// A regular meeting of the Council of the City of Lynchburg was held on the 26th day of May, 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

// Legislative Liaison Linda McMinimy provided an overview regarding the recently concluded General Assembly session, focusing her presentation on specific legislation that affected Lynchburg and which was included in Lynchburg's 2009 Legislative Agenda. Council Members discussed several amendments to the State Code that were adopted during the 2009 Session as outlined in an April 30 memorandum from City Attorney Walter Erwin.

// Dr. Paul McKendrick, Schools Superintendent, stated that the Lynchburg City Schools would like to reacquire the Fort Hill School building on Liggates Road for alternative education programs. Dr. McKendrick explained that two meetings with the neighborhood have been held and at the latter meeting a proposal was presented to the neighborhood to establish the Fort Hill Community School in the building, to renovate the building and grounds using Federal stimulus funds, and to make the building available for community purposes and that the reception to that proposal was generally positive. Dr. McKendrick went on to say that the programs at this facility will include the sixth and seventh graders at the Middle School Learning Center (16 students), eighth graders from the Pride Center (36 students in one session), and students from the Home-Bound Learning Center (39 students/3 different sessions daily), for an average of 65 students on campus at one time. Dr. McKendrick stated that the probable cost would be $692,000, with $450,000 coming from the stimulus, stabilization funds and $245,000 from capital project balances. Dr. McKendrick noted that this proposal would have a cost savings of approximately $300,000 per year (reduction in staffing, end separate leases, consolidation of programs). In response to questioning, City Manager Kimball Payne stated that the building has been vacant since the lease for Centra Health's Rivermont School was not renewed, and while it had been the intention of Public Works to demolish the building, no final decision had been reached and there was neighborhood interest in maintaining the building for some community purpose. Several Council Members commented regarding the cost savings via consolidation of programs and also applauded the rehabilitation and reuse of the existing school building. On motion of Council Member Johnson, seconded by Council Member Perrow, Council by the following recorded vote agreed to allow the Lynchburg City Schools to reutilize the Fort Hill School building on Liggates Road for the Fort Hill Community School for alternative education programs:

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

// During roll call, Council Member Perrow complimented Traffic Engineer Gerry Harter and Information Technology Director Mike Goetz regarding the new traffic light at Paulette Circle and the new cable service to this area. In response to questioning, Deputy City Manager Bonnie Svrcek provided an update regarding security measures taken at the Lynchburg Public Library to respond to earlier safety concerns by Library staff and patrons using the Library. In response to Council Member Helgeson's inquiry, City Manager Payne stated that it would be inappropriate for him to comment regarding the method utilized by the Lynchburg City Schools in determining what positions to cut. Council Member Gillette stated that due to a lack of clarity regarding his motion and the minutes regarding the number/types of housing units in the Cornerstone Development, he would like for staff to look into the issue and present options for Council's consideration at the June work session. Council Member Garrett commented regarding the new grocery store and medical care facility at The Plaza Shopping Center and reported a problem with a ditch on Meriwether Road. Vice Mayor Dodson inquired regarding the status of road improvements in the Windsor Hills neighborhood. Vice Mayor Dodson also inquired if City Council wanted to determine how to handle the conflict in City Council's Rules of Procedure and the seven individuals scheduled to speak at the 5:00 p.m. meeting regarding the FY 2010 Budget. Council Members discussed whether or not to temporarily suspend Section 5-3, B, 9 of its Rules of Procedure which states that "There shall be no comment during Public Presentations on a matter that has already been the subject of a previous public hearing where no final vote has been taken" and allow the seven individuals who met the agenda deadline to speak regarding the FY 2010 Budget. Following discussion, Vice Mayor Dodson made a motion, seconded by Council Member Garrett, to temporarily suspend Section 5-3, B, 9 of its Rules of Procedure and allow the seven individuals who met the agenda deadline to speak at the 5:00 p.m. meeting regarding the FY 2010 Budget, and Council by the following recorded vote approved the motion:

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

Mayor Foster stated that a number of individuals has praised City employee Paul Lavely for his assistance to the participants in the Angel Race Triathlon. Mayor Foster also provided information regarding the Mayor's Reading Program and thanked all of the Librarians who assisted her this past weekend in distributing books to children.

// 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., School Board, pursuant to Section 2.2-3711(A)(1), Code of Virginia (1950), as amended:

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

// 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

// The meeting was adjourned at 4:02 p.m.

Clerk of Council

// A regular meeting of the Council of the City of Lynchburg was held on the 26th day of May, 2009, at 5:00 P.M. in the Council Chamber, City Hall, Joan F. Foster, President, presiding. Vice Mayor Dodson 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 April 28 (two meetings), 2009 meetings, having been previously furnished Council, reading was dispensed with, and on motion of Council Member Gillette, seconded by Council Member Johnson, Council by the following recorded vote approved the minutes as presented:

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

Noes: 0

// Copies of the minutes of the May 12, 2009 meeting, having been previously furnished Council, reading was dispensed with, and on motion of Council Member Gillette, seconded by Council Member Johnson, Council by the following recorded vote approved the minutes as presented:

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

Noes: 0

// In the matter of Schools - General, Resolution #R-09-030 amending the FY 2009 General Fund budget by decreasing the Designed Fund Balance for textbooks for Lynchburg City Schools (LCCS) by $440,608 and designating $440,608 as a FY 2008 Budget Balancing Contingency Reserve for LCS, laid over from the May 12, 2009 meeting, was again presented and read, and on motion of Council Member Gillette, seconded by Council Member Johnson, Council by the following recorded vote adopted the Resolution:

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

Noes: 0

// In the matter of Taxes, Resolution #R-09-032 amending the FY 2009 General Fund budget and appropriating $500,000 from the Fund Balance of the municipal Self-Insurance Fund to pay the business license tax refunds incurred by the City in the cases of English Construction Company, Incorporated and W.C. English, Inc, laid over from the May 12, 2009 meeting, was again presented and read, and on motion of Council Member Gillette, seconded by Council Member Johnson, Council by the following recorded vote adopted the Resolution:

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

Noes: 0

// In the matter of FY2010 Budget/CIP, Resolution #R-09-034 adopting the FY 2010 Mandated and Contractual External Service Providers Budget and appropriating $6,453,516 for this budget, laid over from the May 12, 2009 meeting, was again presented and read, and on motion of Council Member Gillette, seconded by Council Member Johnson, Council by the following recorded vote adopted the Resolution:

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

Noes: 0

// In the matter of FY2010 Budget/CIP, Resolution #R-09-035 adopting the FY 2010 Central Virginia Area Agency on Aging Budget and appropriating $15,000 for this budget, laid over from the May 12, 2009 meeting, was again presented and read, and on motion of Council Member Gillette, seconded by Council Member Johnson, Council by the following recorded vote adopted the Resolution:

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

// In the matter of FY2010 Budget/CIP, Resolution #R-09-036 adopting the FY 2010 Central Virginia Community College Board and Related Operations Budget and appropriating $1,831 for this budget, laid over from the May 12, 2009 meeting, was again presented and read, and on motion of Council Member Gillette, seconded by Council Member Johnson, Council by the following recorded vote adopted the Resolution:

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

// In the matter of FY2010 Budget/CIP, Resolution #R-09-037 adopting the FY 2010 Court Appointed Special Advocate Budget and appropriating $12,000 for this budget, laid over from the May 12, 2009 meeting, was again presented and read, and on motion of Council Member Gillette, seconded by Council Member Johnson, Council by the following recorded vote adopted the Resolution:

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

// In the matter of FY2010 Budget/CIP, Resolution #R-09-038 adopting the FY 2010 Region 2000 Economic Development Council Budget and appropriating $82,250 for this budget, laid over from the May 12, 2009 meeting, was again presented and read, and on motion of Council Member Gillette, seconded by Council Member Johnson, Council by the following recorded vote adopted the Resolution:

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

// In the matter of FY2010 Budget/CIP, Resolution #R-09-039 adopting the FY 2010 Robert E. Lee Soil & Water Conservation District Budget and appropriating $10,000 for this budget, laid over from the May 12, 2009 meeting, was again presented and read, and on motion of Council Member Gillette, seconded by Council Member Johnson, Council by the following recorded vote adopted the Resolution:

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

// In the matter of FY2010 Budget/CIP, Resolution #R-09-040 adopting the FY 2010 Virginia Legal Aid Society Budget and appropriating $10,000 for this budget, laid over from the May 12, 2009 meeting, was again presented and read, and on motion of Council Member Gillette, seconded by Council Member Johnson, Council by the following recorded vote adopted the Resolution:

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

// In the matter of FY 2010 Budget/CIP, Resolution #R-09-041 adopting the FY 2010 Amazement Square Real Estate Tax Refund Budget and appropriating $5,013 for this budget, laid over from the May 12, 2009 meeting, was again presented and read, and on motion of Council Member Gillette, seconded by Council Member Johnson, Council by the following recorded vote adopted the Resolution:

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

Noes: 0

// In the matter of FY 2010 Budget/CIP, Resolution #R-09-043 adopting the FY2010 Greater Lynchburg Transit Budget and appropriating $7,198,359 for this budget, laid over from the May 12, 2009 meeting, was again presented and read, and on motion of Council Member Gillette, seconded by Council Member Johnson, Council by the following recorded vote adopted the Resolution:

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

Noes: 0

// In the matter of FY 2010 Budget/CIP, Resolution #R-09-044 adopting all other FY 2010 Operating Fund Budgets and appropriating the sums for each fund, laid over from the May 12, 2009 meeting, was again presented and read, and on motion of Council Member Gillette, seconded by Council Member Johnson, Council by the following recorded vote adopted the Resolution:

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

Noes: 0

// In the matter of FY 2010 Budget/CIP, Resolution #R-09-045 adopting the FY 2010 Capital Budget and appropriating $15,087,964 for the City Capital Projects Fund; $1,400,000 for the Airport Capital Projects Fund; $4,104,622 for the Water Capital Projects Fund; and $22,150,000 for the Sewer Capital Projects Fund, laid over from the May 12, 2009 meeting, was again presented and read, and on motion of Council Member Gillette, seconded by Council Member Johnson, Council by the following recorded vote adopted the Resolution:

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

Noes: 0

// In the matter of FY 2010 Budget/CIP, Resolution #R-09-046 approving the payment of monetary incentives, awards and bonuses to City employees under certain circumstances, laid over from the May 12, 2009 meeting, was again presented and read, and on motion of Council Member Gillette, seconded by Council Member Johnson, Council by the following recorded vote adopted the Resolution:

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

Noes: 0

// In the matter of FY 2010 Budget/CIP, Resolution #R-09-047 setting the personal property tax relief rate for the fiscal year beginning July 1, 2009 through June 30, 2010 at 61.14%, laid over from the May 12, 2009 meeting, was again presented and read, and on motion of Council Member Gillette, seconded by Council Member Johnson, Council by the following recorded vote adopted the Resolution:

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

Noes: 0

// In the matter of Schools – School Board, a public hearing continued from May 12 was again held to receive input from citizens regarding appointments (or reappointments) to vacancies that will exist June 30 in each of the three (3) School Board representational districts. Mayor Foster read into the record the name of Gary M. Coates, School District I, who has applied to serve on the School Board. Mayor Foster also announced that Ingrid Hamlett, whose name was submitted at the May 12 public hearing, did submit an application for the District 3 vacancy. Mr. Gary M. Coates communicated his interest and presented his credentials and qualifications to serve on the School Board. There was no one else present who wished to speak to this item. On motion of Council Member Gillette, seconded by Council Member Helgeson, Council by the following recorded vote agreed to continue the public hearing until the June 9 meeting to allow more time for citizens to apply for the positions on the School Board:

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

// Mayor Foster announced that City Council at its earlier work session agreed to temporarily suspend Section 5-3, B, 9 of its Rules of Procedure and allow the seven individuals who met the agenda deadline to speak at the 5:00 p.m. meeting regarding the FY 2010 Budget.

// In the matter of Budget, Douglas K. Childress, President of the Police Benevolence Association for the Blue Ridge Chapter, asked City Council to restore the 3% salary cut to public safety employees.

// In the matter of Budget, Kimberly Loyd, speaking on behalf of the 911 Dispatchers in the Lynchburg Police Department, asked that City Council reconsider its decision regarding the 3% salary cut for City employees.

// In the matter of Budget, Leecy Fink, a business owner on Main Street in downtown Lynchburg, asked that City Council vote against the 3% salary cut for public safety employees.

// In the matter of Budget, Michael Troxel stated that the first priority in the budget should be public safety and asked that City Council restore the 3% salary cut for public safety employees.

// In the matter of Budget, Jason D. Campbell, President, Lynchburg Fire Fighters Association, asked that City Council reconsider the decision regarding a 3% salary cut for City employees and asked that any savings from departments be used to restore all or at least a portion of the salary cut.

// In the matter of Budget, William Dance, speaking on behalf of the field officers of the Lynchburg Police Department, stated that some of the police officers just recently became aware of the 3% salary cut and asked that City Council reconsider its decision regarding the salary cut.

// In the matter of Budget, Randall Trost, a business owner on Main Street in downtown Lynchburg, expressed concern regarding the City's guardians of public safety (police and fire) and asked that City Council reconsider its decision regarding the salary cut for these individuals.

// In the matter of FY 2010 Budget/CIP, Resolution #R-09-033 adopting the FY 2010 General Fund Operating Budget (excluding External Service Provider expenditures) and appropriating $169,438,575 for this budget, laid over from the May 12, 2009 meeting, was again presented and read. Council Member Helgeson stated that public safety is a core service and that he would like for Council to consider transferring funds from the Schools Budget to restore the 3% salary cut for sworn police officers and emergency communications specialists. Council Member Helgeson made a motion to deny Budget Resolution #R-09-033 as presented and offered an amendment to Budget Resolution #R-09-033 by transferring $415,000 from the Schools Budget to the City's General Fund Budget in order to restore the 3% salary cut for sworn police officers and emergency communications specialists. The motion died for lack of a second. While other Council Members agreed that public safety is a core service, they could not support taking funds from the Schools budget to restore the 3% salary cut. Some Council Members noted that City Council has already made a commitment to work with the Schools regarding ways to consolidate services and thereby achieve future savings. Council Member Perrow made a motion, seconded by Council Member Garrett, to deny Budget Resolution #R-09-033 as presented. Council Member Gillette made a substitute motion, seconded by Council Member Johnson, to adopt Budget Resolution #R-09-033 as presented. Council Members Garrett and Perrow stated that they would like to find a way to equalize the tax rate and restore the 3% salary cut for all City employees. Council Member Garrett offered an amendment to the substitute motion, seconded by Council Member Perrow, to equalize the tax rate and restore the 3% salary cut to all city employees. In response to questioning, City Manager Kimball Payne stated that it would cost $2.5 million to equalize the tax rate and $1.6 million to restore the 3% salary cut for all employees. Council Member Garrett mentioned several items that could be cut from the budget, some of which included using "pay as you go" capital monies and reducing the Reserve for Contingencies. Some Council Members expressed concern regarding the use of "one time" funds for recurring expenses, especially the impact it would have on next year's budget. Several Council Members commented regarding the tough economic times everyone is experiencing, that pay cuts were a difficult move but still preferable to layoffs, and that this is the best budget without loss of services. Council Members did renew its commitment to restoring full or partial employee salaries, if possible, in the future. Vice Mayor Dodson called the question. Council Member Perrow stated that he has not had an opportunity to speak. City Attorney Erwin stated that the Rules of Procedure state that a motion to call the question is not in order until every member of the Council has had an opportunity to speak once and the deliberation by the Council on an item of business has exceeded thirty minutes. Following discussion, Council Member Garrett proposed an amendment to his motion to equalize the tax rate and restore 1-1/2% salary cut to all city employees. In response to questioning, City Attorney Walter Erwin stated that once a motion has been made and seconded, the motion then belongs to the entire body and that the body would need to vote to allow Council Member Garrett to amend his motion. Council Member Perrow made a motion, seconded by Council Member Garrett, to allow Council Member Garrett to amend his motion, and the motion failed by the following recorded vote:

Ayes: Garrett, Perrow 2
Noes: Dodson, Gillette, Helgeson, Johnson, Foster 5

The vote was called on the amendment to the substitute motion to equalize the tax rate and restore the 3% salary cut to all city employees, and the motion failed by the following recorded vote:

Ayes: Garrett, Perrow 2
Noes: Dodson, Gillette, Helgeson, Johnson, Foster 5

Council then voted on whether to allow the substitute motion to adopt Budget Resolution #R-09-033 as presented to replace the main motion on the floor, and Council by the following recorded vote agreed to allow the substitute motion to adopt Budget Resolution #R-09-033 as presented to replace the main motion on the floor;

Ayes: Dodson, Gillette, Johnson, Foster 4

Noes: Garrett, Helgeson, Perrow 3

The vote was called on the substitute motion, and Council by the following recorded vote adopted Budget Resolution #R-09-033, as presented, adopting the FY 2010 General Fund Operating Budget (excluding External Service Provider expenditures) and appropriating $169,438,575 for this budget:

Ayes: Dodson, Gillette, Johnson, Foster 4

Noes: Garrett, Helgeson, Perrow 3

Vice Mayor Dodson requested the City Manager to schedule time at the June 23 work session to examine where the City stood in this fiscal year, i.e., current revenue projections, additional information from the State regarding cuts, with an eye toward finding additional money for salaries. Vice Mayor Dodson stated that he felt there was a “trust” issue between employees and city leadership on the pay issue that could only be addressed by Council demonstrating it was serious about its promise. It was the consensus of Council to proceed with his suggestion.

// In the matter of FY 2010 Budget/CIP, Resolution #R-09-042 adopting the FY 2010 School Operating Budget and appropriating $92,991,629 for this budget, laid over from the May 12, 2009 meeting, was again presented and read, and on motion of Council Member Johnson, seconded by Council Member Gillette, Council by the following recorded vote adopted the Resolution:

Ayes: Dodson, Garrett, Gillette, Johnson, Perrow, Foster 6

Noes: Helgeson 1

// The meeting was adjourned at 6:49 p.m.

Clerk of Council

LYNCHBURG CITY COUNCIL
Agenda Item Summary

MEETING DATE: **June 9, 2009** AGENDA ITEM NO.: 2

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

ACTION: **X** INFORMATION:

ITEM TITLE: **Drinking Water Resource Protection in the George Washington National Forest**

RECOMMENDATION: Adopt a resolution supporting revisions to the U.S. Forest Service's *1993 Land and Resource Management Plan*, specifically related to the protection of the drinking water resources in the George Washington National Forest.

SUMMARY: The U.S. Forest Service is in the process of revising its 1993 Land and Resource Management Plan for the George Washington National Forest (GWNF). The GWNF is extremely important as a local and regional source of drinking water, providing water to over 260,000 residents of 22 localities. Drinking watersheds comprise over 44% of the GWNF. Currently, management of the GWNF differs little between drinking watersheds and the rest of the forest. The 1993 Plan does little to protect drinking water resources and is currently under revision so now is the optimal time to strengthen the management of drinking watersheds. The watersheds are primarily threatened by sedimentation related to timber production and roadways.

It is recommended that the Forest Service include the following in the Forest Plan revisions:

- Identify all local drinking watersheds in the GWNF and identify them in the Forest Plan
- Protect and manage drinking watersheds appropriately
- Forest management should address entire watershed not just riparian areas
- Impaired waters and their watersheds need special attention and should be a priority for restoration efforts
- The Forest Service should increase its efforts to monitor water quality, including sedimentation
- The Forest Service and local communities must develop strong working relationships

To date at least 25 entities have passed a similar resolution.

PRIOR ACTION(S): None.

FISCAL IMPACT: None.

CONTACT(S): Timothy Mitchell, Director of Utilities, 455-4252

ATTACHMENT(S): Attachment 1 - ENTITIES THAT HAVE PASSED A VERSION OF THE RESOLUTION
Resolution

REVIEWED BY: lkp

RESOLUTION TO SUPPORT REVISIONS TO THE GEORGE WASHINGTON FOREST MANAGEMENT PLAN AND THEREBY IMPROVE THE MANAGEMENT OF DRINKING WATER RESOURCES

WHEREAS, the U.S. Forest Service is in the process of revising its 1993 Land and Resource Management Plan for the George Washington National Forest.

WHEREAS, the provision of clean safe drinking water is one of the primary benefits that the George Washington National Forest provides to the communities that surround it.

WHEREAS, the U.S. Forest Service's agency-wide Strategic Plan for 2004 – 2008 seeks to achieve six goals, including "Improve watershed condition."

WHEREAS, approximately 44 percent of the land in the George Washington National Forest is within watersheds that provide public drinking water to more than 260,000 residents of western Virginia in 22 communities surrounding the national forest by means of reservoirs and surface waters.

WHEREAS, drinking water sources from the Pedlar Reservoir and watershed within the George Washington National Forest serve more than 100,000 residents in the City of Lynchburg, Amherst, Bedford, and Campbell Counties.

WHEREAS, degraded water quality in the George Washington National Forest has been documented in the 2006 Water Quality Assessment report by the Virginia Department of Environmental Quality, which identified fifty (50) streams and six (6) reservoirs within the national forest that are impaired, including the Pedlar Reservoir.

WHEREAS, the greatest threats to water quality within the George Washington National Forest are ground disturbing activities, such as timber harvesting and road construction, which result in erosion and sedimentation.

WHEREAS, the 1993 George Washington National Forest Management Plan identifies drinking water reservoirs, but does not address the watersheds that surround these reservoirs or offer distinct management objectives to maintain or improve drinking water quality in these watersheds by controlling erosion and sedimentation.

WHEREAS, a 2008 report by the National Research Council (part of The National Academies) states that a sustainable supply of clean water is the most important product or commodity produced by our forests.

NOW, THEREFORE, be it resolved that the undersigned hereby support the following revisions to the George Washington National Forest Management Plan to ensure the quality and quantity of drinking water sources within the national forest boundaries:

- The U.S. Forest Service shall formally identify all the drinking watersheds serving reservoir and surface water resources within the George Washington National Forest.

- The U.S. Forest Service shall establish management objectives that encompass the health of entire drinking watersheds, in order to ensure that conditions within the watersheds will maintain, protect and enhance drinking water quality.

- The U.S. Forest Service shall gather more information to describe and assess watershed conditions, develop a plan to systematically monitor water resource programs and obtain all data pertinent to water quality and watershed conditions, in cooperation with other agencies, organizations, local communities and volunteers.

- The U.S. Forest Service shall seek to communicate more effectively with the localities that obtain drinking water from sources within the George Washington National Forest in order to ensure that the drinking watersheds are managed effectively, appropriately and for the public good.

- The U.S. Forest Service shall work with local communities, agencies and the larger public to establish policies and develop management plans for the drinking watersheds to permanently maintain, protect and enhance drinking water quality.

BE IT FURTHER RESOLVED that the Clerk is instructed to transmit a certified copy of this resolution to the U.S. Forest Service, the Amherst County Board of Supervisors, Robert E. Lee Soil and Water Conservation District, and Wild Virginia in order to advise each of this action and to request support on this issue.

