By: ________________________________
Director of Financial Services,
as Registrar

Date of Authentication: ________________

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned hereby sell(s), assign(s) and transfer(s) unto ____

____

(Please print or typewrite name and address, including zip code, of Assignee)

PLEASE INSERT SOCIAL SECURITY OR
OTHER TAX IDENTIFYING NUMBER OF ASSIGNEE

the within-mentioned Bond and hereby irrevocably constitutes and appoints ______________, agent, to transfer the same on the books of registry in the office of registrar with full power of substitution in the premises.

Dated: ____________________

Signature Guaranteed:

____

NOTICE: Signature(s) must be guaranteed by a member firm of The New York Stock Exchange Inc. or a commercial bank or trust company.

____

(Signature of Registered Owner)

NOTICE: The signature to this assignment must correspond with the name as written on the face of the within Bond in every particular, without alteration, enlargement or any change whatsoever.

LYNCHBURG CITY COUNCIL
Agenda Item Summary

MEETING DATE: **July 14, 2009** AGENDA ITEM NO.: 12

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

ACTION: **X** INFORMATION:

ITEM TITLE: **Amendment of Section 25 – 169 Code of the City of Lynchburg Related to the Recovery of Expenses for DUI and Other Traffic Related Offenses**

RECOMMENDATION: Adopt the proposed ordinance to amend and reenact Section 25 – 169 of the Code of the City of Lynchburg, 1981, relating to the recovery of expenses incurred when responding to DUI and other traffic related offenses.

SUMMARY: Section 15.2 – 1716 of the Code of Virginia authorized localities to provide by ordinance that a person convicted of certain traffic related offenses, such as driving under the influence, reckless driving, hit and run, and driving without a license, would be liable for restitution to the locality for costs related to emergency response to the incident. Due to the way the statute was written, it was problematic to implement. Although Council adopted Section 25-169 in the City Code to utilize the authority granted in the State Code, it has never been utilized.

Effective July 1, 2009 Section 15.2 – 1716 of the Code of Virginia was amended (copy attached) to make it easier for a locality to receive restitution from an individual convicted of the traffic offenses. In order to take advantage of the amended statute, the City Code will need to be amended as proposed in the attached ordinance. Council was advised of this new authority during the wrap-up briefing on the 2009 General Assembly Session and interest was expressed in following up.

PRIOR ACTION(S): Council briefing on legislation adopted by the General Assembly, May 26, 2009.

FISCAL IMPACT: The City of Lynchburg will seek restitution in the amount of $250.00 at time of sentencing from persons convicted of any of the following:

1. The provisions of § *18.2-36.1,* 18.2-51.4, 18.2-266, 18.2-266.1, 29.1-738, 29.1-738.02, *or 46.2-341.24,* or a similar ordinance, when such operation of a motor vehicle, engine, train or watercraft while so impaired is the proximate cause of the accident or incident;

2. The provisions of Article 7 (§ 46.2-852 et seq.) of Chapter 8 of Title 46.2 relating to reckless driving, when such reckless driving is the proximate cause of the accident or incident;

3. The provisions of Article 1 (§ 46.2-300 et seq.) of Chapter 3 of Title 46.2 relating to driving without a license or driving with a suspended or revoked license; and

4. The provisions of § 46.2-894 relating to improperly leaving the scene of an accident.

The receipt of this restitution will generate projected annual revenues of over $62,500 for just DUI Convictions alone.

CONTACT(S): Major H. Wayne Duff, Jr., Lynchburg Police Department, 434-455-6112

ATTACHMENT(S): Proposed Ordinance and Section 15.2 – 1716 of the Code of Virginia

REVIEWED BY: lkp

ORDINANCE

AN ORDINANCE TO AMEND AND REENACT SECTION 25-169 OF THE CODE OF THE CITY OF LYNCHBURG, 1981, THE AMENDED SECTION RELATING TO THE RECOVERY OF EXPENSES INCURRED WHEN RESPONDING TO DUI INCIDENTS.

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

1. That Section 25-169 of the Code of the City of Lynchburg, 1981, be and the same is hereby amended and reenacted as follows:

Sec. 25-169. Reimbursement of expenses incurred in responding to DUI and related incidents.