Adopted:

Certified: ______________________________
Clerk of Council

055L

ATTACHMENT 1

ENTITIES THAT HAVE PASSED A VERSION OF THE RESOLUTION

<u>Town of Amherst</u>

<u>Amherst County</u>

<u>Augusta County</u>

Central Shenandoah Planning District Commission

Clarke County

<u>Town of Dayton</u>

Friends of the North Fork Shenandoah River

Friends of the Shenandoah River

<u>City of Harrisonburg</u>

<u>Page County</u>

Page County Water Quality Committee

Potomac Conservancy

Preserve Frederick

Pure Water Forum

Rockingham Community Alliance for Preservation

<u>Rockingham County</u>

Scenic 340 Project

Shenandoah Forum

Shenandoah Riverkeeper

Shenandoah Valley Network

Shenandoah Valley Soil & Water Conservation District

Trout Unlimited Virginia Chapter

Valley Conservation Council

Virginia Wilderness Committee

<u>Warren County</u>

LYNCHBURG CITY COUNCIL
Agenda Item Summary

MEETING DATE: **June 9, 2009** AGENDA ITEM NO.: 3

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

ACTION: **X** INFORMATION:

ITEM TITLE: **August 2, 2007 General Obligation Public Improvement Bonds Reallocation of up to $2,500,000 of Proceeds among Economic Development, Parks and Recreation, Transportation and Buildings Capital Projects Categories**

RECOMMENDATION:
Authorize a reallocation of up to $2,500,000 of the August 2, 2007 General Obligation Public Improvement Bonds issued for Economic Development, Parks and Recreation, Transportation and Buildings Capital Improvement Projects. The adoption of this resolution will authorize this reallocation among these categories which were in the original authorization of June 26, 2007.

SUMMARY:
The City issued $33,300,000 of General Obligation Public Improvement Bonds as part of its August 2, 2007 bond issue for capital projects which included the four categories noted above. Since that time, changes in project schedules among these categories, primarily the Juvenile and Domestic Relations Court and the Greenview Drive Phase I projects, have resulted in approximately $2,500,000 of bond proceeds potentially not being able to be expended within the usual two year time period after the bonds are issued and prior to the next bond issue. Therefore, the City is seeking approval to reallocate up to $2,500,000 of bond proceeds among these capital projects categories. This resolution will allow City staff to reallocate any remaining bond proceeds consistent with current capital projects expenditures and fully expend those proceeds by August 2, 2009.

PRIOR ACTION(S):
June 5, 2007 Finance Committee
June 26, 2007 Public Hearing and Resolution Authorizing the August 2, 2007 General Obligation Public Improvement Bonds
May 26, 2009 Finance Committee

FISCAL IMPACT:
None

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

ATTACHMENT(S):
Resolution

REVIEWED BY: lkp

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LYNCHBURG, VIRGINIA, REALLOCATING $2,500,000 OF THE PROCEEDS OF ITS GENERAL OBLIGATION PUBLIC IMPROVEMENT BONDS, SERIES 2007, TO PUBLIC BUILDING PROJECTS FROM OTHER CAPITAL IMPROVEMENT PROJECTS

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

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

(a) On August 2, 2007, the City issued $33,300,000 principal amount of its General Obligation Public Improvement Bonds, Series 2007, dated August 2, 2007 (the "Series 2007 Bonds"), the proceeds of sale of $1,749,842 principal amount of which were to be allocated to pay the costs of Economic Development Projects, the proceeds of sale of $957,943 principal amount of which were to be allocated to pay the costs of Parks and Recreation Projects and the proceeds of sale of $6,495,981 principal amount of which were to be allocated to Transportation Projects.

(b) Of the proceeds of the sale of Series 2007 Bonds so allocated to Economic Development Projects, the Council desires to reallocate up to the amount of $188,000 of such proceeds to Public Building Projects.

(c) Of the proceeds of the sale of Series 2007 Bonds so allocated to Parks and Recreation Projects, the Council desires to reallocate up to the amount of $207,000 of such proceeds to Public Building Projects.

(d) Of the proceeds of the sale of Series 2007 Bonds so allocated to Transportation Projects, the Council desires to reallocate up to the amount of $2,105,000 of such proceeds to Public Building Projects.

SECTION 2. Reallocation of Series 2007 Bond Proceeds to Public Building Projects from Other Capital Improvement Projects. The Council hereby reallocates to the payment of the costs of the Public Building Projects the amount of $2,500,000 of the proceeds of sale of the Series 2007 Bonds heretofore allocated to the payment of the costs of the projects listed below:

Purpose	Amount
Economic Development	$ 188,000
Parks and Recreation	207,000
Transportation	2,105,000
Total	$2,500,000

SECTION 3. Effectiveness of Resolution. This resolution shall take effect upon its adoption.

Adopted:

Certified: ______________________________
Clerk of Council

052L

LYNCHBURG CITY COUNCIL
Agenda Item Summary

MEETING DATE: **June 9, 2009** AGENDA ITEM NO.: 4

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

ACTION: **X** INFORMATION:

ITEM TITLE: **FY 2009 Public Safety Answering Point (PSAP) Grant Program for Two Additional Wireless 911 Trunk Lines**

RECOMMENDATION:
Adopt a resolution to amend the FY 2009 City/Federal/State Aid Fund budget and appropriate $8,480 with resources from the Virginia Wireless E-911 Services Board to add two wireless 911 trunk lines needed to handle increased use by the public.

SUMMARY:
Recent line load studies conducted by Verizon indicate an increasing number of times during the day when all existing wireless 911 lines (4) are being used. This is creating a situation where additional callers receive a busy signal. The addition of two more wireless 911 trunks will bring the total number of trunk lines to six, reducing the potential for callers to receive a busy signal.

A Public Safety Answering Point (PSAP) grant was applied for and approved by the Virginia Wireless E-911 Services Board to add two additional trunks during fiscal year 2009. Total cost of the project including required local match is $10,600.

The grant requires a 20% local match of $2,120 that can be absorbed in the existing General Fund budget for the Emergency Communications Center.

PRIOR ACTION(S):
Finance Committee, May 26, 2009

FISCAL IMPACT:
None, the required local match of $2,120 will be absorbed in the existing General Fund budget for the Emergency Communications Center.

CONTACT(S):
William A. Aldrich, Director of Emergency Communications, 455-4285

ATTACHMENT(S):
Resolution

REVIEWED BY: lkp

RESOLUTION:

BE IT RESOLVED That the FY 2009 City/Federal/State Aid Fund budget is amended and $8,480 is appropriated, with resources from the Virginia Wireless E-911 Services Board, to add two wireless 911 trunk lines needed to handle increased use by the public.

Introduced: Adopted:

Certified: ______________________________
Clerk of Council

050L

LYNCHBURG CITY COUNCIL
Agenda Item Summary

MEETING DATE: **June 9, 2009** AGENDA ITEM NO.: 5

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

ACTION: **X** INFORMATION:

ITEM TITLE: **Technology Trust Fund fees for the Office of the Circuit Court Clerk**

RECOMMENDATION:
Adopt a resolution to amend the FY 2009 General Fund budget and appropriate $59,470 with resources from the State Compensation Board, Technology Trust Fund fees to support information technology needs in the Office of the Circuit Court Clerk.

SUMMARY:
As required by the Code of Virginia, Section 17.1-279 - Additional fee to be assessed by circuit court clerks for information technology, “the clerk of each circuit court shall assess a $5 fee, known as the "Technology Trust Fund Fee," in each civil action, upon each instrument to be recorded in the deed books, and upon each judgment to be docketed in the judgment lien docket book. Such fee shall be deposited by the State Treasurer into a trust fund.” Annually, a portion of this fee is returned to the local Office of the Circuit Court Clerk based on its information technology needs. These funds cannot be used to take the place of current funding supplied by the locality.

PRIOR ACTION(S):
Finance Committee, May 26, 2009

FISCAL IMPACT:
None

CONTACT(S):
Larry Palmer, Circuit Court Clerk, 455-2620

ATTACHMENT(S):
Resolution

REVIEWED BY: lkp

RESOLUTION:

BE IT RESOLVED That the FY 2009 General Fund budget is amended and $59,470 is appropriated with resources from the State Compensation Board, Technology Trust Fund fees to support information technology needs in the Office of the Circuit Court Clerk.

Introduced: Adopted:

Certified: ______________________________
Clerk of Council

049L

LYNCHBURG CITY COUNCIL
Agenda Item Summary

MEETING DATE: **June 9, 2009**		AGENDA ITEM NO.: 6
CONSENT: **X**	REGULAR:	CLOSED SESSION: (Confidential)
ACTION: **X**	INFORMATION:	
ITEM TITLE: **Ivy Creek Park- Recreational Access Funds**		

RECOMMENDATION:
Adopt a resolution to amend the FY 2009 City Capital Projects Fund budget and appropriate $350,000 with resources from the Virginia Department of Transportation, Recreation Access Funds, for construction of Clemmons Lake Place, an access road to Ivy Creek Park.

SUMMARY:
The City applied for and received grant funding in the amount of $350,000 in Recreation Access Funds from the Virginia Department of Transportation. Funds are to be used for construction of Clemmons Lake Place, the access road to Ivy Creek Park. The road design is complete and will be constructed as part of Phase I of the Ivy Creek Park project.

The base bid of Phase I of the project will include construction of the road, parking lot, bio-retention area, trail from the parking lot to the lake, an earthen trail around the lake, and the canoe ramp. In addition the earthen dam and spillway will be repaired and the cabin stabilized and converted to a storage/concession area. Alternatives will include construction of an accessible fishing pier, additional trail work, construction of the shelters and additional landscaping.

PRIOR ACTION(S):
Finance Committee, January 2, 2008
Council regular session, January 8, 2008
Finance Committee, May 26, 2009

FISCAL IMPACT:
A dollar-for-dollar is required for funding over $250,000. The $100,000 matching funds are appropriated and available as adopted with the FY 2008 - 2012 Capital Improvement Program, Ivy Creek Nature Center, page 107.

CONTACT(S):
Kay Frazier, Director of Parks and Recreation, 455-5868
Andrew Reeder, Parks Service Manager, 455-5876

ATTACHMENT(S):
Council Resolution
Award Resolution from Commonwealth Transportation Board
Site Master Plan

REVIEWED BY: lkp

RESOLUTION:

BE IT RESOLVED that the FY 2009 City Capital Projects Fund budget is amended and $350,000 is appropriated, with resources from the Virginia Department of Transportation, Recreation Access Funds, for construction of Clemmons Lake Place, an access road to Ivy Creek Nature Center.

Introduced: Adopted:

Certified: ______________________________
Clerk of Council

056L

COMMONWEALTH of VIRGINIA

Commonwealth Transportation Board

Pierce R. Homer
Chairman

1401 East Broad Street - Policy Division - CTB Section - #1106
Richmond, Virginia 23219

(804) 786-1830
Fax: (804) 225-4700

Agenda item # 4

RESOLUTION
OF THE
COMMONWEALTH TRANSPORTATION BOARD

November 20, 2008

MOTION

Made By: Mr. White **Seconded By: Mr. Keen**
Action: Motion Carried, Unanimously

Title: Recreational Access – City of Lynchburg, Project 9999-118-199, M501
Ivy Creek Natural Area

WHEREAS, Section 33.1-223 of the *Code of Virginia* sets forth that the General Assembly of Virginia has found and declared that it is "...in the public interest that access roads and bikeways for public recreational areas and historical sites be provided..." and sets aside highway funds for such purpose, and further provides that "The Commonwealth Transportation Board, with the concurrence of the Director of the Department of Conservation and Recreation, is hereby authorized to make regulations to carry out the provisions of this section."; and

WHEREAS, the Director of the Department of Conservation and Recreation (DCR) and the Commonwealth Transportation Board (CTB) have adopted a joint policy to govern the use of the Recreational Access Fund pursuant to Section 33.1-223 of the *Code of Virginia*; and

WHEREAS, the Lynchburg City Council has, by appropriate resolution, requested Recreational Access funds to construct an access road to serve Ivy Creek Natural Area, located off Jefferson Ridge Parkway in the western portion of Lynchburg, and said access road is estimated to cost $530,000; and

WHEREAS, this request is under consideration by the Director of DCR for full compliance with the provisions of Section 33.1-223 of the *Code of Virginia*; and

WHEREAS, it is anticipated that the Director of DCR will recommend the construction of the aforementioned access road; and

NOW, **THEREFORE**, **BE IT RESOLVED,** that from the 2008-2009 Fiscal Year Recreational Access Fund, $350,000 ($250,000 unmatched, $100,000 matched) be allocated to construct the access road to Ivy Creek Natural Area, Project 9999-118-199, M501, contingent upon:

1. The Director of DCR designating Ivy Creek Natural Area as a public recreational area and recommending the use of the Recreational Access Fund for the construction of the access road; and

2. All right of way, environmental assessments and remediation, and utility adjustments being provided at no cost to the Commonwealth; and

3. Execution of an appropriate contractual agreement between the City of Lynchburg (LOCALITY) and VDOT to provide for the:

   a. design, administration, construction and maintenance of this project; and

   b. provision of the required $100,000 matching funds from the general fund of the LOCALITY for construction of the access road; and

   c. payment of all ineligible project costs, and of any eligible project costs in excess of the $350,000 allocation for the access road construction from sources other than those administered by VDOT.

####

LPDA
LAND PLANNING & DESIGN ASSOCIATES

CRADDOCK CUNNINGHAM ARCHITECTURAL PARTNERS
ARCHITECTURE • PLANNING • INTERIOR DESIGN

HURT & PROFFITT INCORPORATED

Ivy Creek Park
MASTER PLAN
Lynchburg, Virginia

Master Plan

0' 30' 60' 120'
Scale: 1"=60'-0"

March 12, 2009

LYNCHBURG CITY COUNCIL
Agenda Item Summary

MEETING DATE: **June 9, 2009** AGENDA ITEM NO.: **7**

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

ACTION: **X** INFORMATION:

ITEM TITLE: **VDOT Revenue Sharing Program Appropriation**

RECOMMENDATION:
Adopt a resolution to amend the FY 2009 City Capital Projects Fund budget and appropriate $1,000,000 with resources from the VDOT Revenue Sharing Program to be used for improvements to the expressway retaining wall at Grace Street.

SUMMARY:
The City has applied for and obtained a VDOT Revenue Sharing Program Grant to replace the deteriorating retaining wall at Grace Street. The Grace Street retaining wall was originally constructed in the mid-1950's as a component of the U.S. Route 29 Business Lynchburg Expressway. The wall is constructed of pre-cast concrete cribbing, measures approximately 360 feet in length, and has a maximum height of 20.5 feet. Approximately 240 linear feet of the crib wall, located on the south side of the Grace Street Bridge, has failed.

Currently, City funds have been used to procure professional services to prepare a design alternative report and final design for this project. Construction bids have been received and preparations to proceed are underway.

Estimated Project Costs are as follows:

Project Element	Cost
Engineering	$381,000
Right of Way/Temporary Easements	10,000
Construction	1,725,000
TOTAL	**$2,116,000**

PRIOR ACTION(S):
May 27, 2008 Adoption of the FY 2009 – 2013 Capital Improvement Program, page 47, appropriating $1,116,000
May 26, 2009 Finance Committee

FISCAL IMPACT:
None

CONTACT(S):
Lee Newland, PE, City Engineer, 455-3947
Charlene Montford, Director of Community Development, 455-3902

ATTACHMENT(S):
Resolution

REVIEWED BY: lkp

RESOLUTION:

BE IT RESOLVED that the FY 2009 City Capital Projects Fund budget is amended and $1,000,000 is appropriated, with resources from the VDOT Revenue Sharing Program, to be used for improvements to the expressway retaining wall at Grace Street.

Introduced: Adopted:

Certified: ______________________________
Clerk of Council

051L

LYNCHBURG CITY COUNCIL
Agenda Item Summary

MEETING DATE: **June 9, 2009**		AGENDA ITEM NO.: 8
CONSENT:	REGULAR: **X**	CLOSED SESSION: (Confidential)
ACTION: **X**	INFORMATION:	

ITEM TITLE: **Continuation of the Public Hearing Regarding School Board Appointments**

RECOMMENDATION:

To receive input from citizens regarding appointments (or reappointments) to vacancies that will exist June 30 in each of the three (3) School Board representational districts.

SUMMARY:

The Code of Virginia stipulates that Council may appoint only those nominees or applicants whose names have been considered at a public hearing. The May 26 public hearing was continued in order to allow more time for public input.

PRIOR ACTION(S):

May 12, 2009: City Council Public Hearing
May 26, 2009: City Council Public Hearing

FISCAL IMPACT:

None

CONTACT(S):

Pat Kost 455-3982

ATTACHMENT(S):

None

REVIEWED BY: lkp

047P

LYNCHBURG CITY COUNCIL
Agenda Item Summary

MEETING DATE: **June 9, 2009** AGENDA ITEM NO.: 9

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

ACTION: **X** INFORMATION:

ITEM TITLE: **Future Land Use Map (FLUM) Amendment: Office to Medium Density Residential – 1700 Graves Mill Road**

Conditional Use Permit (CUP) Holly Hills Townhomes – 1700 Graves Mill Road

RECOMMENDATION:
Denial of the *FLUM* Amendment and CUP petitions.

SUMMARY:
JMU, LLC is petitioning to amend the *FLUM* to Medium Density Residential for the subject property and for a CUP to allow the construction of seventy-five (75) townhouses with associated parking and amenities. The proposed CUP would not prevent a limited business use if the housing project is unsuccessful or if the property redevelops in the future. 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. Although the northernmost portion of the property is located within Bedford County, the propose *FLUM* amendment and CUP petition would not effect Bedford's land use or zoning.

Planning Commission recommended denial of the *FLUM* amendment and CUP petitions because:

- The *FLUM's* Office designation for the property is appropriate and is within a geographic location that would allow for an office use to serve residents of the City and adjacent county.
- The specifics of how traffic would enter the site were not defined to the satisfaction of the Planning Commission.
- The Planning Commission had concerns whether the approval of this project would lead to market saturation of townhouses and subsequent overbuilding of a specific housing type.
- Although mass transit service is available on Graves Mill Road, the closest stop is on the opposite side of Graves Mill Road approximately five hundred feet from the entrance. It is highly unlikely residents of this property would be able to use that because of traffic volume on Graves Mill Road.

PRIOR ACTION(S):
May 13, 2009: Planning Division recommended approval of the *FLUM* Amendment and CUP petitions.

May 13, 2009: Planning Commission recommended denial of the *FLUM* amendment (4-1, with two members absent, Hannon and Oglesby)

May 13, 2009: Planning Commission recommended denial of the CUP petition (4-1, with two members absent, Hannon and Oglesby)

BUDGET IMPACT:
None

CONTACT(S):
Charlene Montford 455-3902
Tom Martin 455-3990

ATTACHMENT(S):

- Ordinance
- Resolution

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

REVIEWED BY: lkp

ORDINANCE:

AN ORDINANCE AMENDING THE FUTURE LAND USE MAP FOR THE PROPERTY LOCATED AT 1700 GRAVES MILL ROAD, FROM OFFICE TO MEDIUM DENSITY RESIDENTIAL.

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

Section 35.1-76.____. Amend the Future Land Use Map for the subject property at 1700 Graves Mill Road from Office to Medium Density Residential.

The area embraced within the following boundaries . . . .

BEGINNING AT AN IRON PIN ON THE NORTHERN RIGHT OF WAY OF GRAVES MILL ROAD, BETWEEN THE LANDS OF AGO PROPERTIES (TM# 240-13-05 AND TM# 240-14-01 RESPECTIVELY); THENCE N78°47’W 50.00’ TO AN IRON PIN; THENCE N3°20’E 200.00 TO AN IRON PIN; THENCE N0°36’E 317.00’ TO AN IRON PIN; THENCE N88°16’30”W 174.51’ TO AN IRON PIN; THENCE N3°20’E 158.32’ TO AN IRON PIN; THENCE S80°10’W 51.35’ TO AN IRON PIN; THENCE N3°20’E 560.65’ TO A STONE; THENCE N63°30’E 62.00’ TO AN IRON PIN; THENCE S53°28’E 630.47’ TO AN IRON PIN; THENCE S29°51’W 95.94’ TO AN IRON PIN; THENCE S30°50’20”E 178.95’ TO AN IRON PIN; THENCE S3°20’W 256.29’ TO A POINT; THENCE S77°31’59”W 369.74’ TO A POINT; THENCE S 0°36’W 120.92’ TO A POINT: THENCE S3°20’W 200.00’ TO THE POINT OF BEGINNING. CONTAINING 9.56 ACRES +/-. BOUNDARY INFORMATION PER PLAT BY HURT AND PROFFITT, INC., DATED JULY 11, 1986 RECORDED IN PLAT CABINET 2 AT PAGE 273 IN THE CITY OF LYNHBURG.

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

Adopted:

Certified: ________________________
Clerk of Council

058L1

RESOLUTION:

A RESOLUTION GRANTING A CONDITIONAL USE PERMIT TO JMU, LLC TO ALLOW THE CONSTRUCTION OF SEVENTY-FIVE (75) TOWNHOUSE UNITS WITH ASSOCIATED PARKING AND AMENITIES AT 1700 GRAVES MILL ROAD.

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF LYNCHBURG that the petition of JMU, LLC to allow the construction of seventy-five (75) townhouse units with associated parking and amenities at 1700 Graves Mill Road be, and the same is hereby, approved subject to the following condition:

1. The project will be developed in substantial compliance with the concept plan for Holly Hill Townhomes, prepared by James C. May and Associates, dated April 1, 2009 and received by the Department of Community Development on May 7, 2009.
2. The townhouses will be constructed within substantial compliance with the photographic renderings submitted by JMU, LLC as part of the concept plan and received by the Department of Community Development on May 7, 2009.
3. A left turn lane will be installed on Graves Mill Road to facilitate turns into the driveway of the site. The City will consider an alternative design that provides this directional movement in a safe and efficient manner, subject to the review and approval of the City's Transportation Engineer.
4. The requirements of the Scenic Corridor Overlay District, as defined by Section 35.1-43.3 of the City's *Zoning Ordinance*, will apply to the entire property at 1700 Graves Mill Road.
5. The petitioner will secure a twenty (20)-foot utility easement for the extension of the public sewer line from the existing public line to the property. All City reimbursements for the extension will be in accordance with City policy.

Adopted:

Certified: ____________________________
Clerk of Council

058L2

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

To: Planning Commission
From: Planning Division
Date: May 13, 2009
Re: **FUTURE LAND USE MAP (FLUM) AMENDMENT: Office to Medium Density Residential, 1700 Graves Mill Road**
CONDITIONAL USE PERMIT (CUP): Holly Hill Townhomes, 1700 Graves Mill Road

I. PETITIONER

JMU, LLC, 316 Breezewood Drive, Lynchburg, VA 24502
Representative: Ed Ewers, James C. May and Associates, P.C., P.O. Box 718, Lynchburg, VA 24501

II. LOCATION

The subject property includes one (1) tract totaling ten and seventy-two hundredths (10.72) acres at 1700 Graves Mill Road.

Property Owner: AGO Properties, 416 Howard Drive, Lynchburg, VA 24503

III. PURPOSE

The purpose of this petition is to allow the construction of seventy-five (75) townhouses with associated parking and amenities.