~~Any person who is convicted of a violation of sections 18.2-514, 18.2-266 or 29.1-738 of the Code of Virginia, 1950, as amended, or any succeeding sections thereof, or a similar city ordinance, when a person's operation of a motor vehicle, engine, train or watercraft while so impaired is the proximate cause of any accident or incident resulting in an appropriate emergency response, shall be liable in a separate civil action to the city or to any volunteer rescue squad, or both, which may provide such emergency response for the reasonable expense thereof, in an amount not to exceed one thousand dollars ($1,000.00) in the aggregate for a particular accident or incident occurring in the city.~~

(a) Any person convicted of violating any of the following provisions shall at the time of sentencing or in a separate civil action, be liable to the city or to any responding volunteer rescue squad, or both, for restitution of reasonable expenses incurred by the city for responding law enforcement, firefighting, rescue and emergency services, including those incurred by the sheriff's office, or by any volunteer rescue squad, or by any combination of the foregoing, when providing an appropriate emergency response to any accident or incident related to such violation. Any person convicted of violating any of the following provisions shall, at the time of sentencing or in a separate civil action, be liable to the locality or to any responding volunteer fire or rescue squad, or both, for restitution of reasonable expenses incurred by the locality when issuing any related arrest warrant or summons, including the expenses incurred by the sheriff's office of such locality, or by any volunteer rescue squad, or by any combination of the foregoing:

(1) The provisions of Sections18.2-36.1, 18.2-51.4, 18.2-266, 18.2-266.1, 29.1-738, 29.1-738.02, or 46.2-341.24, of the Code of Virginia, 1950, as amended, or any succeeding sections thereof, or a similar ordinance, when such operation of a motor vehicle, engine, train or watercraft while so impaired is the proximate cause of the accident or incident;

(2) The provisions of Article 7 (Section 46.2-852 et seq.) of Chapter 8 of Title 46.2, of the Code of Virginia, 1950, as amended, or any succeeding sections thereof, relating to reckless driving, when such reckless driving is the proximate cause of the accident or incident;

(3) The provisions of Article 1 (Section 46.2-300 et seq.) of Chapter 3 of Title 46.2, of the Code of Virginia, 1950, as amended, or any succeeding sections thereof, relating to driving without a license or driving with a suspended or revoked license; and

(4) The provisions of Section 46.2-894, of the Code of Virginia, 1950, as amended, or any succeeding sections thereof, relating to improperly leaving the scene of an accident.

(b) Personal liability under this section for reasonable expenses of an appropriate emergency response pursuant to subsection (a) shall not exceed $1,000 in the aggregate for a particular accident, arrest, or incident. In determining the "reasonable expense," the city or volunteer rescue squad may bill a flat fee of ~~one~~ two hundred and fifty dollars ($~~100.00~~250.00) or a minute-by-minute accounting of the actual costs incurred. As used in this section, "appropriate emergency response" includes all costs of providing law-enforcement, fire-fighting, rescue, and emergency medical services. The court may order as restitution the reasonable expenses incurred by the locality for responding law enforcement, fire-fighting, rescue and emergency medical services. The provisions of this section shall not preempt or limit any remedy available to the locality or to any volunteer rescue squad to recover the reasonable expenses of an emergency response to an accident or incident not involving impaired driving or operation of a vehicle or other conduct as set forth herein.

2. That this ordinance shall become effective upon July 1, 2009

Adopted:

Certified: ________________________________
Clerk of Council

071L

REIMBURSEMENT LAW AS OF JULY 1. 2009

§ 15.2-1716. Reimbursement of expenses incurred in responding to DUI and related incidents.

A. Any locality may provide by ordinance that a person convicted of violating any of the following provisions shall ~~be liable for restitution~~, at the time of sentencing or in a separate civil action, *be liable* to the locality or to any responding volunteer fire or rescue squad, or both, for *restitution of* reasonable expenses incurred by the locality for responding law enforcement, firefighting, rescue and emergency services, including *those incurred* by the sheriff's office of such locality, or by any volunteer fire or rescue squad, or by any combination of the foregoing, when providing an appropriate emergency response to any accident or incident related to such violation. *The ordinance may further provide that a person convicted of violating any of the following provisions shall, at the time of sentencing or in a separate civil action, be liable to the locality or to any responding volunteer fire or rescue squad, or both, for restitution of reasonable expenses incurred by the locality when issuing any related arrest warrant or summons, including the expenses incurred by the sheriff's office of such locality, or by any volunteer fire or rescue squad, or by any combination of the foregoing*:

1. The provisions of § *18.2-36.1*, 18.2-51.4, 18.2-266, 18.2-266.1, 29.1-738, 29.1-738.02, *or 46.2-341.24*, or a similar ordinance, when such operation of a motor vehicle, engine, train or watercraft while so impaired is the proximate cause of the accident or incident;

2. The provisions of Article 7 (§ 46.2-852 et seq.) of Chapter 8 of Title 46.2 relating to reckless driving, when such reckless driving is the proximate cause of the accident or incident;

3. The provisions of Article 1 (§ 46.2-300 et seq.) of Chapter 3 of Title 46.2 relating to driving without a license or driving with a suspended or revoked license; and

4. The provisions of § 46.2-894 relating to improperly leaving the scene of an accident.

B. Personal liability under this section for reasonable expenses of an appropriate emergency response *pursuant to subsection A* shall not exceed $1,000 in the aggregate for a particular accident, *arrest*, or incident occurring in such locality. In determining the "reasonable expenses," a locality may bill a flat fee of $250 or a minute-by-minute accounting of the actual costs incurred. As used in this section, "appropriate emergency response" includes all costs of providing law-enforcement, fire-fighting, rescue, and emergency medical services. The court may order as restitution the reasonable expenses incurred by the locality for responding law enforcement, fire-fighting, rescue and emergency medical services. The provisions of this section shall not preempt or limit any remedy available to the Commonwealth, to the locality or to any volunteer rescue squad to recover the reasonable expenses of an emergency response to an accident or incident not involving impaired driving, operation of a vehicle or other conduct as set forth herein.

LYNCHBURG CITY COUNCIL
Agenda Item Summary

MEETING DATE: **July 14, 2009** AGENDA ITEM NO.: 13

CONSENT: REGULAR: CLOSED SESSION:
(Confidential)

ACTION: **X** INFORMATION: **X**

ITEM TITLE: **Restoration of 3% Pay to All City Employees for FY 2010**

RECOMMENDATION:
Adopt a resolution to amend the FY 2010 General Fund, Juvenile Detention Fund, Water Fund, Sewer Fund, Airport Fund, and Fleet Fund budgets and appropriate funds to restore 3% of salary to all City employees.

SUMMARY:
On May 26, 2009, City Council adopted the FY 2010 Operating Budget for all Funds, which included a 3% pay reduction for City staff. On June 23, 2009, based on new revenue information, Council voted to restore the 3%, eliminating the reduction in pay.

Council cautioned if a mid-year review of FY 2010 revenues demonstrated a shortfall, furloughs may be instituted in the spring to correct the deficit.

PRIOR ACTION(S):
FY 2010 Budget adoption, May 26, 2009
Work Session, June 23, 2009

FISCAL IMPACT:
As noted in the attached Resolution

CONTACT(S):
Bonnie Svrcek, Deputy City Manager, 455-3987
Donna Witt, Director of Financial Services, 455-3968

ATTACHMENT(S):
Resolution

REVIEWED BY:
bms

RESOLUTION:
BE IT RESOLVED that the FY 2010 General Fund, Juvenile Detention Fund, Water Fund, Sewer Fund, Airport Fund, and Fleet Fund budgets are amended and funds are appropriated with resources as follows to restore 3% of salary to all City employees:

	FUNDING SOURCE	NON-DEPARTMENTAL BUDGET AMENDMENT [2]
GENERAL FUND		$1,606,666
Current Real Property	$310,000	
Allowance for Uncollectible (2%)	($6,200)	
Current Personal Property-Local Portion	$925,399	
Allowance for Uncollectible (3%)	($27,761)	
Communications Sales and Use Tax	($112,000)	
Lodging Tax	$46,291	
Ambulance Billing	$100,000	
Reserve for Local Aid to the Commonwealth	($500,000)	
Retirement savings, possible furloughs, or other cost savings	$370,937	
GENERAL FUND TOTAL	$1,106,666 [1]	
JUVENILE DETENTION FUND		$54,729
Fund Balance	$54,729	
WATER FUND		$99,523
Fund Balance	$99,523	
SEWER FUND		$63,711
Fund Balance	$63,711	
AIRPORT FUND		$20,775
Fund Balance	$20,775	
FLEET FUND		$16,785
Fund Balance	$16,785	

[1] $500,000 Return of Funds from Schools was transferred June 23, 2009.
[2] The 3% reduction was budgeted in the Non-Departmental budget; therefore this appropriation will offset the reduction. Department budgets reflect the full salary and benefits for staff.

Introduced: Adopted:

Certified: ______________________________
Clerk of Council

075L