IV. SUMMARY

- The *Comprehensive Plan* recommends an Office use in this area. Adjacent land uses as designated on the *FLUM* include a combination of Low Density Residential, Employment 2, Resource Conservation and Medium Density Residential. The petition would change the *FLUM* designation for this area from Office to a Medium Density Residential land use.
- Petition agrees with the *Zoning Ordinance* in that townhouses are permitted in a B-1, Limited Business District upon approval of a CUP by City Council.

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

V. FINDINGS OF FACT

1. **Comprehensive Plan.** The Lynchburg *FLUM* recommends an Office use for this area. Office uses are intended for small-scale office buildings with floor plans not exceeding twenty thousand (20,000) square feet and buildings not exceeding four (4) stories. **[page 5.4]** The petitioner proposes to amend the *FLUM* to Medium Density Residential for the subject property. Medium density residential is characterized by small-lot single-family detached housing, duplexes and townhouses at densities up to twelve (12) units per acre; the concept plan provides for a density of seven and nine tenths (7.9) units per acre. The Medium Density Residential designation also provides that where neighborhoods already exist, infill development should be at a compatible density and housing type.

   The Neighborhoods and Housing chapter of the *Comprehensive Plan* establishes a goal for the City to "promote the construction of new housing and rehabilitation of existing housing to satisfy the demands of an increasingly diverse local and regional housing market" **[page 10.12]**, as well as "encourage higher rates of homeownership among low- and middle-income residents." **[page 10.14]** The plan also emphasizes the need to "promote the … re-creation of mixed use residential communities that incorporate a mix of housing types with pedestrian oriented streets, small-scale neighborhood oriented office and commercial uses and neighborhood parks and squares" by "encourage[ing] a range of housing types in appropriate locations." The proposed townhouse units would be marketed as single-family attached homes "for sale," providing a housing option not currently available within this area; adjacent residential uses include single-family detached homes, multi-family apartments, assisted living and independent living facilities. The project design provides for a buffer along the southern property line of the adjoining property that is proposed for future office development, as well as along the northeast property line adjacent to the single-family neighborhood. The project would also incorporate pedestrian features along the entrance to the property that is shared with the nearby apartments.

The Economic and Employment Area chapter of the *Comprehensive Plan* prompts staff to "identify areas of the City with the potential, through redevelopment, to support the expansion of existing and the attraction of new industrial and office development." **[page 9.6]** Planning staff asked the Department of Economic Development to review the project with regard to the potential land use change for the area. Economic Development had no objection to the proposed townhouse project, noting that the CUP did not prevent an office use if the housing project is unsuccessful or if the property redevelops in the future. They also noted that the concept plan indicates the petitioner's intent to use a portion of the property for a future office development.

Existing land uses within this area include a combination of single-family and multi-family residential units, commercial businesses and industrial properties. The adjacent zoning includes a mixture of low density residential, limited commercial and light industrial zoning for all of the neighboring properties and the *FLUM* designates Office, Low Density Residential, Employment 2, Resource Conservation and Medium Density Residential uses within the immediate vicinity. The proposed *FLUM* and CUP petitions would allow for the residential development of the property while preserving the option for commercial office uses to operate if the housing project is unsuccessful or if the property redevelops in the future. In addition, the proposed townhouses would provide a number of residences to support the businesses within the area, as well as provide a land use transition area between the existing single-family residential uses and the adjacent multi-family apartments and commercial businesses.

2. **Zoning.** The subject property was annexed into the City in 1976. The existing B-1, Limited Business 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 January 11, 2005, City Council approved Millside Development, LLC's CUP petition to allow construction of a Cluster Commercial Development (CCD) that would include approximately thirty-five thousand (35,000) square feet of office space, an independent living facility with approximately one hundred and twenty (120) units and common use parking facilities.
   - On July 13, 2004, City Council approved a Home Depot's CUP petition to allow fill within the limits of the one hundred (100)-year floodplain at 1200 Graves Mill Road.
   - On August 13, 2002, City Council approved Miller-Motte Technical College's CUP petition to allow the petitioner to establish a technical college for up to two hundred and fifty (250) students at 1011 Creekside Drive.
   - On December 12, 2000, City Council approved Lowe's Home Centers, Inc.'s petition for a CUP to allow fill within the limits of the one hundred (100)-year floodplain at Creekside Drive and Graves Mill Road.
   - On September 12, 2000, City Council approved First Assembly of God's CUP petition to construct a church and parking area at 1208 Graves Mill Road.
   - On January 12, 1999, City Council approved Petrie, Dierman and Kughn's petition to rezone several parcels in the Creekside area from B-5C, General Business District (Conditional) to B-5C, General Business District (Conditional), and a CUP petition to permit fill within the limits of the one hundred (100)-year floodplain to allow construction of a retail development.
   - On August 12, 1986, City Council approved Hutter Associates, Inc.'s petition to rezone approximately sixty-three (63) acres in the Creekside area, from R-1, Single-Family Residential District, to B-5C, General Business District (Conditional), and R-4, Multi-family Residential District, to allow speculative development of commercial and multifamily uses.

- On April 14, 1981, City Council approved Iseman's petition to rezone approximately eight (8) acres at the end of Omega Drive from R-1, Single Family Residential District, to R-2C, Single Family Residential District (Conditional).

5. **Site Description.** The subject tract includes just over ten and a half (10.5) acres of undeveloped forestall land, with approximately fifty (50) feet of road frontage along Graves Mill Road. The property is bound to the north by a combination of vacant commercial properties and single-family homes within the Maple Hills neighborhood; to the east by vacant commercial property and the Millside Centre CCD; to the south by multi-family apartments, commercial buildings and the Millrace Industrial Park; and to the west by multi-family apartments, commercial buildings and vacant commercial property.

6. **Proposed Use of Property.** The petitioner proposes the construction of seventy-five (75) townhouse units with associated parking and private amenities. The site is served by City water; however, public sewer is not available to the site and it will be the responsibility of the petitioner to secure the necessary easements to extend this service to the property. Once the easement is obtained, the City would extend the public line to the property and the developer would install the private service lines for the individual units.

   A portion of the property is within the limits of the Scenic Corridor Overlay District (SCOD) and staff recommended that the standards of the district be applied to the entire property. The petitioner's concept plan proposes two (2)-story units that would be a combination of brick and vinyl. The building options would provide for some of the townhouses to have basements; in addition, units fourteen (14) through twenty-five (25) would provide for a private drive and lower level garage in lieu of a basement. Sidewalks and crosswalks will be provided to common areas throughout the site and a private recreation area with walking trails would be incorporated into the layout. Landscaping for the development will comply with the requirements of the City's *Zoning Ordinance*. Landscape requirements include street trees, parking area landscaping, parking area screening, vegetative buffer plantings, foundation plantings and utility area screening. In addition, the concept plan indicates a landscape buffer along the rear yard of units one (1) through thirteen (13) to screen them from the proposed future office area and Graves Mill Road. The design also includes a fifty (50)-foot stream buffer along the unnamed tributary of Tomahawk Creek that bisects the property.

7. **Traffic, Parking and Public Transit.** The City's Transportation Engineer required a traffic study to determine what improvements, if any, would be required to handle additional traffic from the proposed residential development. Following his review of the study, he determined the following:

   1) From a capacity standpoint, the driveway intersection with Graves Mill and the intersection at Graves Mill Road and Millrace will operate satisfactorily with traffic from the project.

   2) A right-turn lane into the site is not warranted.

   3) Due to the high traffic volumes on Graves Mill Road, a left-turn turn lane is warranted; the left-turn lane would be on Graves Mill Road turning into the project driveway. The City recommends that the petitioner acquire an easement through 1658 Graves Mill Road such that access would then be available at the traffic signal. The City will consider an alternative to a left-turn lane that provides this directional movement in a safe and efficient manner; however, this option must be approved by the City.

   4) Sight distance is adequate in both directions.

   Parking requirements for the proposed development are set at two and one half (2.5) spaces for each residential unit by the City's *Zoning Ordinance*. The proposed seventy-five (75) townhouses would require a total of one hundred eighty-eight (188) parking spaces. The concept plan indicates one hundred eighty-nine (189) surface parking spaces and twelve (12) garage spaces would be provided for a total of two hundred one (201) total spaces, thus meeting the requirements of City Code.

   Greater Lynchburg Transit Company's (GLTC) Route 7 runs along Graves Mill Road with a bus stop approximately five hundred (500) feet from the entrance to the site at the intersection of Millrace Drive and Graves Mill Road. However, access to the existing stop is limited since potential users would need to cross Graves Mill Road to reach the stop.

8. **Stormwater Management.** New impervious area for the project exceeds the one thousand (1,000) square foot threshold for stormwater management; as such, a plan to address water quantity and quality of the surface water run-off would be required for the construction. Stormwater from the development would be

directed to two proposed detention ponds before being released into 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 basins. Stormwater quality would be addressed through a variety of best management practice options including, but not limited to, vegetated filter strips, grassed swales and bioretention basins that will filter the surface water and promote infiltration.

9. **Emergency Services.** The City's Fire Marshal noted the original design provided for driveways to units one (1) through thirty-seven (37) that exceed the length permitted by fire code. The concept plan has been revised to provide a fire lane connection between the two (2) respective drive aisles. The revision is acceptable to the Fire Marshal.

   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 for the area at the end of the building to deter criminal activity. It was also noted that the pedestrian crosswalks should be clearly marked and a raised crosswalk (speed cushion) was recommended on the main drive to slow traffic entering the complex. The petitioner has incorporated a raised crosswalk, as well as painted crosswalks, into the revised concept design and final lighting layout would be determined during the site plan and building plan review processes, respectively.

10. **Impact.** The proposed addition of seventy-five (75) residential units has potential impacts to the surrounding area that must be considered. The petitioner's traffic study noted even though the number of trips generated by the development is relatively slight, the additional trips coupled with the existing traffic volume on Graves Mill Road would require a left turn lane for the project. Although staff would prefer that this turn lane be aligned with the stoplight at the Graves Mill Road and Millrace Drive intersection, staff recommends that a condition of the permit allow for alternatives that provide for this turn movement in a safe and efficient manner, subject to the approval of the City's Transportation Engineer.

    City Code requires that the project would be served by public utilities. Although public water is available to the property at Graves Mill Road, City sewer must be extended to the property to serve the townhouses. Staff recommends that the CUP define the petitioner's responsibility to secure a twenty (20)-foot utility easement for the extension of the public sewer line from the existing public line to the property. All City reimbursements for the extension would be in accordance with City policy.

    Since a portion of the property is within the limits of the SCOD, City staff discussed options with the designer that would insure the entire project would comply with the standards of the overlay district. The final concept plan incorporates the necessary setback, underground utilities, exterior lighting and architectural treatment standards and staff recommends that the CUP apply these standards to the entire property. In addition to incorporating the SCOD standards, the design also includes landscape screening of the units that would be visible from the public street and adjacent offices, a fifty (50)-foot stream buffer for the stabilization of the Tomahawk Creek tributary and vegetative buffering of the single-family residential properties within the adjacent Maple Hills neighborhood. Although pedestrian access to mass transit is limited from the development, the proposed sidewalks would provide connections for townhouse owners and the apartment residents (that share the common driveway) to the offices and businesses along Graves Mill Road. 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 provide an appropriate residential transition between the adjacent commercial, multi-family and single-family residential properties.

11. **Technical Review Committee.** The Technical Review Committee (TRC) reviewed the preliminary site plan on April 6, 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 JMU, LLC's petition to amend the *Future Land Use Map* from Office to Medium Density Residential at 1700 Graves Mill Road.

Based on the preceding Findings of Fact, the Planning Commission recommends to City Council approval of JMU, LLC's petition for a conditional use permit to allow the construction of seventy-five (75) townhouses with associated parking and amenities in a B-1, Limited Business District at 1700 Graves Mill Road, subject to the following conditions:

1. **The project will be developed in substantial compliance with the concept plan for Holly Hill Townhomes, prepared by James C. May and Associates, dated April 1, 2009 and received by the Department of Community Development on May 7, 2009.**
2. **The townhouses will be constructed within substantial compliance with the photographic renderings submitted by JMU, LLC as part of the concept plan and received by the Department of Community Development on May 7, 2009.**
3. **A left turn lane will be installed on Graves Mill Road to facilitate turns into the driveway of the site. The City will consider an alternative design that provides this directional movement in a safe and efficient manner, subject to the review and approval of the City's Transportation Engineer.**
4. **The requirements of the Scenic Corridor Overlay District, as defined by Section 35.1-43.3 of the City's *Zoning Ordinance*, will apply to the entire property at 1700 Graves Mill Road.**
5. **The petitioner will secure a twenty (20)-foot utility easement for the extension of the public sewer line from the existing public line to the property. All City reimbursements for the extension will be in accordance with City policy.**

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
Mr. Erin Hawkins, Environmental Reviewer
Mr. Uel Hartless, JMU, LLC, Petitioner
Mr. Ed Ewers, James C. May & Associates, Representative
Mr. Rick Read, Coldwell Banker Forehand & Company, Owner Representative

VII. ATTACHMENTS

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

MINUTES FROM THE MAY 13, 2009 PLANNING COMMISSION MEETING (MINUTES HAVE BEEN APPROVED):

a. 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.

Mr. Martin addressed the commissioners with the following comments. The petition proposes the construction of 75 townhomes of mainly brick and vinyl. The property is currently zoned B-1, Limited Business District, which would allow townhomes upon approval of a conditional use permit (CUP). The *Future Land Use Map (FLUM)* recommends an Office use for the property. The petitioner is proposing reserving 1.16 acres on the southern portion of the development for future office development but does propose a *FLUM* amendment to Medium Density Residential for the remainder of the property to allow the townhomes to be in compliance with the *FLUM.* A Medium Density Residential designation would allow single-family homes, duplexes or townhomes with densities of up to 12 units per acre.

City water is available to the site; however, city sewer would only be available upon obtaining an easement from a private property owner most likely in the northeastern corner of the property. This would need to be obtained by the petitioner and would not be obtained by the City.

The petitioner has conducted a traffic study. It does show that the current entrance location would work and a right turn lane would not be warranted; however, a left turn lane would be warranted due to the high traffic volume on Graves Mill Road. The City's Transportation Engineer has recommended, however, that, if at all possible, an easement be obtained somewhere in this area here (Mr. Martin indicated on the site plan) to allow the alignment of the entrance with the existing traffic signal.

Stormwater management would be addressed through the use of two detention facilities located on the property and stormwater quality would be addressed through various bioretention measures.

Bus service is available on Graves Mill Road; however, it is on the opposite side of Graves Mill Road approximately five hundred feet from the entrance. It is highly unlikely residents of this property would be able to use that because of traffic volume on Graves Mill Road.

Chair Hamilton asked for the representative for the petition to come forward. Mr. Jim May and Mr. Ed Ewers of James C. May & Associates came forward, as well as Mr. Mark Hartless, the representative for J.M.U., LLC. Mr. May indicated that the Hartlesses are no strangers to this type of development in Lynchburg and surrounding areas. Mr. Ewers reiterated that it will be a 75-unit townhouse development on the property's existing wooded area. It has a creek running down through the center of it. The developers will be leaving as many of the existing trees on the site as they possibly can. The area along the creek will not be developed at all; it will be left as a natural recreation area with a walking trail. Any place where there is a residential area will be buffered with an evergreen buffer that the City requires between multi-family and residential areas, so that the people in the single-family areas will be least affected by the development. There will be a City sewer and water system put in by the developer.

The site has been vacant for six or seven years. Mr. Ewers provided some photos of what the property looks like now and what the townhomes will look like. There is trash in areas, as well as downed trees. The townhomes will be two-story townhomes. There will be landscaping. They believe it will be an improvement to the site from what is there now. As planning staff's report states, it will be a transition area from the commercial area on Graves Mill Road to the single-family residential area. All City standards will be met, as well as all fire services.

Mr. Hartless stated that they feel it will be a benefit to the community and will be an improvement over what is there now. He really wants to do something positive that fits a need that is not being met right now by trying to keep them as affordable as possible. They will not get carried away with the overall design of the product, but at the same time maybe offer some amenities in the area, such as a common area that will be beneficial to the entire site.

Mr. Rick Read of Coldwell Banker came up next to speak in favor of the petition. He represents the seller. He has had this property since August 2004. He has had numerous people look at it, none of which have looked at it for an office use or any use that is allowed in B-1. Everyone that has looked at this property has either wanted to do this type of development or multi-family for rent. He thinks that this is a good use for the property and a chance to get a property developed that has been on the market for a long time with no interest other than what is being proposed.

Mr. Read asked Mr. Martin if the left turn lane is possible without picking up some right-of-way on either side of Graves Mill Road. Mr. Martin said he was not sure. Mr. Read also wondered about the Scenic Corridor Overlay District requirement for the whole property. He asked if the entire property falls within that district because the property slopes down and away from the road. As you ride along the road, you will not be able to see down into the property. It seems to him that might be a little stringent of a requirement for something that cannot even be seen from the road.

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 to the petition. Ms. Ann Scott of 109 Omega Court came forward. She is here on behalf of the homeowners of the Maple Hills subdivision to read a prepared statement about the proposed project. Before reading the statement, she mentioned that the pictures that were shown by Mr. Ewers are not the view that they get from their community. The woods there are absolutely gorgeous and they have never seen anything like what is represented in the pictures.

She read the following statement: "We oppose the rezoning of the property located at 1700 Graves Mill Road from zone B-1, and we specifically oppose the granting of a *Future Land Use Map* amendment and a conditional use permit for the express purpose of building a townhome complex on the site. We consider the building of a townhome community on that site an encroachment on our quality of life, a detriment to our property values and an infringement on our right to own homes in the type of community we choose—not in a community that is forced on us.

Maple Hills is a quaint, family friendly, tree lined little community. It is truly a diamond in the rough, and we feel like we are under attack. Communities like Maple Hills are being systematically destroyed by claims of developers providing home solutions. Lynchburg has become saturated with townhome communities that promise to promote an increase in home ownership, some of which are located only four minutes from the proposed site and many of which remain unsold and have become rental units. The City may be better served by developers concentrating on the rehabilitation of existing houses and abandoned buildings, not adding more buildings to the problem.

We, the residents of Maple Hills subdivision, are vested in our community, the developers are not. The developers get to construct this unit and go home, probably to homes that don't back up to townhome complexes. Our neighborhood has barely over 100 homes; this proposed project will completely overpower this community. We love our neighborhood. We look out for each other's children and pets. We feel safe walking at any hour of the day. We respect each other's privacy, but at the same time we are there when a neighbor is in the need. Isn't that what a community should be? If approved, this project would change the dynamic of this neighborhood.

When we bought our homes in this neighborhood, we researched the surrounding properties. We knew the property located at 1700 Graves Mill Road was zoned B-1 for business and office use, so we felt safe purchasing. There is absolutely nothing wrong with communities like Wyndhurst, but if we wanted to live in a Wyndhurst-like community, we would have bought homes there. If this proposal is approved, we will fundamentally and against our will be forced to live in the very type of community that we did not wish to live in and we would literally have been forced to buy property where we did not want to own property. We neither want to live or own a home in a neighborhood with a townhome complex—in some cases, less than fifty feet away. That is not what we purchased.

Unlike the developers, we are not asking the City to change anything. The property already corresponds perfectly with the City's plan for development in the area and it meets the *Future Land Use Map* recommendation. We are trusting the City to honor the public process that allowed this area to be zoned for business and office use and are asking you not to change it. The economic and employment portion of the City's *Comprehensive Plan* supports new industries and office developments, not townhome development, in this area. Lynchburg needs businesses and industries that will supply hundreds of sustainable jobs before people can even consider buying homes. This project will not add hundreds of sustainable jobs, but it will add to the already oversaturated townhome market. There may have been a need for this type housing a few years ago. Surely that need has been met. More and more people are leaving the City to get away from this type of development. Our homes are literally one block from the Bedford County line. Many of us agree it would have been very easy to buy homes in Bedford County, but we wanted to live in Lynchburg, even with Lynchburg's higher property taxes. Many of the people who would purchase townhomes are looking outside the City because of these taxes and now those of us who can afford to pay these taxes are being driven out as well. At some point, the revenue from these developments can't be worth it and they should never be at the expense of what makes people want to live here.

We realize the owner of 1700 Graves Mill Road has a right to develop this property but only within the current zoning and certainly not to the detriment of the surrounding property. We are not lawyers. We don't have the money to fight big businesses or in some cases, we don't even have the money to move and in actuality, we shouldn't have to. Surely democracy dictates that we the people have some rights and all these people in this small little community cannot be wrong. Why should we not expect the City to honor the current plan that it has set forth for that area and not change the zoning? If we keep going in this direction that we are going, Lynchburg is going to lose what makes it such a special place to live and one of those things that make it so special is little communities like Maple Hills. We are asking that you vote no to the desecration of our community, no to the petition to rezone the property located at 1700 Graves Mill Road, no to the *Future Land Use Map* amendment and no to the conditional use permit for the express purpose of building the townhome complex. And I thank you very much."

Chair Hamilton thanked Ms. Scott and asked for anyone else present to speak in opposition to this petition. Mr. Sherman Thomas of 1714 Graves Mill Road came to speak next. His opposition to this plan is traffic. We already have a problem on that road with traffic. With the four lanes there already, they have a problem getting in and out of their driveway. The speed limit is high and there are speeders that come through there. The speed limit is 35 mph in front of his house, but you have cars coming through there doing 55 mph and people trying to get out of their driveways. Now you are talking about, right adjacent to his property, putting in an exit for 75 more homes that will be coming out on Graves Mill Road. He wanted to know what the City's plans are for the traffic. At the bottom of the hill with Old Graves Mill Road—the new cut behind the insurance company—you have a hydroplaning situation when it rains. You haven't looked at the real far ranging effects of what the new projects are doing as far as the roads and traffic and drainage. Where is the water going to flow? This is what he is concerned about and what about the people who have single-family homes. Are you all going to force us out? Are you all going to buy our property? We didn't want to live with townhouses. You are going to have a lot of people moving in and out with townhouses. He has known some of his neighbors for over thirty years. That is not going to be true of these townhouses. He already has problems with the townhouses directly beside him with people coming in and out. There is also a problem with the trash.

Mr. Bill Haynes of Maple Hills subdivision came up next to speak in opposition to the petition. It is very easy for him to understand how a developer would want to look at this beautiful wooded area and want to build something there. He understands the motivation and doesn't blame him. What is less easy for him to understand is why the City would go back on its promises and betray those who thought they were going to an area that was not going to change. It is a very simple question of honesty, prediction and performance of what was committed before. The *Future Land Use Map* looks very sensible to him. He questioned the comment in the report as this development being a sensible land use transition between commercial properties and single-family homes. To him, the ideal land use transition is the beautiful forest that is there. He felt that they had lost the argument with the Planning Commission and what they will do. As far as the residents are concerned, this is the opening battle of what is going to be a campaign to City Council.

Chair Hamilton thanked Mr. Haynes and told him they had not lost any argument yet. The commissioners are still hearing from everyone.

Mr. Jay Park of 107 Omega Court came forward next to speak in opposition to the petition. He has resided there for about five years and has four children. They moved there because of the wooded area. It was something that was affordable and had good school systems that provide a great education to his children. It gives them a buffer from the activity that is going on and they have wildlife as well, and they enjoy it. He has some concerns about the runoff. He has a creek that has timbers falling into it. With any more trees taken off and more runoff, which he thinks this development could cause, it would erode even more. It would do negative impact to his land. He also understands that there may be a connection road that would be hooked up to Woodbury, but he was informed that there would not be. His opposition is that he is not sure that it is the best use of the land. He thinks we have enough townhomes in our community. He sees them all over. He is not an expert at saturation levels. He would not say that it is saturated, but he feels that there are enough out there. He hates to have the amenities of where he lives taken away. He likes the City schools and doesn't want to have to move, but he will do what is best for his family if his hand is forced.

Chair Hamilton asked if anyone else wished to speak in opposition. No one came forward. She asked for a show of hands of those in opposition, and five people raised their hands. She then asked for Mr. May, Mr. Ewers and Mr. Hartless to come back up and address these concerns

Mr. Hartless commented that he has heard some valid concerns. He has also heard some reasons why people chose the Maple Hills area, such as affordability and things of that nature. That is what they are trying to extend to others as well. The City has to rely on a certain number of people for its taxes. He researched this project and pored through a lot of the City's challenges that are stemming from the millions of dollars it costs the City in sewer and water and infrastructure projects and maintenance. The revenue has to come from somewhere. If we can't increase the tax base, the burden will bear even more on those of us who already live in the City.

Mr. Ewers commented on the increase of runoff. There are City requirements that you cannot release any more runoff from the property than the predevelopment rate. The amount of water that is running off would require calculations and there will be stormwater detention ponds that will contain this water and only release the same amount of water that is running off now. Someone mentioned the photos, and these were taken just the other day. Of course, it is a nice treed area right now. It could be developed as offices or business, and they could be built right up against the property line and they wouldn't have to have the buffer that they are leaving. They are leaving a fifty-foot setback from anyone in Maple Hills and they are planting a 20-foot evergreen buffer. In the winter, they will see whatever is laying on the ground now. The buffer would keep them from seeing any of the townhomes.

A traffic impact study was done by a qualified group. It was determined that the amount of traffic coming out onto to Graves Mill Road would not be detrimental. The location of the entrance is in a place where the sight distance is okay in both directions for people coming in and out. The City is also talking about adjusting the timing of the light at Mill Race Court, so it would stop traffic for a longer period of time and allow people to get in and out of their driveways. The owner would also like to apply to VDOT or the City at some time to reduce the speed limit to serve the entire community. This has been designed so that there is no adverse effect on Maple Hills. They are directing the flow of traffic out of there and buffering it as much as they can.

Mr. May addressed the economic concerns. There are young people who have given up their single-family homes and moved back in with their parents. This is a sign of the times. We hope that we are at the bottom of this recession, but we can't live like an ostrich. We have to look ahead and the Hartless family is looking ahead. There is a need for affordable housing. The time of the $250,000 townhouse and anything in that range is not gone, but right now, they are not selling. The proposed selling price of these townhomes is in the area of $110,000 to $130,000. They feel that with that goal and the $8,000 credit that is available to first time homebuyers, this will be a facility that is not already available in Lynchburg. It could soon be available if Planning Commission and City Council agree that this is a worthwhile project. The developers have agreed to invest their money to meet what they perceive to be a real need.

Chair Hamilton invited Ms. Scott back up for a rebuttal. She commented that they had limited time to respond to this project. The developers have months to plan these types of things and what they are going to say and do. These procedures seem to be stacked against homeowners and the ordinary person because they didn't have a lot of time to research. However, there are currently about 200 townhomes for sale in the City of Lynchburg. They also researched a few things from realtors. People who would buy townhomes are leaving the City because they can't afford the taxes. Those of us who can afford to purchase homes and pay taxes want to live the way they want to live and not have projects forced on them so that we make the decision to leave the surrounding area.

She is sure they will be nice townhomes and she is sure that the intent is to put them up for sale. But in reality, they will be like the other townhomes in the City; they will turn into rental units and people are going to be coming and going. She pointed out the buffer area on the site plan and where her house is. She could sit in her kitchen and throw a biscuit across the stream, which is actually eroding from all the runoff. Runoff comes in her yard from three directions. It runs down the hill into the back of her yard. It runs from the cul-de-sac into the back of her yard and it runs from a four-foot corrugated tube that belongs to the City and is in her yard. Every time we get a heavy rain, that creek floods and she gets erosion and runoff. Her retaining wall is leaning over. There is nothing they can do about it. They bought the house knowing that the sewer is on the property, that the tube is on the property and that the stream may be eroding the land. But they bought the land for the feel of the community. They do not want to lose that feel. Just as much as the owner has a right to develop the property, they have a right to buy what they thought they were buying. They knew that this property was zoned for business. They trusted that it would not change. They live with their business neighbors on both sides. They are sandwiched on both sides by highways. They tolerate it because they love their community. She is asking them not to change it. She also pointed out that there will be foot traffic through their property to get from one highway to the other.

Chair Hamilton closed the public hearing portion of the petition. She asked for any initial questions from the commissioners.

Commissioner Swienton asked Ms. Scott to come back up for questions. He asked her if she was speaking on behalf of the neighbors and she said she is. Commissioner Swienton commented that this property is currently zoned for business and the *Comprehensive Plan* calls for it to be Office use. He asked her if it was developed according to current zoning and/or according to the *Comprehensive Plan*, would she or any of her neighbors have any objections to that. She said absolutely not. They would not try to tell the owner that he cannot develop his property. They live with businesses above them with no problem.

Commissioner Sale commented that she had mentioned a current market of 200 townhouses. How many are available for sale in a five-mile radius of this area? Ms. Scott said they had not had time to actually count how many are in the 02 zip code. They do know there are over 400 homes for sale in the 02 zip code. Ms. Scott said that she and others had driven around though, and within five minutes in any direction, you can reach a townhome development with empty units.

Commissioner Sale asked Mr. Read to come back up for questions. Commissioner Sale asked him if his testimony is that the *Future Land Use Map* for this area is wrong. Mr. Read said that is correct because it is not desirable for office use. He said that is due to the lack of visibility. It is down from Graves Mills Road. Also, the accessibility is an issue. On ten acres, you could easily put in ten different office buildings, 100,000 square feet. You could easily have 500 people working on that site, and there is no way you could handle that volume of traffic out of one entrance. He does not see it ever being an office development. That site was there long before a lot of the office development took place further to the west. This is a fairly attractively priced piece of land. If it is developed as office, you are still going to have the same amount of runoff, unless someone put in a high rise, which is not going to happen. It would have a lot of parking and he thinks you would get more runoff out of an office project.

Commissioner Sale asked him to look at the aerial photo of the surrounding area. He asked Mr. Read if he knew how much of the B-1 zoned area is in actual use. Mr. Read said all the big buildings are in the industrial park and to his knowledge, every one is occupied. The small offices along Graves Mill Road have numerous vacancies. Forest Professional Park, which has eleven buildings, probably has about 10 percent vacant of its over 100,000 square feet. It is one of the most successful projects there from an occupancy standpoint. There is not a great demand, in his opinion, for office space in that area at the present time. Commissioner Sale asked if it was overbuilt for office space. Mr. Read said that if there is a need in office space right now, it is in the larger, maybe 10,000 to 12,000 square feet range. There are a bunch of smaller office spaces. Mr. Read also pointed out that it would be difficult to get financing right now, if you did not already have a tenant. There is not much speculative financing going on right now.

Commissioner Sale asked Mr. Martin about the reference to this project being a transition from commercial to single-family residential. The *Future Land Use Map* did not see that as a need. Economic Development had stated that they did not see this property needed for economic development in the future. Commissioner Sale agrees that these units will probably become rental units. He feels that this project would have a big influence in this community, even though traffic would be coming out on Graves Mill Road. It seems to him that this is more than a transition piece. He asked Mr. Martin why a transition of this nature is important here. Mr. Martin said that the idea was that you would be transitioning from more a commercial office use into the single-family homes. A lot of what Mr. Martin has heard is that they do not mind if the property is developed commercially. The neighbors need to understand that it is not always going to remain wooded. From a planning standpoint, if you can have some transition from a more intense use to single-family, which you would have with the townhomes, it is more reasonable.

Mr. Martin also pointed out the *FLUM* was never intended to be parcel specific and that is why there is the ability to look at these things in detail. That is why you have the ability to grant conditional use permits for residential uses in these commercial zones.

Commissioner Barnes pointed out that at least two years ago, there was a rush of townhome proposals. He remembers that they were talking about how many townhomes were being built. They had a concern at that point. Since that time, there has been a Housing Policy Advisory Committee formed. He asked how this price range of townhomes fit into the City's overall strategy for developing a mix of housing types. He wondered if Mr. Martin or Ms. Montford could respond to that question.

Ms. Montford came forward. She said that this is a very good question and one that they have been having a lot of debate about lately. The City Manager has charged her with developing a housing plan. That has not occurred yet, and it is going to be a focus of her work this year. The City has recently received data because of the recent round of tax credit applications. There have been a couple of market studies done and were given to the City that indicated that there is a need for low to moderate income housing and that the gap for the City of Lynchburg is about 1,600 units. She is in the process of reviewing this data and she will use some of the same methods of gathering data and doing research for the City's housing plan.

Commissioner Worthington asked her where the price break is for low to moderate housing. Ms. Montford stated, in her opinion, it is $75,000 to $110,000. Anything over $110,000 to $175,000 would be moderate to middle income. Commissioner Sale asked her if these studies make a distinction between a single-family residence and a townhouse or is it just a unit. Ms. Montford said it is a unit of that cost. Commissioner Worthington asked Ms. Montford if the study is referring to the City of Lynchburg or the greater Lynchburg area. Ms. Montford said it is referring to the City of Lynchburg. Ms. Montford indicated that this study is public information, so if anyone would like a copy of it, she would be happy to give it to them. She reiterated that it was an independent third-party study, and it was just done in May 2009. Commissioner Sale asked for clarification that 1,600 additional low to moderate income units are needed. Ms. Montford said that is what the study shows.

Commissioner Sale wondered why there are so many on the market that are not being bought. Ms. Montford said that would be the reason that she and others strongly feel that the housing plan needs to be completed because there is a disconnect between the perception and this data. Commissioner Sale pointed out that there is housing being developed as we speak. Ms. Montford noted that City Council just approved five developments for low to moderate income, and we are still getting requests for the middle range.

Commissioner Barnes commented that they often hear, particularly with higher density proposals, that people are concerned with their quality of life and their loss of access to natural resources. One of the things that people value is the accessibility of natural areas. The problem is that a lot of those areas are privately owned and can be developed often by right. People assume that the woods behind their house will remain the same but that is perhaps a false assumption. That really highlights our need to move forward with our vacant land analysis and find out what areas should be developed and what areas should remain natural.

Mr. Martin agreed that they need to move forward with the vacant land analysis. They have actually started working on it. The bigger issue there is that we can look at areas that we may feel are appropriate for conservation but are still privately owned. The City does provide public parks and we also have to look at things like steep slopes, stream valleys and things that are perfectly reasonable to preserve. He does not think that we will be able to identify large tracts of land that could be developed that are privately owned. He is not sure that is appropriate. Commissioner Barnes said that would get into incentive programs. Mr. Martin said you could get into transfer of development rights or some other mechanism.

Commissioner Worthington stated this it is his job as a Planning Commissioner to make a recommendation to City Council. Here is a piece of property that hasn't been developed as B-1. Therefore, should we recommend a different use for it? Due to current economic conditions, it appears that this development probably is the best use for the land. He is not saying that there is a need for it at this time and that there are not other issues. But if someone came to him and asked if this should be an office park or developed as described here, he would probably have to say the latter. That probably makes more sense than trying to figure out how to do an office park. He does not have the data as to whether there is too much or too little of this type of housing. That is an entirely different issue.

Commissioner Swienton thanked Mr. May for giving a very detailed site plan. Often, they do not have as much topographical information and so forth, and he wanted to thank him for a very well designed plan. He wanted to thank Mr. Martin for working it out so that a *FLUM* amendment would be a part of this proposal. He also expressed to Mr. Read that he has the highest integrity for him and that Mr. Read knows the local real estate very well. When Commissioner Swienton looks at this area and looks at the *Comprehensive Plan* and the *Future Land Use Map*, he notes that it does not say Current Land Use Map—what we would like to have today. There are vacant properties around the area. He also noticed that Forest Dental Clinic is fairly recent, as well as two banks. When he looks at that, he wonders if it is possible to have some type of office use there. Granted, it is right on the road frontage; it is not set back. It is very worthy of recognition that if it were office, it would go back quite a ways. There are office parks that he has been in where one drives in and meanders through to get to different areas. So he looks at this as it is possible, although he recognizes Mr. Read's comments that he has not had any offers on the land to do that today. Going back to the *FLUM,* in the future, could that still be a possibility?

It is also one of the last geographical locations left to capture revenues from Bedford County. He is not certain he is willing to trade that card yet. He thinks this is wonderfully designed. It is a well thought out and designed project. He remembers something from his certification training given by Michael Chandler. Are we a development review commission or are we a planning commission? If he were to review this just as a development, he would give it a thumbs up and pass it immediately. When he looks at their role as Planning Commissioners and are we supposed to be planning, then he is deciding whether or not he wants to trade the card for future office use. Right now, he is not.

Chair Hamilton asked Commissioner Swienton if he would like to make a motion. He made the following motion, which was seconded by Commissioner Sale:

"That the Planning Commission recommends to City Council denial of JMU, LLC's petition to amend the *Future Land Use Map* from Office to Medium Density Residential at 1700 Graves Mill Road and

That the Planning Commission recommends to City Council denial of JMU, LLC's petition for a conditional use permit to allow the construction of seventy-five (75) townhouses with associated parking and amenities in a B-1, Limited Business District at 1700 Graves Mill Road, subject to the following conditions:

6. **The project will be developed in substantial compliance with the concept plan for Holly Hill Townhomes, prepared by James C. May and Associates, dated April 1, 2009 and received by the Department of Community Development on May 7, 2009.**
7. **The townhouses will be constructed within substantial compliance with the photographic renderings submitted by JMU, LLC as part of the concept plan and received by the Department of Community Development on May 7, 2009.**
8. **A left turn lane will be installed on Graves Mill Road to facilitate turns into the driveway of the site. The City will consider an alternative design that provides this directional movement in a safe and efficient manner, subject to the review and approval of the City's Transportation Engineer.**
9. **The requirements of the Scenic Corridor Overlay District, as defined by Section 35.1-43.3 of the City's *Zoning Ordinance*, will apply to the entire property at 1700 Graves Mill Road.**
10. **The petitioner will secure a twenty (20)-foot utility easement for the extension of the public sewer line from the existing public line to the property. All City reimbursements for the extension will be in accordance with City policy. "**

Commissioner Sale commented that he was torn about this proposal as well. With the present economic market, there are issues to consider such as how far we will travel, how far we won't, higher density versus lower density. He thinks that Commissioner Worthington's comments about the lack of information rings home for him also. He thinks that we need to have a housing policy with more intentionality than we currently have, which right now is simply responding to development proposals. At this point in time, it is very difficult for us to obtain that housing plan, but he agrees with Commissioner Swienton about being a Planning Commission rather than a development responding group. He has voted in the past for townhouses because of the ambiguity of our housing market. He thinks that this is one of those situations where it is clearly a matter of whether this property should be commercial or residential. He hates to see the trees go down unless we clearly know what we are doing. He thinks that we do need affordable housing. Developers keep pushing us with the market, but Lynchburg does not have a very good plan for how much we need, what is the market and what the market is going to be. He is uneasy about making this decision and is ready to let it sit for a little bit longer.

Commissioner Barnes commented that usually he knows before he comes to a meeting whether he is for or against a proposal. This one he had no idea. He wanted to listen to the arguments and get some questions answered and see where he stood. He has not seen the data that Ms. Montford referenced and he has some concerns about the overbuilding of townhomes. He has concerns with traffic and agrees that it might not be the time to play the card for development of this property.

Chair Hamilton agreed with these comments. She also agreed with Ms. Scott's comments that there are great opportunities to redevelop already greyfield and brownfield sites in the City. To develop this greenfield for something other than business, which is something that this City is in dire need of, seems to her to be the wrong move.

The motion was then passed by the following vote:

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

The City of Lynchburg, Virginia

MEMORANDUM

TO: City Council

FROM: L. Kimball Payne, III, City Manager

DATE: June 3, 2009

SUBJ: Holly Hills Townhomes

The attached letter from the applicant requests that consideration of the Holly Hills Townhomes development proposal be postponed until July 14, 2009. I have consulted with both the Clerk to Council and the City Attorney regarding the request.

This matter has been advertised for a public hearing and there is no reliable mechanism at this late date to advise the public if the public hearing was to be rescheduled. Therefore, it is reasonable to expect that someone may show up on June 9th expecting to speak to this matter. Because of this, it is staff's position that, once the public hearing has been advertised for a land use case, the matter is in Council's hands. Therefore, Council can decide how to handle this matter on Tuesday prior to the scheduled time for the public hearing.

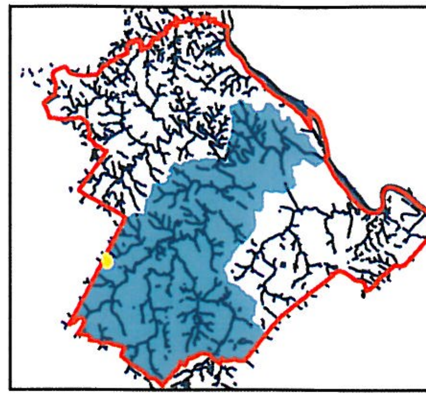
Staff suggests that a reasonable course of action would be, if any members of the public are present, to proceed with the public hearing but leave it open for additional comment from both the applicant and the public on July 14th.

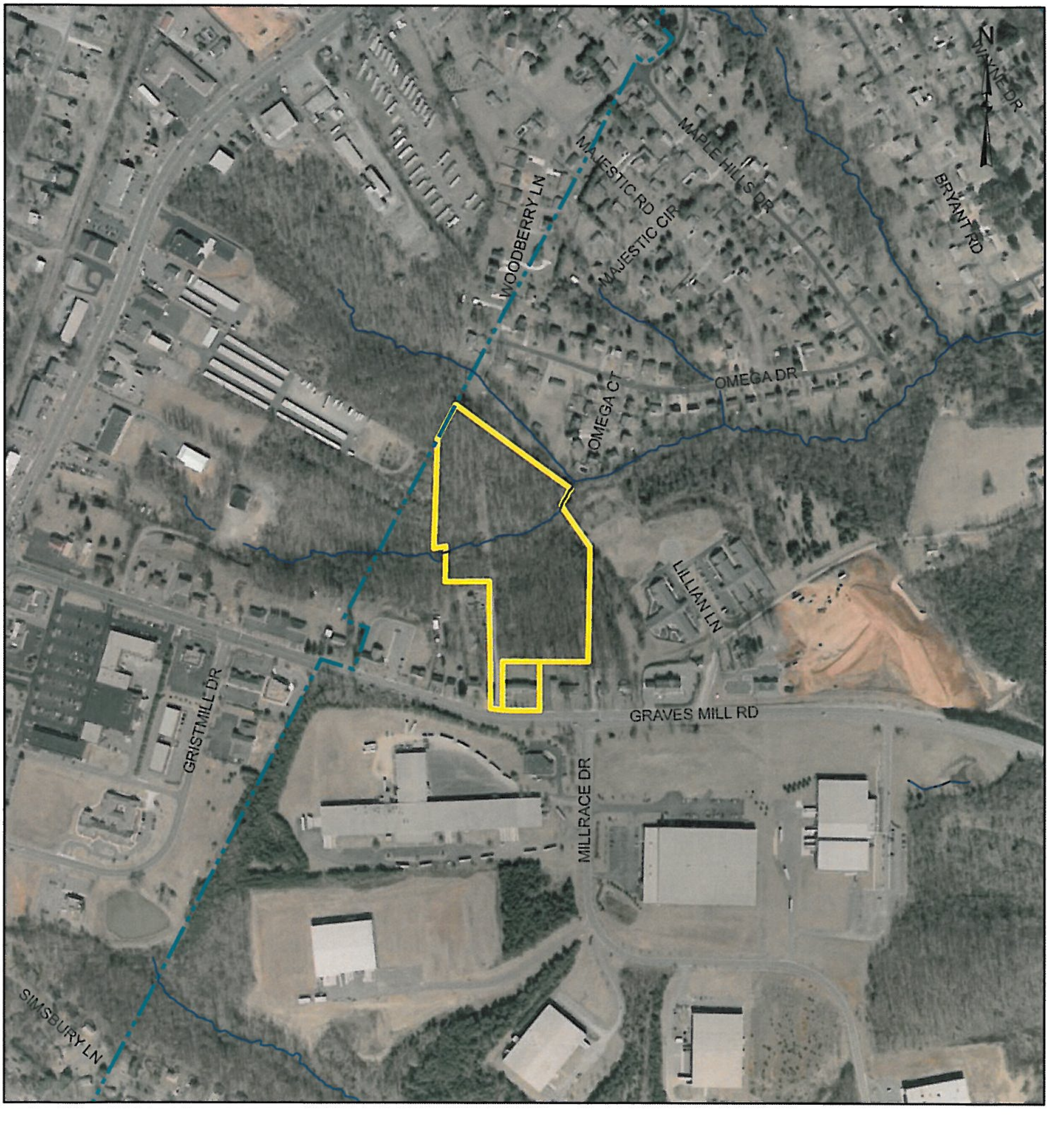
CC: Walter Erwin, City Attorney
Patricia Kost, Clerk to Council
Charlene Montford, Director of Community Development
Tom Martin, City Planner
Kent White, Senior Planner

Attachment

Holly Hills Townhomes
Watershed Location Map

Project Site
Blackwater Creek
Corporate Limit





PATRICIA W. KOST
CLERK OF COUNCIL
CITY OF LYNCHBURG

JUNE 2, 2009

CLERK OF COUNCIL;

THE PETITIONER FOR "HOLLY HILL TOWNHOMES", APPLYING FOR A CONDITIONAL USE PERMIT TO CONSTRUCT 75 TOWNHOMES AT 1700 GRAVES MILL ROAD ON PROPERTY THAT IS PRESENTLY ZONED "B-1" AND WAS ORIGINALLY SCHEDULED TO BE HEARD BY THE LYNCHBURG CITY COUNCIL AT THE JUNE 9, 2009 MEETING, IS REQUESTING THAT THE PETITION WOULD BE HEARD AT THE MEETING OF LYNCHBURG CITY COUNCIL ON JULY 14, 2009.

THIS REQUEST BY THE PETITIONER WILL ALLOW TIME FOR THE DEVELOPER TO ACQUIRE ADDITIONAL INFORMATION CONCERNING THIS PROJECT THAT WOULD BE VALUABLE TO THE MEMBERS OF CITY COUNCIL IN MAKING THEIR DECISION ON THE PETITION.

THIS REQUEST BY THE PETITIONER WILL ALSO ALLOW TIME FOR THE DEVELOPER TO ACQUIRE ADDITIONAL SIGNATURES FROM PROPERTY OWNERS IN ADJOINING SUBDIVISIONS IN SUPPORT OF THE PROPOSED TOWNHOUSE DEVELOPMENT.

THANK YOU FOR YOUR CONSIDERATION OF THIS REQUEST BY THE PETITIONER.

Uel Hartless

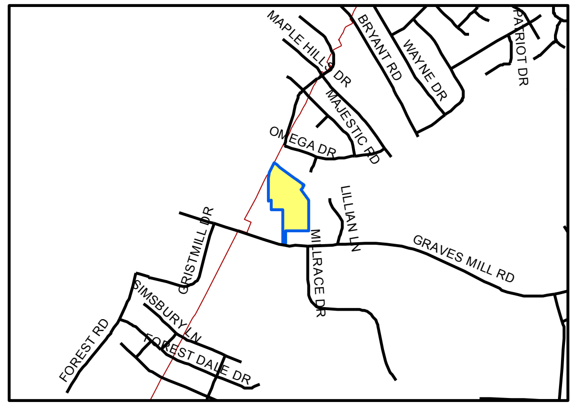
UEL HARTLESS, JMU, LLC

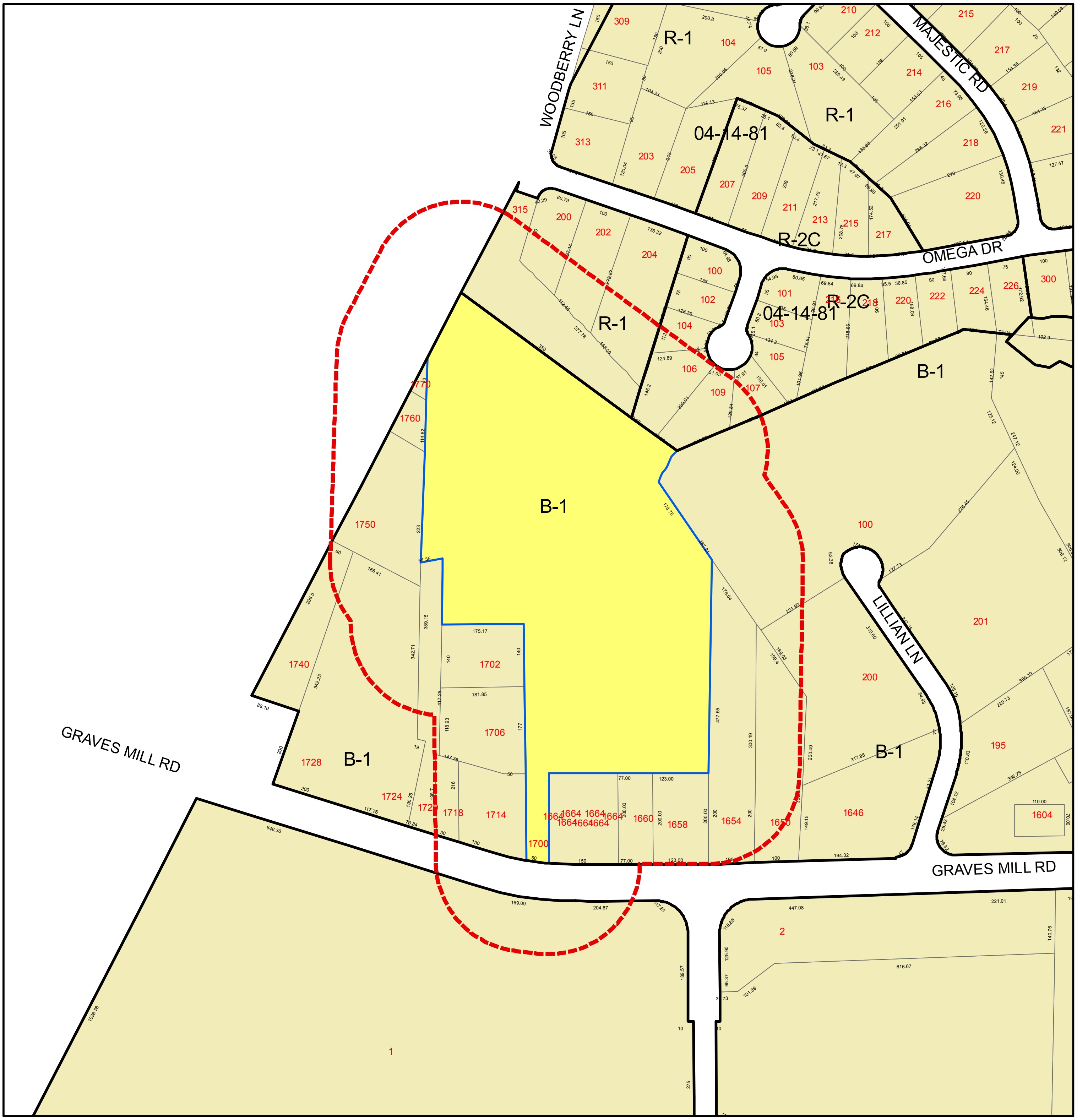
HOLLY HILL TOWNHOMES

1700 Old Graves Mill Road
PIN# 240-14-001
Conditional Use Permit Request
Petitioner-J.M.U. LLC

Subject Property

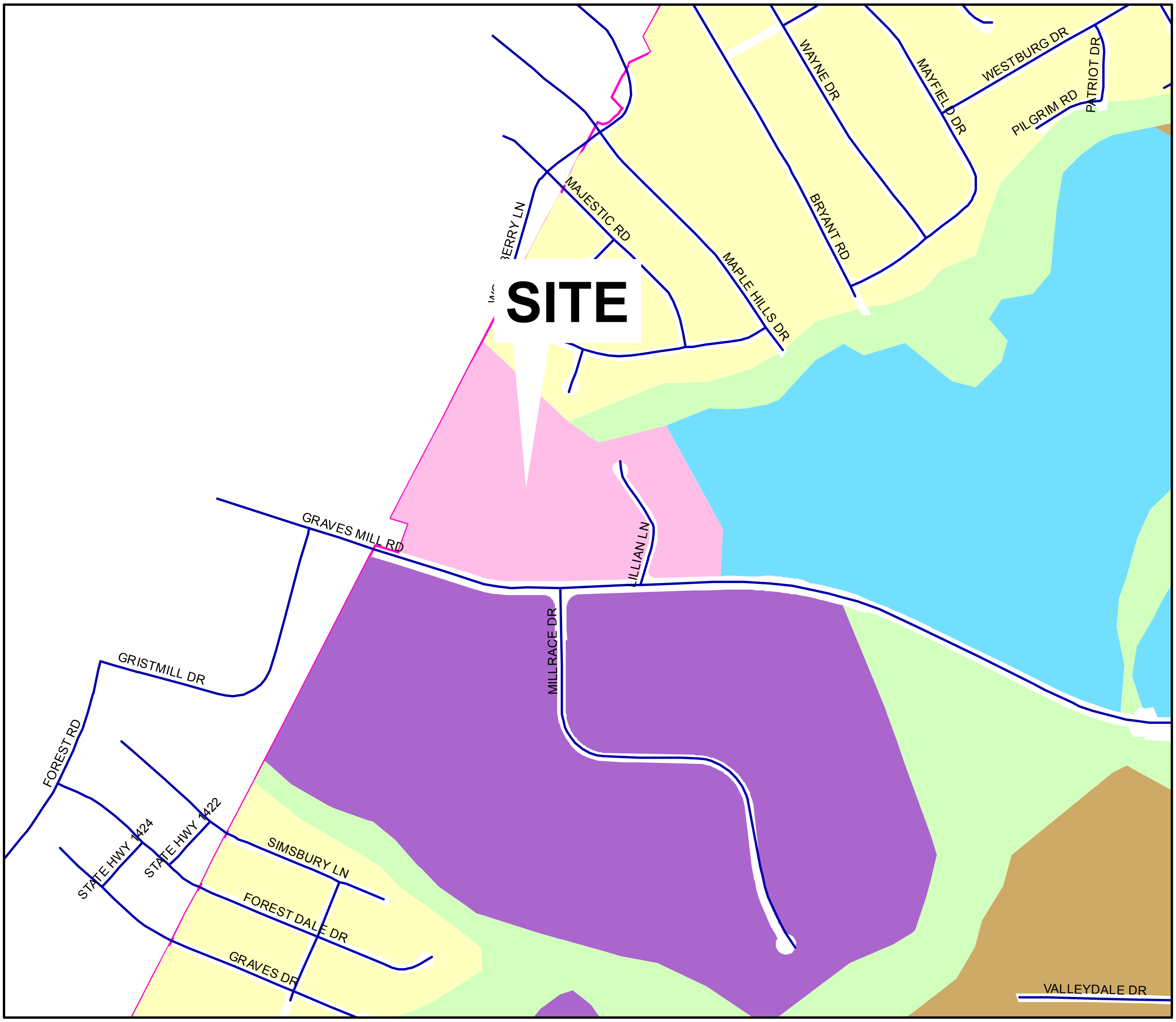
200 FT Buffer





HOLLY HILLS CUP ADJOINING OWNERS

PIN	Owner	LocAddr
24006001	HAYNES JENNY	200 OMEGA DR
24006002	SOVA WALTER H JR & KIMBERLY D	202 OMEGA DR
24006003	STEVENS LEWIS G JR	204 OMEGA DR
24006004	JOHNSON ANTHONY L & PAULA A	315 WOODBERRY LN
24007016	PARKER ELBERT J III	107 OMEGA CT
24007017	SCOTT MICHAEL L & E ANN	109 OMEGA CT
24007018	COFFLIN MICHAEL W	106 OMEGA CT
24007019	KRAL STEPHEN J & CHRISTINE A	104 OMEGA CT
24011001	THREE LYNCHBURG LLC C/O IVAN J NOVICK	100 LILLIAN LN
24012001	TWO LYNCHBURG LLC C/O LINDA HANKIN	200 LILLIAN LN
24013002	WYNNE JOHN L & WYNNE JAMES B TRS	1650 GRAVES MILL RD
24013003	ZECHINI RICHARD R	1654 GRAVES MILL RD
24013004	WEATHERHOLT O VICTOR TRUSTEE	1658 GRAVES MILL RD
24013005	AGO PROPERTIES	1664 GRAVES MILL RD
24013006	THOMAS SHERMAN L	1714 GRAVES MILL RD
24013007	HUDSON GARY D	1718 GRAVES MILL RD
24013008	BURNETTE RONALD F & SHIRLEY D & RONALD F BURNETTE JR	1720 GRAVES MILL RD
24013009	BANK BUILDING CORPORATION	1724 GRAVES MILL RD
24013013	DRY RIVER INVESTMENTS LLC	1740 GRAVES MILL RD
24013014	MARKHAM DILLARD & RUTH B	1750 GRAVES MILL RD
24013015	JWC INC	1760 GRAVES MILL RD
24013016	WEATHERHOLT O. VICTOR TRUSTEE	1660 GRAVES MILL RD
24013017	YEATTS WINFRED N SR & FREDA H	1770 GRAVES MILL RD
24014001	AGO PROPERTIES C/O JOHN O'KEEFFE	1700 GRAVES MILL RD
24014002	BROWN BRYAN W & MILLORA ROSANNA L	1702 GRAVES MILL RD
24014003	BROWN BRYAN W & MILLORA ROSANNA L	1706 GRAVES MILL RD
24015002	NORCRAFT COMPANIES LLC	1 MILLRACE DR
BEDFORD COUNTY		
101A 5 17	JOHNSON ANTHONY L & PAULA J	320 WOODBERRY LN
101 A 40A	JOHNSON ANTHONY L & PAULA J	320 WOODBERRY LN
101 A 44	GREEN DONALD & EMILY	FOREST RD
101 A 45A	BEDFORD FOUR INC	18321 FOREST RD
101 A 45A	GRAVES MILL STORAGE	18317 FOREST RD
101 A 48	MARKHAM DILLARD & RUTH B	18255 FOREST RD
101 A 54	DRY RIVER INVESTMENTS LLC	1804 GRAVES MILL RD
Owner	AGO PROPERTIES C/O JOHN O'KEEFFE	
Petitioner	J.M.U. LLC	
Representative	ED EWERS/JAMES C. MAY & ASSOCIATES	



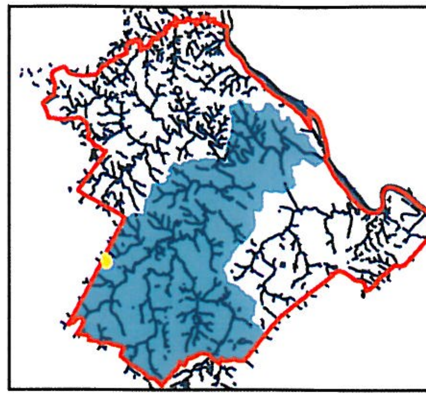
- Traditional Residential
- Low Density Residential
- Medium Density Residential
- High Density Residential
- Neighborhood Commercial
- Community Commercial
- Regional Commercial
- Employment 1
- Employment 2
- Office
- Institution
- Downtown
- Public Use
- Public Parks
- Resource Conservation
- Residential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

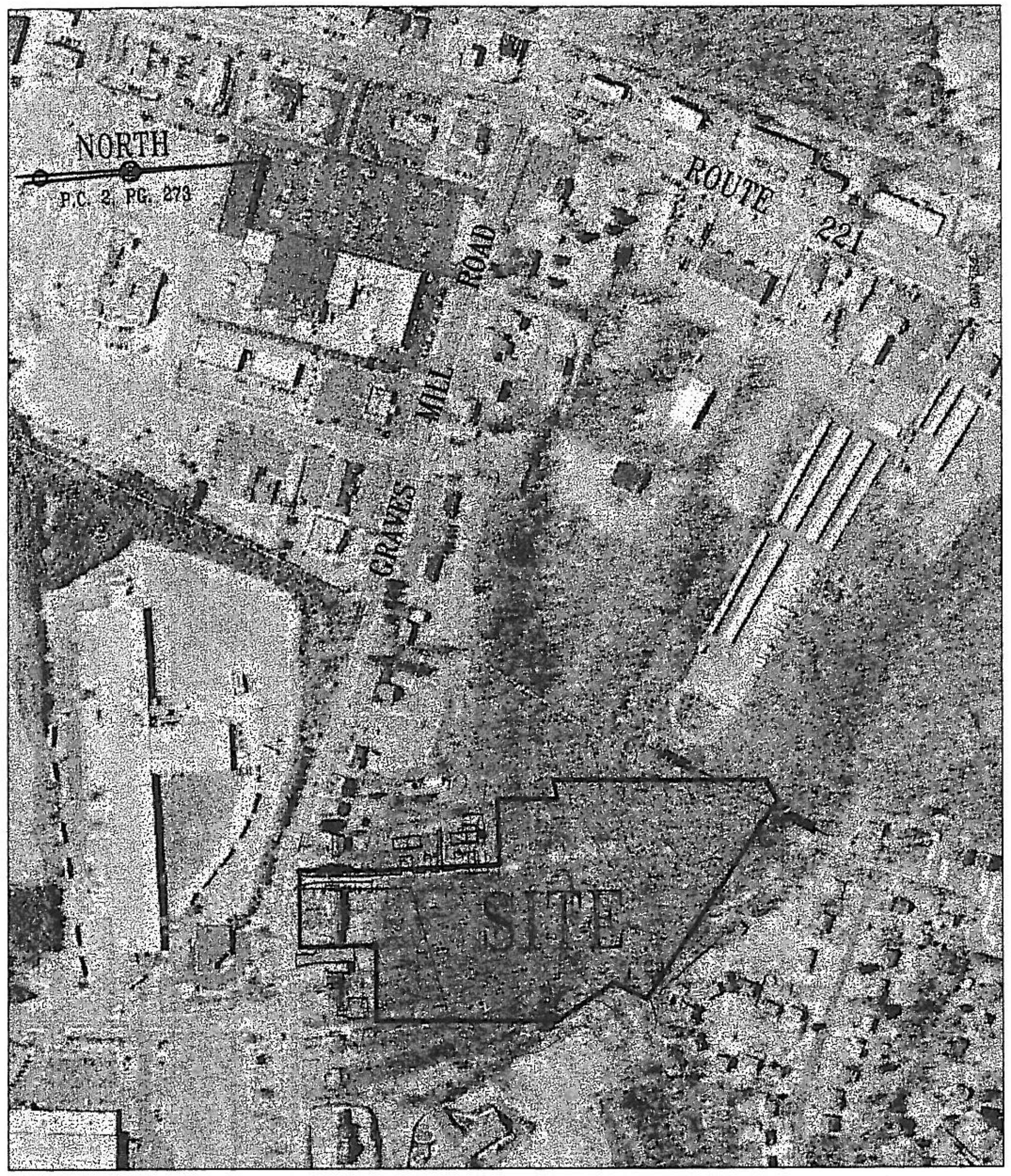
HOLLY HILL TOWNHOMES
1700 GRAVES MILL ROAD
LAND USE PLAN

N

Holly Hills Townhomes
Watershed Location Map

Project Site
Blackwater Creek
Corporate Limit





LOCATION MAP

SCALE : 1" = 500'

GENERAL NOTES:

1. THIS SURVEY HAS BEEN PREPARED WITHOUT BENEFIT OF A TITLE REPORT AND DOES NOT, THEREFORE, NECESSARILY INDICATE ALL ENCUMBRANCES UPON THE PROPERTY.
2. THIS PROPERTY IS NOT IN FLOOD ZONE A OR B. THIS PROPERTY IS IN FLOOD ZONE X AS SCALED FROM F.E.M.A. FLOOD INSURANCE RATE MAP #5100930038D PANEL 38 OF 131 REVISED JUNE 3, 2008.
3. BEARING AND DISTANCES SHOWN ON THIS PLAN BASED ON "PLAT SHOWING PROPERTY OF CHRISTINE S. CARPENTER" BY HURT & PROFFITT, INC. DATED JULY 11, 1986. AS SHOWN HEREON.
4. TOPOGRAPHIC INFORMATION SHOWN ON THIS PLAN TAKEN FROM CITY OF LYNCHBURG G.I.S. DATA. CONTOUR INTERVAL = 2 FEET.
5. THIS PROPERTY IS SERVED BY THE CITY OF LYNCHBURG PUBLIC WATER SYSTEM. PUBLIC SEWER IS AVAILABLE. A 20' UTILITY EASEMENT IS REQUIRED FROM THE PUBLIC SEWER TO PROPERTY LINE OF THIS SITE.
   PROPOSED WATER AND SEWER SYSTEMS TO BE PUBLICLY OWNED AND MAINTAINED.
6. EXISTING ELECTRIC SERVICE IS OVERHEAD. EXISTING TELEPHONE SERVICE IS UNDERGROUND.
   PROPOSED ELECTRIC SERVICE AND TELEPHONE SERVICE TO BE UNDERGROUND.
7. ADDITIONAL SITE DEVELOPMENT, LANDSCAPING, WATER, SEWER, GRADING AND EROSION CONTROL PLANS WILL BE SUBMITTED UPON APPROVAL OF THE CONDITIONAL USE PERMIT.

DEVELOPMENT NOTES:

THIS SITE IS ZONED : "B-1". THE DEVELOPER HAS SUBMITTED AN APPLICATION FOR A C.U.P. DEVELOPER IS ALSO APPLYING TO AMEND THE FUTURE LAND USE MAP FOR THE PROPERTY TO MEDIUM DENSITY RESIDENTIAL.

TAX MAP # 240-14-01 = 10.72 ACRES+/-
(PER TAX RECORDS)

1.16 ACRES+/- TO BE RESERVED FOR FUTURE OFFICE SPACE.

9.56 ACRES+/- TO BE DEVELOPED AS A TOWNHOUSE COMPLEX. (MULTI-FAMILY USE)

PROPOSED DEVELOPMENT:

PROPOSED 75 - 2 STY. TOWNHOMES TO BE BUILT ON 9.56 ACRES+/-

REQUIRED PARKING : 2.5 SPACES PER UNIT
2.5 SPACES x 75 UNITS = 188 SPACES REQ'D.

PROPOSED PARKING : 189 SPACES (9'x18')
GARAGE PARKING : 12 SPACES (UNITS 14 thru 25)
PROPOSED PARKING : 201 SPACES (TOTAL)

PROPOSED LIGHTING TO BE GLARE SHIELDED AND DIRECTIONAL TO PREVENT ILLUMINATION BEYOND THE PROPERTY LINES.

A TRAFFIC IMPACT STUDY WAS COMPLETED BY RENAISSANCE PLANNING GROUP IN CHARLOTTESVILLE VIRGINIA ON APRIL 29, 2009 AND SUBMITTED TO THE CITY OF LYNCHBURG TRAFFIC DEPT. FOR REVIEW.

A PORTION OF THIS SITE IS LOCATED WITHIN THE SCENIC CORRIDOR OVERLAY DISTRICT.

DEVELOPER/PETITIONER

JMU, LLC
316 BREEZEWOOD DRIVE
LYNCHBURG, VIRGINIA
24502

CONTACT : UEL HARTLESS
PHONE : (434) 237-1072

PROPERTY OWNER

AGO PROPERTIES
C/O JOHN O'KEEFFE
416 HOWARD DRIVE
LYNCHBURG, VIRGINIA
24503

CONTACT : RICK REED
PHONE : (434) 455-3618

COMMONWEALTH OF VIRGINIA
JAMES C. MAY, JR.
Lic. No. 1262
APRIL 1, 2009
LAND SURVEYOR

REVISED : MAY 1, 2009 PER T.R.C.
COMMENTS DATED APRIL 27, 2009.

SOURCES OF TITLE :

TAX MAP #240-14-01 : DEED TO AGO PROPERTIES / D.B. 683, PG. 780
RECORDED IN THE CLERK'S OFFICE OF THE CIRCUIT COURT OF THE CITY OF LYNCHBURG, VIRGINIA.

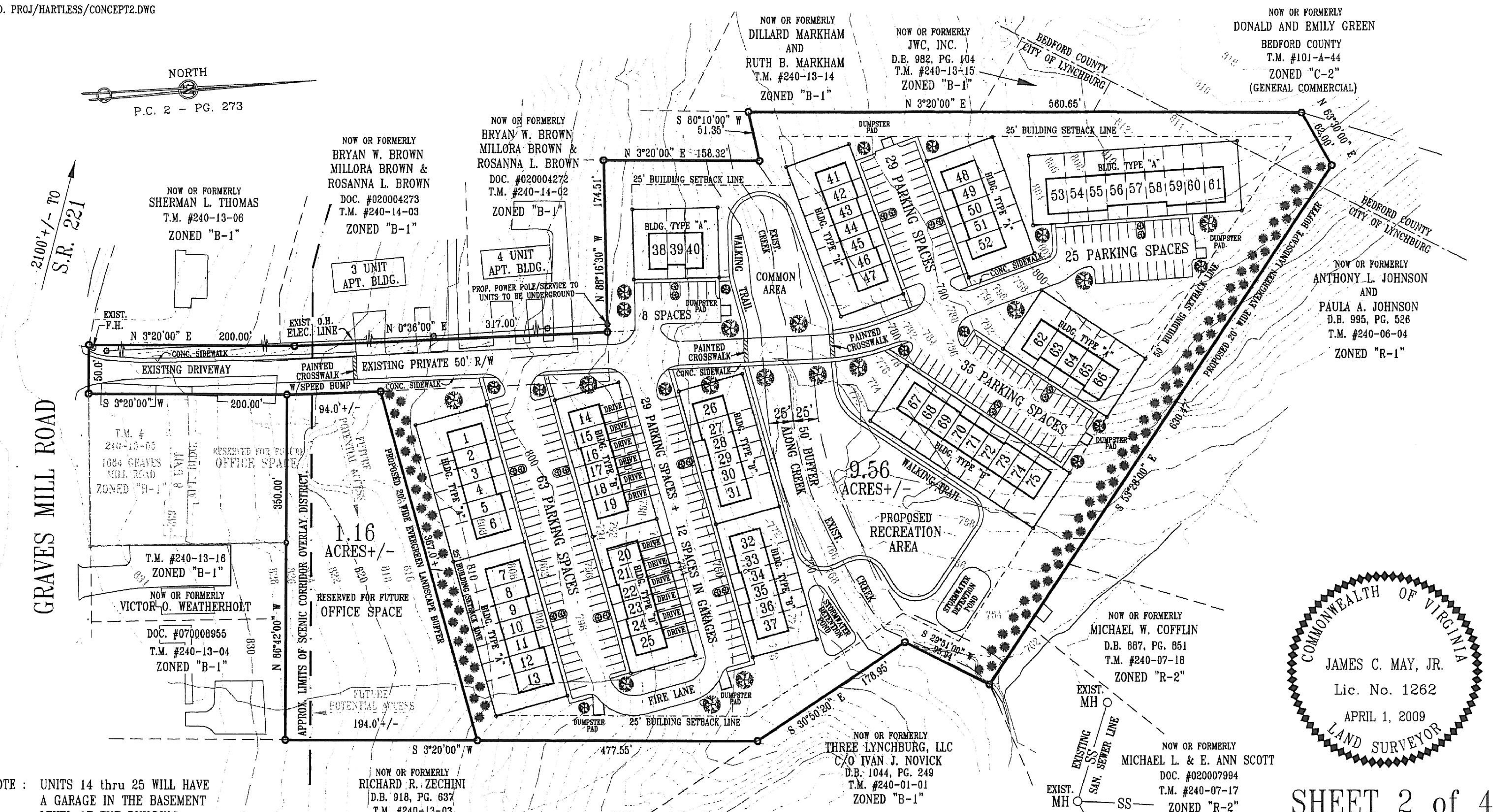
SHEET 1 of 4

JAMES C. MAY AND ASSOCIATES, P.C.
ENGINEERS-SURVEYORS-PLANNERS
P.O. BOX 718, LYNCHBURG, VA., 24501
434-528-1005 (FAX 434-846-5412)

CONCEPTUAL PLAN FOR CONDITIONAL USE PERMIT
HOLLY HILL TOWNHOMES
75 UNIT TOWNHOUSE COMPLEX
1700 GRAVES MILL ROAD
CITY OF LYNCHBURG, VIRGINIA

SOURCE OF TITLE: SEE ABOVE			
SCALE: 1" = 100'	DATE: APRIL 1, 2009	COMM. NO.: 09033	F.B. REF.: N/A
FOR: J M U, LLC			TAX ID.: 240-14-01

IN C.A.D. PROJ/HARTLESS/CONCEPT2.DWG



NOTE : UNITS 14 thru 25 WILL HAVE A GARAGE IN THE BASEMENT LEVEL OF THE BUILDING.

CONSTRUCTION PHASES

PHASE I CONSTRUCTION : UNITS 1 thru 25

PHASE II CONSTRUCTION : UNITS 26 thru 40

PHASE III CONSTRUCTION : UNITS 41 thru 61

PHASE IV CONSTRUCTION : UNITS 62 thru 75

NOTE : PROPOSED LANDSCAPING WILL MEET ALL REQUIREMENTS IN CITY OF LYNCHBURG LANDSCAPE ORDINANCE.

REVISED : MAY 1, 2009 PER T.R.C. COMMENTS DATED APRIL 27, 2009.

SHEET 2 of 4

JAMES C. MAY AND ASSOCIATES, P.C.
ENGINEERS–SURVEYORS–PLANNERS
P.O. BOX 718, LYNCHBURG, VA., 24501
434-528-1005 (FAX 434-846-5412)

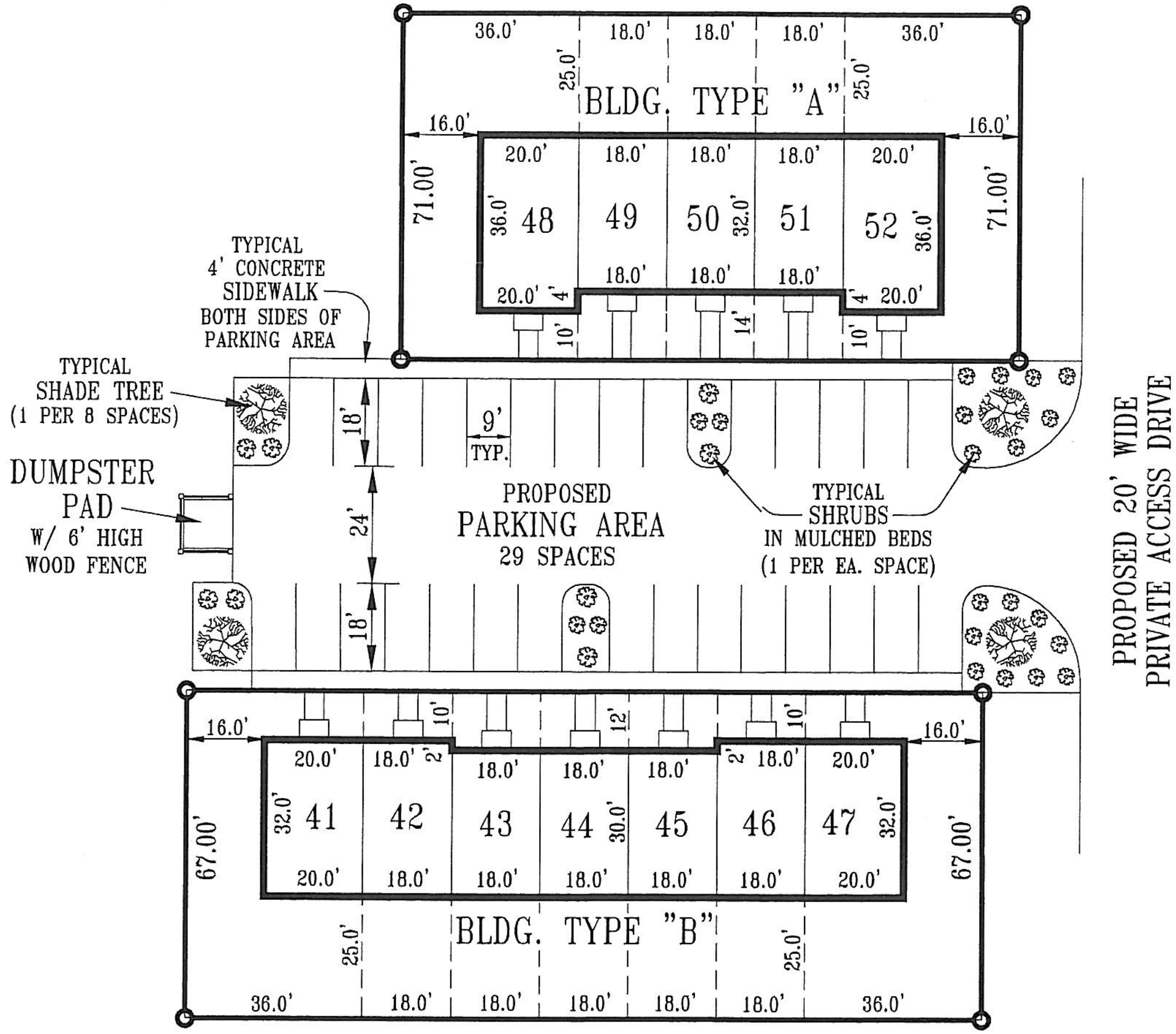
CONCEPTUAL PLAN FOR CONDITIONAL USE PERMIT

HOLLY HILL TOWNHOMES

75 UNIT TOWNHOUSE COMPLEX
1700 GRAVES MILL ROAD
CITY OF LYNCHBURG, VIRGINIA

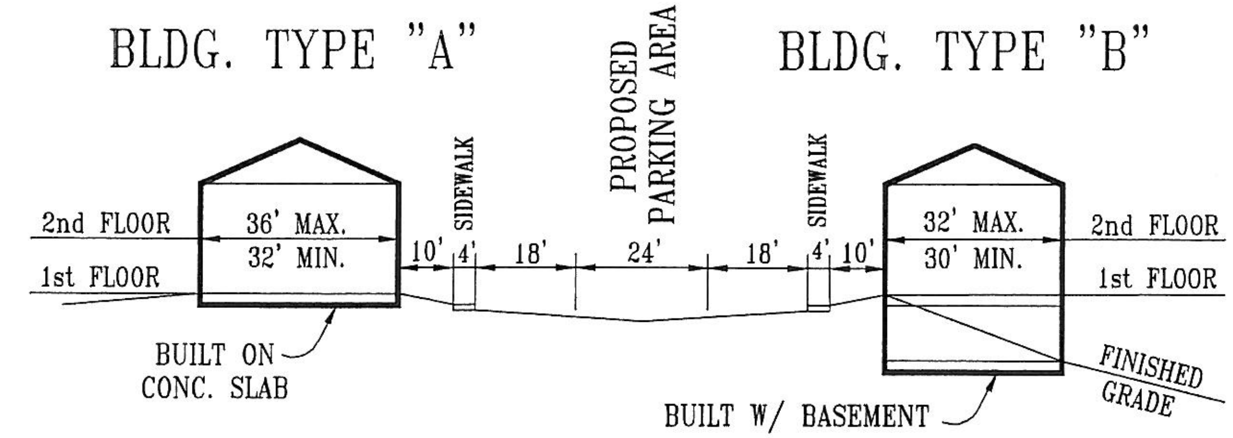
SOURCE OF TITLE:	AGO PROPERTIES D.B. 785, PG. 780 & D.B. 683, PG. 334				
SCALE: 1" = 100'	DATE: APRIL 1, 2009	COMM. NO.:	09033	F.B. REF.:	N/A
FOR:	J M U, LLC			TAX ID.:	240-14-01

NOTE : PROPOSED LANDSCAPING WILL MEET ALL REQUIREMENTS IN CITY OF LYNCHBURG LANDSCAPE ORDINANCE.



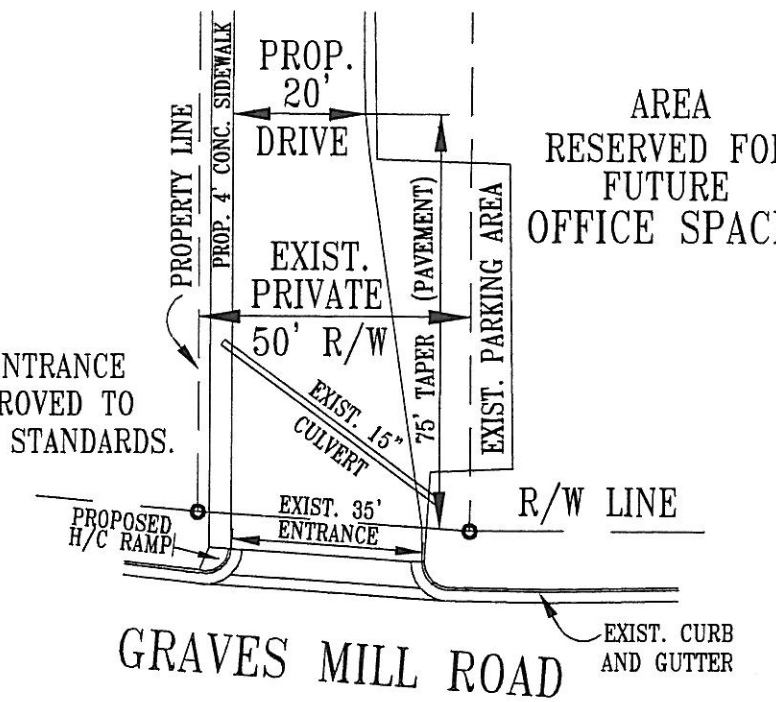
TYPICAL BUILDING AND PARKING LAYOUT

SCALE : 1" = 30'



TYPICAL CROSS SECTION

NOT TO SCALE



NOTE:
EXISTING ENTRANCE TO BE IMPROVED TO MEET CITY STANDARDS.

ENTRANCE DETAILS

NOT TO SCALE

SHEET 3 of 4

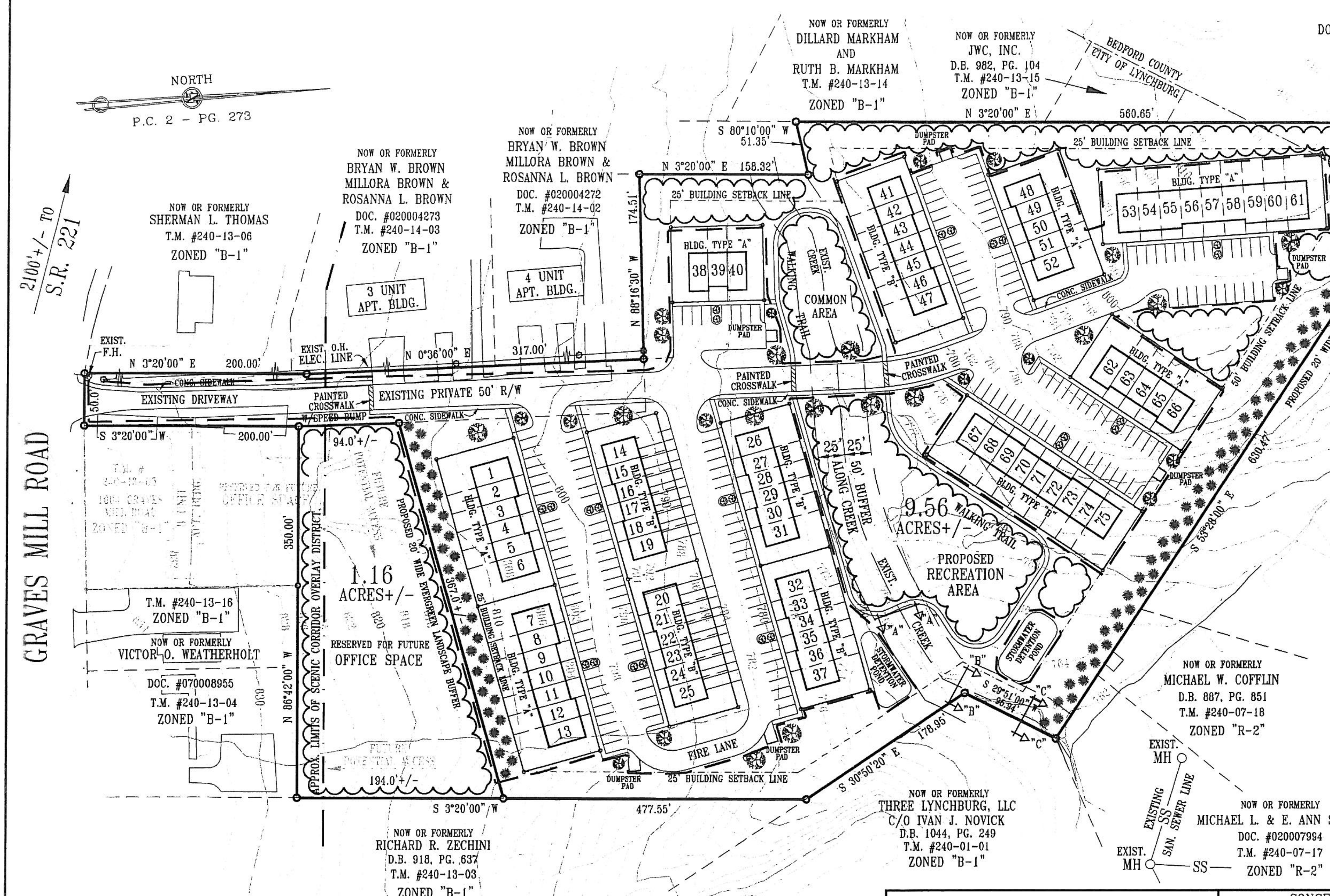
REVISED : MAY 1, 2009 PER T.R.C. COMMENTS DATED APRIL 27, 2009.

IN C.A.D. PROJ/HARTLESS/BLDGDETAIL.DWG

JAMES C. MAY AND ASSOCIATES, P.C.
ENGINEERS-SURVEYORS-PLANNERS
P.O. BOX 718, LYNCHBURG, VA., 24501
434-528-1005 (FAX 434-846-5412)

CONCEPTUAL PLAN FOR CONDITIONAL USE PERMIT
BUILDING AND ENTRANCE DETAILS
HOLLY HILL TOWNHOMES
1700 GRAVES MILL ROAD
CITY OF LYNCHBURG, VIRGINIA

SOURCE OF TITLE:	AGO PROPERTIES	D.B. 785, PG. 780 & D.B. 683, PG. 334		
SCALE: AS NOTED	DATE: APRIL 1, 2009	COMM. NO.: 09033	F.B. REF.:	N/A
FOR:	J M U, LLC		TAX ID.:	240-14-01



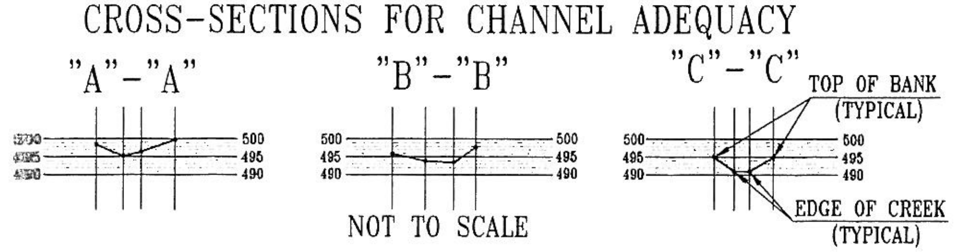
STORMWATER NARRATIVE :

THIS SITE CONTAINS 10.72+/- ACRES. THE PROPOSED TOWNHOUSE DEVELOPMENT WILL BE LOCATED ON 9.56+/- ACRES OF THE SITE. THE 1.16+/- ACRES RESIDUE OF T.M. #240-14-01 WILL BE RESERVED FOR FUTURE OFFICE SPACE. THE SITE SLOPES AWAY FROM GRAVES MILL ROAD TO A CREEK FLOWING THRU THE SITE AND ALSO SLOPES FROM THE REAR OF THE CREEK. STORMWATER RUNOFF FROM THE TOWNHOUSE DEVELOPMENT WILL BE CHANNELED INTO THE TWO STORMWATER DETENTION PONDS SHOWN ON THE CONCEPTUAL PLAN. THE STORMWATER RUNOFF WILL BE RELEASED INTO THE CREEK AT RATE NOT TO EXCEED THE PRE-DEVELOPMENT RUNOFF RATE. STORMWATER QUALITY AND QUANITY WILL BE ADDRESSED THROUGH VEGETATED FILTER STRIPS, GRASSED SWALES, BIORETENTION AND DETENTION STRUCTURES. AN ADEQUATE CHANNEL WILL BE PROVIDED FOR THE PROJECT.

COMMONWEALTH OF VIRGINIA
JAMES C. MAY, JR.
Lic. No. 1262
APRIL 1, 2009
LAND SURVEYOR

SHEET 4 of 4

CROSS-SECTIONS FOR CHANNEL ADEQUACY



NOT TO SCALE

— — — DENOTES LIMITS OF CLEARING AND GRADING

DENOTES WOODED AREAS TO REMAIN IN PLACE

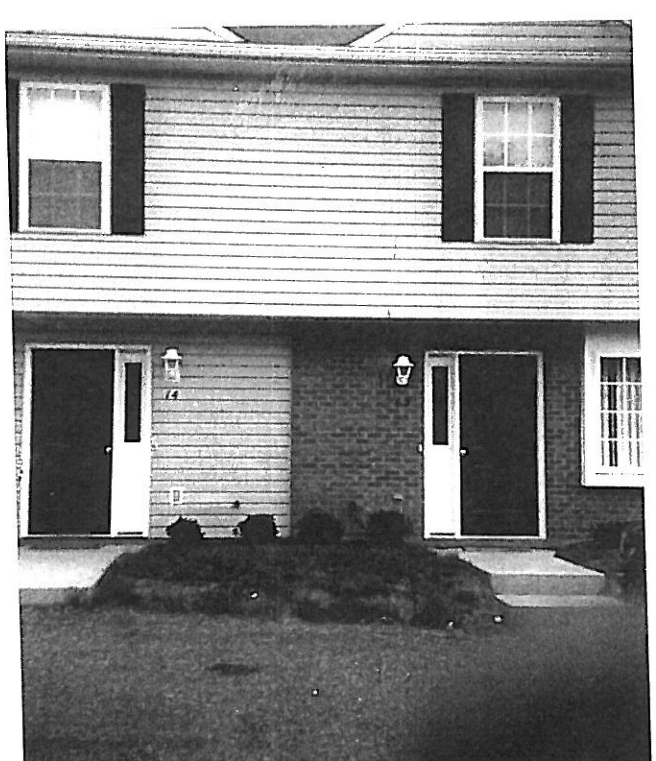
JAMES C. MAY AND ASSOCIATES, P.C.
ENGINEERS-SURVEYORS-PLANNERS
P.O. BOX 718, LYNCHBURG, VA., 24501
434-528-1005 (FAX 434-846-5412)

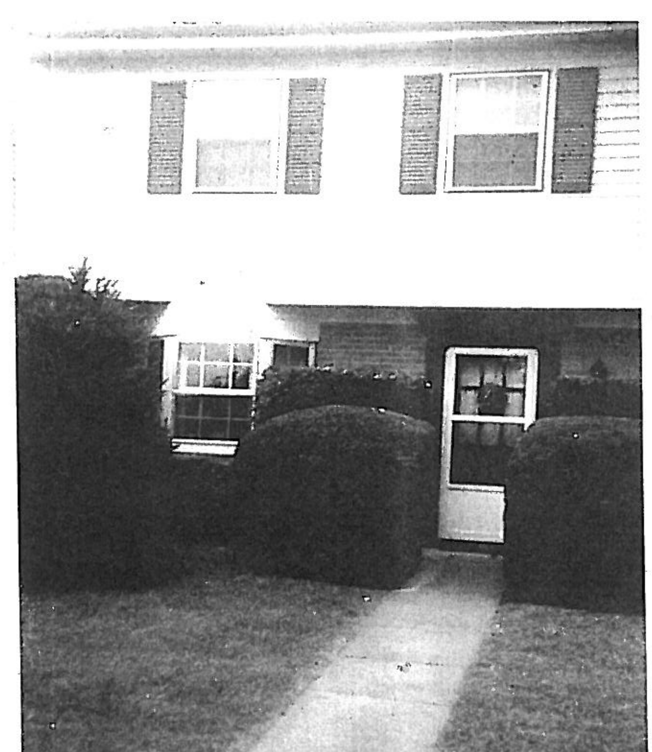
CONCEPTUAL PLAN FOR CONDITIONAL USE PERMIT

EROSION CONTROL PLAN

HOLLY HILL TOWNHOMES
1700 GRAVES MILL ROAD
CITY OF LYNCHBURG, VIRGINIA

SOURCE OF TITLE:	AGO PROPERTIES D.B. 785, PG. 780 & D.B. 683, PG. 334				
SCALE: 1" = 100'	DATE: APRIL 1, 2009	COMM. NO.:	09033	F.B. REF.:	N/A
FOR:	J M U, LLC			TAX ID.:	240-14-01





"ALTERNATE"

BRICK AND VINYL FACADES

LYNCHBURG CITY COUNCIL
Agenda Item Summary

MEETING DATE: **June 9, 2009** AGENDA ITEM NO.: 10

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

ACTION: **X** INFORMATION:

ITEM TITLE: **Public Hearing on a Substantial Amendment to the 2008 Annual Action Plan to Add Additional CDBG Funds from the American Reinvestment and Recovery Act**

RECOMMENDATION: Hold a public hearing to receive comments regarding a Substantial Amendment to the 2008 Annual Action Plan and approve submission of the Substantial Amendment to the U.S. Department of Housing and Urban Development (HUD).

SUMMARY: In fiscal year 2008-09, the City received $874,982 in Community Development Block Grant (CDBG) funds and $423,133 in HOME funds. The City of Lynchburg is an entitlement City for the receipt of CDBG and HOME funds and receives an allocation of funds each year. HUD funds the CDBG and HOME programs.

The City has received notice from HUD of the release of an allocation of CDBG funds through the American Reinvestment and Recovery Act. Through this Act, the City of Lynchburg is eligible to receive $237,404 in additional CDBG funds in the current fiscal year. In order to be eligible to receive these funds, the City will have to submit a Substantial Amendment to our 2008 Annual Action Plan. The Recovery Act appropriated funds to states and local government to carry out, on an expedited basis, eligible activities under the CDBG program.

The Community Development Advisory Committee (CDAC) met on Wednesday, May 27, 2009, and made the following recommendations for how these funds should be allocated. The following provides a recap of the CDAC recommendations for the use of $237,404 in CDBG Recovery Act funds.

City Administration (10% cap)	$ 23,740.40
LynCag Home Improvement	70,000.00
Fifth Street Corridor	54,800.00
Rebuilding Together Lynchburg	61,663.60
Interfaith Fuel Assistance for the Elderly	9,000.00
United Way/Smart Beginnings	18,200.00
Total	$237,404.00

To comply with the requirements of the Recovery Act, the City submitted the Substantial Amendment to HUD on June 5, 2009, contingent upon City Council approval of the following allocations:

PRIOR ACTION(S): CDAC meeting on May 27, 2007

FISCAL IMPACT: N/A

CONTACTS: Charlene Montford/ 455-3902

ATTACHMENT(S): CDBG-R Substantial Amendment
Spreadsheet for Reporting Proposed CDBG-R Activities

REVIEWED BY: lkp

057L

CDBG-R

Activity Data Spreadsheet

Jurisdiction/Grantee Name: City of Lynchburg, Virginia		CDBG-R Fomula Grant Amount: $237,404.00				Date: June 5, 2009	
Activity Name	***Activity Description***	***Eligibility (Regulatory or HCDA Citation)***	***National Objective Citation***	***CDBG-R Project Budget ($)***	***Additional Recovery Funds ($)***	***Other Leveraged Funding ($)***	***Total Activity Budget***
City Administration	To provide for the program administration of the CDBG-R program, including the administrative responsibilities for projects and activities, monitoring and compliance requirements of the program.	General Program Administration	CFR 570.206	23,740			23,740
LynCag Home Improvement	To provide rehabilitative services designed to remove health and safety hazards from the homes of low-income homeowners who live in Lynchburg and meet HUD income guidelines for the CDBG program.	Single-Unit Residential Rehab	CFR 570.202	$70,000			70,000
Rebuilding Together Lynchburg	To provide repair, rehabilitation or modifications housing assistance for low-income homeowners in Lynchburg and help provide them with a safer, warmer and more livable environment.	Single-Unit Residential Rehab	CFR 570.202	$61,664			61,664
Interfaith Fuel Assistance for the Elderly	To provide heating and fuel assistance to elderly low-income residents of Lynchburg.	Public Service	CFR 570.201(e)	$9,000			9,000
United Way/Smart Beginnings	To support the outreach programs that are geared toward educating the parents about the needs of children in the areas of child development and school readiness.	Public Service	CFR 570.201(e)	$18,200			18,200
Fifth Street Corrdor Improvements	Improvements include intrastructure, the elimination of blight, the creation of an area conducive for economic revitalization and an improved living environment for the surrounding neighborhoods.	Public Facilities and Improvements	CFR 570.201©	$54,800			54,800
	Total			**$237,404**			237,404
							0
							0
							0
							0
							0

Jurisdiction/Grantee Name: City of Lynchburg, Virginia		CDBG-R Fomula Grant Amount: $237,404.00				Date: June 5, 2009	
Activity Name	***Activity Description***	***Eligibility (Regulatory or HCDA Citation)***	***National Objective Citation***	***CDBG-R Project Budget ($)***	***Additional Recovery Funds ($)***	***Other Leveraged Funding ($)***	***Total Activity Budget***
							0
							0
							0
							0
							0
							0
							0
							0
							0
							0
							0
							0
							0

CDBG-R SUBMISSION TEMPLATE & CHECKLIST

The American Recovery and Reinvestment Act of 2009 ("Recovery Act") was signed into law by President Obama on February 17, 2009. The Recovery Act awards $1 billion in CDBG Recovery (CDBG-R) funds to be distributed to cities, counties, insular areas and states, of which $10 million has been reserved by HUD for its administrative costs and $10 million of which will be awarded to Indian tribes. Recipients of the remaining $980 million of CDBG-R funds will be the approximately 1,200 jurisdictions that received CDBG funding in Fiscal Year 2008. This template sets forth the suggested format for grantees receiving funds from CDBG-R. A complete submission contains the information requested below, including:

(1) The CDBG-R Substantial Amendment (template attached below)
(2) Spreadsheet for Reporting Proposed CDBG-R Activities (see http://www.hud.gov/recovery)
(3) Signed and Dated Certifications (see http://www.hud.gov/recovery)
(4) Signed and Dated SF-424.

Grantees should also attach a completed CDBG-R Substantial Amendment Checklist to ensure completeness and efficiency of review (attached below).

THE CDBG-R SUBSTANTIAL AMENDMENT

Jurisdiction(s): City of Lynchburg, Virginia Jurisdiction Web Address: http://www.lynchburgva.gov/ • *(URL where CDBG-R Substantial Amendment materials are posted*)	CDBG-R Contact Person: Charlene Bryce Montford, Director of Community Development Address: 900 Church Street, Lynchburg, VA 24504 Telephone: 434.455.3902 Fax: 434.845.7630 Email: Charlene.Montford@lynchburgva.gov

ENSURING RESPONSIBLE SPENDING OF RECOVERY ACT FUNDS

Funding available under the Recovery Act has clear purposes – to stimulate the economy through measures that modernize the Nation's infrastructure, improve energy efficiency, and expand educational opportunities and access to health care. HUD strongly urges grantees to use CDBG-R funds for hard development costs associated with infrastructure activities that provide basic services to residents or activities that promote energy efficiency and conservation through rehabilitation or retrofitting of existing buildings. While the full range of CDBG activities is available to grantees, the Department strongly suggests that grantees incorporate consideration of the public perception of the intent of the Recovery Act in identifying and selecting projects for CDBG-R funding.

A. SPREADSHEET FOR REPORTING PROPOSED CDBG-R ACTIVITIES

Grantees must provide information concerning CDBG-R assisted activities in an electronic spreadsheet provided by HUD. The information that must be reported in the spreadsheet includes activity name, activity description, CDBG-R dollar amount budgeted, eligibility category, national objective citation, additional Recovery Act funds for the activity received from other programs, and total activity budget. An electronic copy of the spreadsheet and the format is available on HUD's recovery website at http://www.hud.gov/recovery.

ATTACHMENT 3

B. CDBG-R INFORMATION BY ACTIVITY (COMPLETE FOR EACH ACTIVITY)

(1) Activity Name: (Grantees should follow the same order that activities are listed in the Spreadsheet for Reporting Proposed CDBG-R Activities – this will allow HUD to easily match activity narratives with the information provided in the spreadsheet.)

PLEASE SEE ATTACHED NARRATIVE FOR DATA AND INFORMATION ON THIS SECTION

(2) Activity Narrative:
In addition to the Spreadsheet for Reporting Proposed CDBG-R Activities, grantees must provide a narrative for each activity describing how the use of the grantee's CDBG-R funds will meet the requirements of Title XII of Division A and Section 1602 of ARRA. The grantee's narrative must also state how CDBG-R funds will be used in a manner that maximizes job creation and economic benefit in relation to the CDBG-R funds obligated, and will address the Recovery Act, by:

- Preserving and creating jobs and promoting economic recovery;
- Assisting those most impacted by the recession;
- Providing investment needed to increase economic efficiency;
- Investing in transportation, environmental protection, or other infrastructure that will provide long-term economic benefits;
- Minimizing or avoiding reductions in essential services; or
- Fostering energy independence.

(3) Jobs Created: (Report the number of full- and part-time jobs estimated to be created and retained by the activity (including permanent, construction, and temporary jobs)).

(4) Additional Activity Information: (A description of how the activity will promote energy conservation, smart growth, green building technologies, or reduced pollution emissions, if applicable.)

(5) Responsible Organization: (Contact information for the organization that will implement the CDBG-R activity, including its name, location, and administrator contact information)

C. PUBLIC COMMENT

Provide a summary of public comments received to the proposed CDBG-R Substantial Amendment.

Note: A Proposed CDBG-R Substantial Amendment must be published via the usual methods and posted on the jurisdiction's website for no less than 7 calendar days for public comment.

Response:

To date, no public comments have been made relative to the proposed CDBG-R Substantial Amendment. Any comments received during the Public Hearing on June 9, 2009, or prior to the Public Hearing date will be submitted to HUD as an addition to this Substantial Amendment.

The City of Lynchburg is submitting this Amendment to the 2008 Annual Action Plan contingent upon approval by the City Council on June 9, 2009. The Community Development Advisory Committee (CDAC) met on Wednesday, May 27, 2007 and will be making recommendations for funding under the CDBG-R American Recovery and Investment Act of 2009 program to City Council at the Public Hearing on June 9, 2007. The CDAC meeting and funding recommendations were advertised via the City's website. The funding recommendations were also posted in the local newspaper.

Copies of these public notices are attached to this Substantial Amendment to the City's 2008 Annual Action Plan.

CDBG-R Substantial Amendment Grantee Checklist

For the purposes of expediting review, HUD asks that applicants submit the following checklist along with the CDBG-R Substantial Amendment, Spreadsheet for Reporting Proposed CDBG-R Activities, and SF-424.

Contents of a CDBG-R Action Plan Substantial Amendment

Jurisdiction(s): Lynchburg, Virginia Lead Agency: Community Development Department, Grants Administration Division, City of Lynchburg VA Jurisdiction Web Address: http://www.lynchburgva.gov/ *(URL where CDBG-R Substantial Amendment materials are posted)*	CDBG-R Contact Person: Charlene Bryce Montford, Director, Community Development Department Address: 900 Church Street, Lynchburg, Virginia 24504 Telephone: 434.455.3902 Fax: 434.845.7630 Email: Charlene.Montford@lynchburgva.gov

The elements in the substantial amendment required for the CDBG recovery funds are:

A. *Spreadsheet for Reporting Proposed CDBG-R Activities*

Does the submission contain a paper copy of the Spreadsheet for Reporting Proposed CDBG-R Activities?

Yes *x* No☐ Verification found on page **Attachment 3**

Does the submission include an electronic version of the Spreadsheet for Reporting Proposed CDBG-R Activities sent to the email box CDBG-R@hud.gov?

Yes ☒ No☐ Date Spreadsheet was emailed: **June 5, 2009**

Does the Spreadsheet for Reporting Proposed CDBG-R Activities include, for each activity:

- amount of funds budgeted for each activity, including CDBG-R funds, any additional Recovery Funds used and total activity budget,
  Yes☒ No☐ Verification found on page(s) **Attachment 3**
- the Eligibility citation (eligibility regulatory cite or HCDA cite),
  Yes☒ No☐ Verification found on page(s) **Attachment 3**
- the CDBG national objective citation,
  Yes☒ No☐ Verification found on page(s) **Attachment 3**

B. CDBG-R INFORMATION BY ACTIVITY

Does the submission contain information by activity describing how the grantee will use the funds, including:

- a narrative for each activity describing how CDBG-R funds will be used in a manner that maximizes job creation and economic benefit,
  Yes☒ No☐ Verification found on page(s) **<u>7-11</u>**

- projected number of jobs created for each activity,
  Yes☒ No☐ Verification found on page(s) **<u>7-11</u>**

- whether an activity will promote energy efficiency and conservation,
  Yes☐ No☐ Verification found on page(s) **<u>N/A</u>**

- the name, location, and contact information for the entity that will carry out the activity,
  Yes☒ No☐ Verification found on page(s) **<u>7-11</u>**

- evidence that no more than 10% of the grant amount will be spent on administration and planning,
  Yes☒ No☐ Verification found on page (s) **<u>7</u>**

- evidence that no more than 15% of the grant amount will be spent on public services,
  Yes☒ No☐ Verification found on page (s) **<u>7-11 and Attachment 3</u>**

- evidence that at least 70% of the grant amount will benefit persons of low and moderate income,
  Yes☒ No☐ Verification found on page (s) **<u>7-11 and Attachment 2 and 3</u>**

C. PUBLIC COMMENT PERIOD

Was the proposed action plan amendment published via the jurisdiction's usual methods and on the Internet for no less than 7 calendar days of public comment?
Yes☒ No☐. Verification found on page(s) **<u>Attachment 4</u>**

Is there a summary of citizen comments included in the final amendment?
Yes☐ No☐ Verification found on page(s) **N/A** **<u>No comments to date – City Council Public Hearing Scheduled for June 9, 2009</u>**

D. CERTIFICATIONS

The following certifications are complete and accurate:

(1) Affirmatively furthering fair housing	Yes☒	No☐
(2) Anti-displacement and relocation plan	Yes☒	No☐
(3) Drug-free Workplace	Yes☒	No☐
(4) Anti-lobbying	Yes☒	No☐
(5) Authority of jurisdiction	Yes☒	No☐

(6) Consistency with plan	Yes ☒	No ☐
(7) Section 3	Yes ☒	No ☐
(8) Community development plan	Yes ☒	No ☐
(9) Following a plan	Yes ☒	No ☐
(10) Use of Funds	Yes ☒	No ☐
(11) Excessive Force	Yes ☒	No ☐
(12) Compliance with anti-discrimination laws	Yes ☒	No ☐
(13) Lead-based paint procedures	Yes ☒	No ☐
(14) Compliance with laws	Yes ☒	No ☐
(15) Compliance with ARRA	Yes ☒	No ☐
(16) Project selection	Yes ☒	No ☐
(17) Timeliness of infrastructure investments	Yes ☒	No ☐
(18) Buy American provision	Yes ☒	No ☐
(19) Appropriate use of funds for infrastructure investments	Yes ☒	No ☐
(20) 70% of CDBG-R for LMI	Yes ☒	No ☐

Optional Certification

(21) Urgent Need	Yes ☒	No ☐

D. STATE CERTIFICATIONS

The following certifications are complete and accurate:

(1) Affirmatively furthering fair housing	Yes ☐	No ☐
(2) Anti-displacement and relocation plan	Yes ☐	No ☐
(3) Drug-free Workplace	Yes ☐	No ☐
(4) Anti-lobbying	Yes ☐	No ☐
(5) Authority of State	Yes ☐	No ☐
(6) Consistency with plan	Yes ☐	No ☐
(7) Section 3	Yes ☐	No ☐
(8) Community development plan	Yes ☐	No ☐
(9) Consultation with Local Governments	Yes ☐	No ☐
(10) Use of Funds	Yes ☐	No ☐
(11) Excessive Force	Yes ☐	No ☐
(12) Compliance with anti-discrimination laws	Yes ☐	No ☐
(13) Compliance with laws	Yes ☐	No ☐
(14) Compliance with ARRA	Yes ☐	No ☐
(15) Project selection	Yes ☐	No ☐
(16) Timeliness of infrastructure investments	Yes ☐	No ☐
(17) Buy American provision	Yes ☐	No ☐
(18) Appropriate use of funds for infrastructure investments	Yes ☐	No ☐
(19) 70% of CDBG-R for LMI	Yes ☐	No ☐

Optional Certification

(20) Urgent Need	Yes ☐	No ☐

*B. CDBG-R INFORMATION BY ACTIVITY (*COMPLETE *FOR EACH ACTIVITY)*

CITY ADMINISTRATION

(1) Activity Name: **City Administration**

(2) Activity Narrative: The City will utilize $23,740.40 of the allocation for the payment of reasonable administrative charges related to the planning and execution of the activities associated with the CDBG-R Recovery Act funds.

(3) Jobs Created: N/A

(4) Additional Activity Information: N/A

(5) Responsible Organization: City of Lynchburg, Virginia
900 Church Street
Lynchburg, Virginia 24504

Contact Person: Charlene Bryce Montford, Director
Community Development Department

LYNCAG HOME IMPROVEMENT

(1) Activity Name: **Lyn-Cag Home Improvement Program**

(2) Activity Narrative: Lynchburg Community Action Group, Inc. (Lyn-Cag), serves to effectively assist low-income families and individuals in the Central Virginia Region 2000 community to move from economic and social dependency to self-sufficiency. Lyn-Cag's rehabilitation program activities provide selective rehabilitation services designed to remove health and safety hazards and code violations from the homes of low-income homeowners who live in the City of Lynchburg and meet HUD income guidelines for the CDBG program. Typical requests for services include electrical, plumbing, structural and roof repair/replacement. All local contractors who provide the services are licensed and insured. Building materials are purchased from local businesses.

The use of $70,000 for this activity will make available decent, safe and affordable housing to eligible households by providing repair and rehabilitation services. The Home Improvement Program application process requires verification of all household income before a customer is approved for services. Historically, the program benefits 100% of LMI families.

(3) Jobs Created: The strength, vitality and economic well being of a City is reflected in its housing stock. The City has made great progress in addressing substandard housing by

providing resources to non-profit housing agencies, who have been successful in leveraging additional public and private resources.

Although the actual number of jobs created is unknown at this time, this activity will provide jobs to local electricians, plumbers, contractors and carpenters. As stated earlier, local contractors will be used and building materials will be purchased from local businesses. (Estimated construction and temporary jobs created and/or retained by this activity is 10).

(4) Additional Activity Information: The use of CDBG-R funds for this activity will address the Recovery Act by assisting those most impacted by the recession, preserving and creating jobs and promoting economic recovery.

(5) Responsible Organization: City of Lynchburg, Virginia
900 Church Street
Lynchburg, Virginia 24504

Contact Person: Charlene Bryce Montford, Director
Community Development Department

REBUILDING TOGETHER LYNCHBURG

(1) Activity Name: **Rebuilding Together Lynchburg**

(2) Activity Narrative: Rebuilding Together Lynchburg (RTL) plans to utilize $61,663.60 in CDBG-R funding to assist low-income homeowners in Lynchburg repair weak floors, build wheelchair ramps, install grab bars, handrails, replacement windows and other minor repair/rehabilitation. The mission of RTL 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. Many of the beneficiaries are senior citizens and/or persons with disabilities.

According to 2007 data for the City of Lynchburg, there are increasing numbers of families living in poverty in the inner city. RTL hopes to slow and/or reverse this destabilizing trend.

(3) Jobs Created: Although the actual number of jobs created is unknown at this time, this activity will provide jobs to local electricians, plumbers, contractors and carpenters. RTL uses volunteers and donated materials, however, they often have to pay for professional services and purchase materials. The estimated construction and temporary jobs created and/or retained by this activity is 12.

(4) Additional Activity Information: The use of CDBG-R funds for this activity will address the Recovery Act by assisting those most impacted by the recession, preserving and creating jobs and promoting economic recovery.

(5) Responsible Organization: City of Lynchburg, Virginia
900 Church Street
Lynchburg, Virginia 24504

Contact Person: Charlene Bryce Montford, Director
Community Development Department

INTERFAITH FUEL ASSISTANCE FOR THE ELDERLY

(1) Activity Name: **Interfaith Fuel Assistance for the Elderly**

(2) Activity Narrative: Interfaith Fuel Assistance for the Elderly (IOA) plans to utilize $9,000 in CDBG-R funding to provide heating and fuel assistance to elderly persons in Lynchburg. 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.

(3) Jobs Created: N/A

(4) Additional Activity Information: The use of CDBG-R funds for this activity will meet the requirements of Title XII of Division A and Section 1602 of ARRA and will address the Recovery Act by assisting those most impacted by the recession.

(5) Responsible Organization: City of Lynchburg, Virginia
900 Church Street
Lynchburg, Virginia 24504

Contact Person: Charlene Bryce Montford, Director
Community Development Department

UNITED WAY/SMART BEGINNINGS

(1) Activity Name: **United Way/Smart Beginnings**

(2) Activity Narrative: The United Way/Smart Beginnings program plans to utilize $18,200 in CDBG-R funds to support the outreach programs that are geared toward educating parents about the needs of the children in the areas of child development and school readiness. The funds are requested for books and supplies, teaching materials and gas for two buses.

The outreach for parents is provided on Rex the Resource Bus. The goals of the Rex program are: to increase parent knowledge of early childhood development, improve parenting practices and to increase children's school readiness and school success.

The outreach for children is provided by Gus the Learning Bus, a mobile preschool classroom. It provides children who do not attend formal early childhood education programs an opportunity to have school weekly. The teacher and assistant visit the neighborhoods and actually teach on the bus. Children will have their first experience of attending school in their own neighborhood. In the afternoon the bus staff intervenes on behalf of the children enrolled in Lynchburg PreK and Kindergarten classrooms who are not meeting benchmarks for promotion.

Both programs are family support programs geared to assist parents in helping their own children while allowing children to experience a classroom environment in their own neighborhood.

(3) Jobs Created: The budget submitted by this agency indicates that Rex the Resource Bus has a Family Support Worker at ½ time for 11 months, a bus driver and teacher aide at 11 months. It is anticipated these jobs will be retained.

(4) Additional Activity Information: The use of CDBG-R funds for this activity will meet the requirements of Title XII of Division A and Section 1602 of ARRA and will address the Recovery Act by assisting those most impacted by the recession and will expand educational opportunities for low income families.

(5) Responsible Organization: City of Lynchburg, Virginia
900 Church Street
Lynchburg, Virginia 24504

Contact Person: Charlene Bryce Montford, Director
Community Development Department

FIFTH STREET CORRIDOR IMPROVEMENTS

(1) Activity Name: **Fifth Street Corridor Improvements**

(2) Activity Narrative: The CDBG-R funds of $54,800.00 is requested to assist in the following improvements to the Fifth Street Corridor: improved infrastructure, façade improvements, 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 Fifth Street CDC and the City of Lynchburg have been working tirelessly over the past ten years to revitalize the Fifth Street Corridor. The CDC's mission is to act and advocate to facilitate the redevelopment of the Fifth Street Corridor, working with businesses and residents in the corridor to eliminate blight, rehabilitate existing buildings, develop and support commercial ventures, and set design standards and architectural guidelines by which to conduct current and future development projects on Fifth Street.

A great amount of progress has been made over the past several years, including the adoption of the Fifth Street Master Plan in 2006, the adoption of the Fifth Street Revitalization Corridor Overlay District in 2007, the installation of gateway improvements at Fifth and Fillmore Streets, the installation of bus shelters, trash cans and improvements to the parking area at Fifth and Polk Streets. Identity banners for the corridor and gateway signage have been installed and Phase I of the Master Plan is under construction.

The accomplishments and improvements listed above are more than just aesthetic amenities; they are improving the community and neighborhood of numerous residents in the neighborhoods of College Hill, Garland Hill and Tinbridge Hill. Most importantly, these improvements are improving economic conditions.

(3) Jobs Created: This activity will create and/or retain an estimated two permanent full-time and 15 construction and temporary jobs.

(4) Additional Activity Information: The use of CDBG-R funds for this activity will meet the requirements of Title XII of Division A and Section 1602 of ARRA and will address the Recovery Act by preserving and creating jobs and promoting economic recovery, providing the investment needed to increase economic efficiency and investing in infrastructure that will provide long-term economic benefits.

(5) Responsible Organization: City of Lynchburg, Virginia
900 Church Street
Lynchburg, Virginia 24504

Contact Person: Charlene Bryce Montford, Director
Community Development Department

LYNCHBURG CITY COUNCIL
Agenda Item Summary

MEETING DATE: **June 9, 2009** AGENDA ITEM NO.: 11

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

ACTION: **X** INFORMATION:

ITEM TITLE: **Approve the closure of the Solid Waste Management Fund, transfer the remaining fund balance, and appropriate funds within the General Fund, Fleet Fund, City Capital Projects Fund, and Solid Waste Management Fund**

RECOMMENDATION:
Hold a public hearing and adopt a resolution to amend the FY 2009 General Fund, Fleet Fund, City Capital Projects Fund, and Solid Waste Management Fund budgets and appropriate funds in these budgets in order to transfer the remaining fund balance from the closure of the Solid Waste Management Fund.

SUMMARY:
On July 1, 2008 the City sold the Landfill to the Region 2000 Services Authority for $7,243,480 cash in exchange for fixed assets (equipment, buildings, land, and land improvements) valued at $7,191,062 for a net gain of $52,418. Along with the sale of the landfill, the City will transfer the closure/post-closure liability as well as the cash asset associated with it to the Region 2000 Services Authority up to an amount of $2,997,103.

The City ceased operation of the landfill on June 30, 2008. As a result, no expenditures were planned for FY 2009; therefore, no budget was adopted for the Solid Waste Management Fund (SWMF). In order to formally close out the SWMF, the remaining fund balance must be appropriated in order to cover remaining expenses and transfer funds to the General Fund, Fleet Fund, and City Capital Projects Fund.

At the close of FY 2008, the remaining SWMF fund balance was $14,022,129; currently, these funds need to be appropriated. Additionally, due to FY 2008 Carryfoward appropriations, funds of $296,512 to purchase equipment were brought forward to FY 2009. Therefore, before closeout expenses, the total available balance in the SWMF is $14,318,641.

In FY 2009 the Solid Waste Management Fund incurred $829,160 of expenses as follows:
- $662,580 for debt service,
- $24,008 for retiree health and dental costs, and
- $142,572 to cover change orders received for the Phase I closure contract.

After incorporating the above listed appropriations and expenses, the remaining balance in the Solid Waste Management Fund is **$13,489,481** and is requested to be distributed as follows:

- **$4,735,422** in cash assets transferred to the General Fund for these purposes:
  - $30,988 appropriated to cover $5,723 for audit fees, $2,255 for IT projects, and $23,010 for retiree health and dental costs.
  - $3,200,111 designated to fund future debt service associated with the remaining Solid Waste Management Fund debt being shifted to the General Fund. Because there are no future revenues to pay the debt service, reserving these funds will eliminate the need to fund the debt service out of General Fund operating revenues in future years.
  - $710,000 for anticipated future refuse expenditures. As part of the FY 2009 Adopted budget, these funds were appropriated and do not need to be appropriated with this resolution.
  - $794,323 to fall to Fund Balance in FY 2009 in order to ensure the 10% fund balance target is met in FY 2010.

- **$400,614** in fixed assets transferred and appropriated to the Fleet Fund as follows:
  - $104,102 for equipment not sold to the Region 2000 Services Authority.
  - $296,512 for equipment purchased using FY 2008 carryforward funds.

- **$8,353,445** in cash assets transferred and appropriated to the City Capital Projects Fund as follows:
  - $8,228,445 to fund the Juvenile and Domestic Relations Court House project.
  - $125,000 for the Landfill Master Plan.

PRIOR ACTION(S):
July 10, 2007 – City Council adopted a resolution adopting the Articles of Incorporation for the Region 2000 Services Authority
October 9, 2007 – City Council adopted a resolution adopting the member use agreement and the amended Articles of Incorporation for the Region 2000 Services Authority
May 26, 2009 – Finance Committee

FISCAL IMPACT:
$13,489,481 became available for use.

CONTACT(S):
Donna Witt, Director of Financial Services, 455-3968
David Owen, Director of Public Works, 455-4469

ATTACHMENT(S):
Resolution
Attachment A – Solid Waste Management Fund Closeout Distribution

REVIEWED BY: lkp

RESOLUTION:
BE IT RESOLVED that the FY 2009 Solid Waste Management Fund budget is amended and $14,022,129 is appropriated with resources from the Solid Waste Management Fund fund balance,

Be it further resolved that the FY 2009 General Fund budget is amended and $30,988 is appropriated with funds transferred from the Solid Waste Management Fund for current expenses;

Be it further resolved that the FY 2009 General Fund budget is amended and $3,200,111 is transferred from the Solid Waste Management Fund to establish a designated reserve to fund future debt service associated with the remaining Solid Waste Management Fund debt being shifted to the General Fund;

Be it further resolved that the FY 2009 General Fund budget is amended and $710,000 is transferred from the Solid Waste Management Fund for anticipated future refuse expenditures previously appropriated with the Adopted FY 2009 Operating Budget;

Be it further resolved that the FY 2009 General Fund budget is amended and $794,323 is transferred from the Solid Waste Management Fund to fall to Fund Balance in FY 2009 in order to ensure the 10% fund balance target is met in FY 2010;

Be it further resolved that the FY 2009 Fleet Fund budget is amended and $400,614 is appropriated from the Solid Waste Management Fund for fixed assets transferred to the Fleet Fund; and

Lastly, be it resolved that the FY 2009 City Capital Projects Fund budget is amended and $8,353,445 is appropriated with funds transferred from the Solid Waste Management Fund to fund the Juvenile and Domestic Relations Court House project and the Landfill Master Plan.

Introduced: Adopted:

Certified: ________________________________
Clerk of Council

054L

SOLID WASTE MANAGEMENT FUND
CLOSEOUT DISTRIBUTION

Attachment A

<u>Solid Waste Management Fund (SWMF) Adjustments:</u>	
Current (FY 2009) SWMF budget based on FY 2008 Carryforward for equipment purchase	$296,512
Appropriation requested - remaining SWMF fund balance	14,022,129
Total available SWMF fund balance before expenses	$14,318,641
SWMF closeout expenses	($829,160)
Net amount available for transfer (cash and fixed assets)	**$13,489,481**

General Fund, Fleet Fund, and City Capital Projects Fund Adjustments:

General Fund Adjustments (cash assets):

<u>General Fund appropriation using funds transferred from the SWMF:</u>	
Appropriation to cover FY 2009 refuse expenses in the General Fund	$30,988
Total General Fund appropriation using funds transferred from the SWMF	$30,988
<u>Transferred to the General Fund, no appropriation needed:</u>	
Designated Reserve for Future Debt Service associated with SWMF debt	$3,200,111
Anticipated future refuse expenditures, appropriated with the Adopted FY 2009 Operating Budget	710,000
Funds to fall to Fund Balance in FY 2009 in order to ensure the 10% target in FY 2010	794,323
Total transferred without appropriation	$4,704,434
Total transferred to the General Fund	**$4,735,422**

Fleet Fund Adjustments (fixed assets):

<u>Fleet Fund appropriation for fixed assets transferred from the SWMF:</u>	
Appropriation for equipment not sold to the Region 2000 Services Authority	$104,102
Appropriation for equipment purchased using FY 2008 Carryforward funds	296,512
Total Fleet Fund appropriation for fixed assets transferred from the SWMF	**$400,614**

City Capital Projects Fund Adjustments (cash assets):

<u>City Capital Projects Fund appropriation using funds transferred from the SWMF:</u>	
Funds for the Juvenile and Domestic Relations Court House project	$8,228,445
Funds for the Landfill Master Plan project	125,000
Total City Capital Projects Fund appropriation using funds transferred from the SWMF	**$8,353,445**

Total General Fund, Fleet Fund, and City Capital Projects Fund Adjustments:	**$13,489,481**

LYNCHBURG CITY COUNCIL
Agenda Item Summary

MEETING DATE: **June 9, 2009**		AGENDA ITEM NO.: 12
CONSENT:	REGULAR: **X**	CLOSED SESSION: (Confidential)
ACTION: **X**	INFORMATION:	

ITEM TITLE: **$19,000,000 Loan from the Virginia Clean Water Revolving Loan Fund**

RECOMMENDATION: Conduct the required public hearing pursuant to Section 15.1-227.8(a) of the Code of Virginia for the issuance of $19,000,000 of Sewer Revenue Bonds. Adopt a resolution authorizing the issuance of not to exceed $19,000,000 Sewer Revenue Bonds.

SUMMARY: As part of the City's continuing program of combined sewer overflow (CSO) correction, applications are submitted in July of each year to the State Water Control Board for funding from the Virginia Clean Water Revolving Loan Fund (VCWRLF). In May 2009, the State Water Control Board authorized a $19,000,000 VCWRLF zero percent (0%) interest loan. The resolution authorizes an issuance of not to exceed $19,000,000. The CSO separation and interceptor projects included in this loan are:

Design: Long-Term Control Plan/ Model Update

Construction administration and inspection services:
CSO Project 2.2 (Cedar Dr.; Norfolk Ave.; Quinlan St.; Rivermont Ave.)
Stimulus- CAI- JRI Div 2 and 6
Stimulus- Railroad- JRI Div 2 and 6
Upper JRI Div 5A- Wiley/Wilson
Upper JRI Div 5A- CSX
JRI Div 2A-Wiley/ Wilson
JRI Div 2A- CSX

Construction: CSO Project 2.2 (Cedar Dr.; Norfolk Ave,; Quinlan St,; Rivermont Ave.)
Upper JRI Div 4 (Partial)
Upper JRI Div 5A
JRI Div 2A

In order to accept the VCWRLF loan, the City is required to follow the requirements of the Public Finance Act of the Commonwealth of Virginia. This Act requires localities issuing long-term debt to conduct a public hearing and adopt a bond resolution to issue the debt so advertised.

PRIOR ACTION(S): Adoption of the FY 2009-2013 Capital Improvements Program including receipt of a Virginia Clean Water Revolving Loan for Combined Sewer Overflow correction projects.
Finance Committee Meeting May 26, 2009.

FISCAL IMPACT: Issuance of up to $19,000,000 Sewer Revenue bonds secured by a pledge of the revenues from the sewer system as collateral for the loan.

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

ATTACHMENT(S): Resolution

REVIEWED BY: lkp

A RESOLUTION OF THE COUNCIL OF THE CITY OF LYNCHBURG, VIRGINIA, AUTHORIZING THE ISSUANCE OF NOT TO EXCEED NINETEEN MILLION DOLLARS ($19,000,000) PRINCIPAL AMOUNT OF REVENUE OBLIGATIONS OF THE CITY OF LYNCHBURG, VIRGINIA, IN THE FORM OF SEWER REVENUE BONDS OF THE CITY OF LYNCHBURG, VIRGINIA, FOR THE PURPOSE OF PROVIDING FUNDS TO PAY THE COST OF CAPITAL IMPROVEMENTS TO THE SEWER SYSTEM OF THE CITY, A REVENUE-PRODUCING UNDERTAKING OF THE CITY, SUCH CAPITAL IMPROVEMENTS CONSTITUTING WASTEWATER TREATMENT FACILITIES WITHIN THE MEANING OF TITLE 62.1, CHAPTER 22, SECTION 62.1-224, OF THE CODE OF VIRGINIA, 1950; FIXING THE FORM, DENOMINATION AND CERTAIN OTHER DETAILS OF SUCH BONDS; PROVIDING FOR THE ISSUANCE OF SUCH BONDS TO THE VIRGINIA RESOURCES AUTHORITY ("VRA"), AS ADMINISTRATOR OF THE VIRGINIA WATER FACILITIES REVOLVING FUND, TO EVIDENCE THE BORROWING TO BE MADE BY SUCH CITY FROM VRA PURSUANT TO A FINANCING AGREEMENT BY AND BETWEEN VRA AND SUCH CITY; APPROVING THE FORM AND THE TERMS, CONDITIONS AND PROVISIONS OF SUCH FINANCING AGREEMENT AND AUTHORIZING AND DIRECTING THE EXECUTION AND DELIVERY THEREOF; AND APPOINTING THE DIRECTOR OF FINANCIAL SERVICES OR THE ASSISTANT DIRECTOR OF FINANCIAL SERVICES AS REGISTRAR AND PAYING AGENT FOR SUCH BONDS

WHEREAS, in the judgment of the Council (the "Council") of the City of Lynchburg, Virginia (the "City"), it is desirable to authorize the issuance of not to exceed Nineteen Million Dollars ($19,000,000) principal amount of revenue obligations of the City in the form of Sewer Revenue Bonds to provide funds to pay the cost of capital improvements to the sewer system of the City, a revenue-producing undertaking of the City, such capital improvements constituting wastewater treatment facilities within the meaning of Title 62.1, Chapter 22, Section 62.1-224, of the Code of Virginia, 1950;

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

SECTION 1. Pursuant to Chapter 26 of Title 15.2 of the Code of Virginia, 1950, the same being the Public Finance Act of 1991, and the Charter of the City, for the purpose of providing funds to pay the cost of capital improvements to the sewer system of the City, a revenue-producing undertaking of the City, such capital improvements constituting wastewater treatment facilities within the meaning of Title 62.1, Chapter 22, Section 62.1-224, of the Code of Virginia, 1950, there are authorized to be issued not to exceed Nineteen Million Dollars ($19,000,000) principal amount of revenue bonds of the City to be designated "City of Lynchburg, Virginia, Sewer Revenue Bonds" (the "Bonds"). The Bonds shall bear the series designation "Series 2009" or such other series designation as shall be determined by the City Manager or the Deputy City Manager.

SECTION 2. The Bonds shall be issued to the Virginia Resources Authority ("VRA") as administrator of the Virginia Water Facilities Revolving Fund (the "Fund"), pursuant to the terms, conditions and provisions of, and to evidence the borrowing to be made by the City from VRA under, a Commitment Letter (the "Commitment Letter"), from VRA to the City, and a Financing Agreement (the "Financing Agreement"), by and between VRA, as administrator of the Fund, and the City, as the Borrower thereunder. The City Manager or the Deputy City Manager is hereby authorized and directed to execute and deliver to VRA a Commitment Letter and a Financing Agreement in such forms as the City Manager or the Deputy City Manager executing the same shall approve upon the advice of counsel (including the City Attorney and Bond Counsel to the City), such approval to be conclusively evidenced by the execution and delivery thereof by the City Manager or the Deputy City Manager. In accordance with the terms, conditions and provisions of the Commitment Letter and the Financing Agreement, as the same may be amended from time to time, the Bonds shall have a term of not exceeding the term provided for in the Financing Agreement as executed, shall bear interest at the rate of zero per centum (0%) per annum and shall mature on such dates (*provided* that the final maturity date of the Bonds shall not be later than thirty-five (35) years after the dated date of the Bonds) and in such principal amounts as shall be specified in the definitive form of the Financing Agreement and the form of the Bond attached to the definitive form of the Financing Agreement as Exhibit A.

SECTION 3. The revenues of the sewer system of the City are irrevocably pledged to the punctual payment of the principal of the Bonds as the same become due and payable, and the Bonds shall be secured solely by and payable solely from such revenues. The Bonds shall be secured on a parity basis with the City's "Existing Parity Bonds" set forth in Appendix F to the definitive form of the Financing Agreement.

The City Council hereby covenants with and for the benefit of the registered owners of the Bonds that so long as any Bond shall remain outstanding the rates, rents, fees or other charges for the services and facilities furnished by, or for the use of, or in connection with the revenue-producing undertaking of the City consisting of the sewer system of the City shall be fixed and maintained at the level that will produce sufficient revenue in each year to satisfy the rate covenants set forth in the Financing Agreement, to pay the cost of operation and administration of such sewer system, the cost of insurance against loss by injury to persons or property and the principal of the Bonds when due and payable and to provide reserves for such purposes.

SECTION 4. The Bonds shall be executed, for and on behalf of the City, by the manual or facsimile signature of the Mayor or the Vice Mayor of the City and shall have the corporate seal of the City impressed thereon, attested by the manual or facsimile signature of the Clerk of Council of the City, and shall be authenticated with the manual or facsimile signature of the Director of Financial Services or the Assistant Director of Financial Services of the City.

The Bonds shall be in substantially the form set forth as Exhibit A to the definitive form of the Financing Agreement.

The Director of Financial Services, and in the absence of a Director of Financial Services the Assistant Director of Financial Services, is hereby appointed as the Registrar and Paying Agent for the Bonds.

SECTION 5. The City hereby covenants and agrees that it will not directly or indirectly use or permit the use of any of the proceeds of the Bonds or any other of its funds in such manner as would, or enter into, or allow any other person or entity to enter into, any arrangement, formal or informal, that would, or take or omit to take any other action that would, if the Bonds bore interest, cause such interest to be includable in gross income for federal income tax purposes or to become a specific item of tax preference for purposes of the federal alternative minimum tax imposed on individuals and corporations. The City hereby covenants and agrees to perform all duties imposed upon it by the Non-Arbitrage Certificate and Tax Compliance Agreement or similar agreement executed by the City in connection with the issuance of the Bonds (the “Tax Compliance Agreement”). Insofar as the Tax Compliance Agreement imposes duties and responsibilities on the City, including the payment of any arbitrage rebate in respect of the Bonds, it shall be specifically incorporated by reference into the Financing Agreement.

SECTION 6. The City Manager, the Deputy City Manager, the Director of Financial Services, the Assistant Director of Financial Services, the City Attorney and other appropriate officers and employees of the City shall take all actions as shall be necessary to carry out the provisions of this Resolution.

SECTION 7. All resolutions in conflict herewith are, to the extent of such conflict, repealed. This Resolution shall constitute the “Local Resolution” as such term is defined in Section 1.1 of the Financing Agreement.

SECTION 8. The Clerk of Council is hereby directed to file a copy of the Resolution, certified by such Clerk of Council to be a true and correct copy hereof, with the Circuit Court of the City.

SECTION 9. The members of the Council and all officers, employees and agents of the City are hereby authorized to take such action as they or any one of them may consider necessary or desirable in connection with the issuance and sale of the Bonds and any such action previously taken is hereby ratified and confirmed.

SECTION 10. This Resolution shall take effect upon its adoption.

Adopted:

Certified: ________________________________

Clerk of Council

053L

LYNCHBURG CITY COUNCIL
Agenda Item Summary

MEETING DATE: **June 9, 2009**		AGENDA ITEM NO.: 13
CONSENT:	REGULAR: **X**	CLOSED SESSION: (Confidential)
ACTION: **X**	INFORMATION:	

ITEM TITLE: **FY 2009 Virginia Clean Water Revolving Loan Fund (VCWRLF) - Special Federal Stimulus Fund Authorizations**

RECOMMENDATION:
Conduct a public hearing to amend the FY 2009 Sewer Capital Projects Fund budget and appropriate $25,360,000 with resources from the Virginia Clean Water Revolving Loan Fund – Special Federal Stimulus Fund for the construction of Divisions 2 and 6 of the James River Interceptor as well as the Rainleader Disconnection Project for Randolph College.

SUMMARY:
As part of the American Reinvestment and Recovery Act (ARRA), the City recently received a federal Stimulus loan through the Virginia Clean Water Revolving Loan Fund (VCWRLF) in the amount of $25,360,000. This loan is being offered in the form of a 100 percent principal forgiveness loan, essentially functioning as a fully reimbursable grant. This federal Stimulus loan is specifically earmarked by the VCWRLF for the construction of Divisions 2 and 6 of the James River Interceptor ($24,960,000) as well as the Rainleader Disconnection Project (RDP) for Randolph College ($400,000).

These projects were proposed for funding in the FY 2010 – 2014 Capital Improvement Program (CIP). The construction of Divisions 2 and 6 of the James River Interceptor is part of the Combined Sewer Overflow (CSO) Program (page 142 of the Proposed FY 2010 – 2014 CIP). The RDP for Randolph College is part of the Rainleader Disconnect Program (page 147 of the Proposed FY 2010 – 2014 CIP). Prior to Stimulus funding, the construction of Division 2 and 6 of the James River Interceptor was planned for funding through the VCWRLF and the RDP for Randolph College was planned for local (pay-as-you-go) funding over two years. Due to this funding, $250,000 of the pay-as-you-go funding proposed for the RDP in FY 2010 will be available for other projects.

PRIOR ACTION(S):
May 26, 2009 Finance Committee

FISCAL IMPACT:
The federal Stimulus loan is a 100 percent principal forgiveness loan; therefore, no repayment is required. Pay-as-you-go funding of $250,000 slated for the RDP for Randolph College in FY 2010 is available for other projects.

CONTACT(S):
Jeff Scarano, CSO Program Manager, 455-4281
Greg Poff, Assistant Director of Utilities, 455-4249
Timothy Mitchell, Director of Utilities, 455-4252

ATTACHMENT(S):
Resolution

REVIEWED BY: lkp

RESOLUTION:

BE IT RESOLVED That the FY 2009 Sewer Capital Projects Fund budget is amended and $25,360,000 is hereby appropriated with resources from the Virginia Clean Water Revolving Loan Fund – Special Federal Stimulus Fund for the construction of Divisions 2 and 6 of the James River Interceptor as well as the Rainleader Disconnection Project for Randolph College.

Introduced: Adopted:

Certified: ______________________________
Clerk of Council

048L