

**LYNCHBURG CITY COUNCIL
Agenda Item Summary**

MEETING DATE: April 13, 2010			AGENDA ITEM NO.: 1
CONSENT:	REGULAR:	WORK SESSION: X	CLOSED SESSION: (Confidential)
ACTION: X		INFORMATION:	
ITEM TITLE: Subdivision Ordinance Amendments – Chapter 24.1			

RECOMMENDATION: Approval of the *Subdivision Ordinance* amendments.

SUMMARY: The purpose of this petition is to amend Chapter 24.1, *Subdivision Ordinance* of the City Code to update the requirements for the subdivision of property. City Council conducted a work session on the *Subdivision Ordinance* amendments on October 27, 2009. During the meeting, Community Development staff proposed amendments to remove the access management provisions from the ordinance and clarify additional clerical items. It was recommended that these changes be reviewed by the Planning Commission. The City Manager also inquired if City Council wanted to revise the language in Section 24.1-6 regarding street dedications/naming of new streets to allow that function to be handled administratively, noting that this would speed up the process for developers. The Planning Commission recommended approval of the amendments because:

- The *Subdivision Ordinance* amendments would correct outdated terminology, reflect current City policies within the context of the ordinance and incorporate changes regarding connectivity and infrastructure.
- The City's *Comprehensive Plan 2002-2020* (pg. 5.12) recommends the City review existing *Zoning* and *Subdivision Ordinance* requirements for renovating older buildings to ensure that standards are not burdensome to property owners.
- The City's *Comprehensive Plan 2002-2020* (pg. 7.8) recommends the implementation of appropriate City policies designed to maximize Citywide economic development strategies and determine if code changes will meet these objectives without negative impacts on environmental sensitivity, cultural resources and surrounding land uses.
- The *Subdivision Ordinance* amendments would remove references to access management within the ordinance. Staff recommended that the access management provisions be proposed as part of a separate zoning overlay district that may be applied to specific traffic corridors at some point in the future. Any changes to an existing zoning district or creation of a new zoning overlay district would require approval by City Council.
- The *Subdivision Ordinance* amendments would allow for the administrative approval of street dedications/naming of new streets with comment from the Planning Commission. The Commission noted that this would expedite the process while providing public notice regarding the construction of new streets.
- The *Subdivision Ordinance* amendments would allow for the reduction in the requirements of a plat that alters a boundary line between two (2) parcels.

PRIOR ACTION(S):

June 25, 2008: Planning Commission appointed a Subdivision Ordinance Committee to review proposed changes to Chapter 24.1 of the City Code regarding the subdivision of land.

June 10, 2009 The Subdivision Ordinance Committee concluded its review of the ordinance and recommended changes for consideration by the Planning Commission.

June 24, 2009	Planning Commission conducted a work session on the <i>Subdivision Ordinance</i> amendments.
July 8, 2009	Planning Commission conducted a second work session on the <i>Subdivision Ordinance</i> amendments.
July 22, 2009	The Planning Division recommended approval of the <i>Subdivision Ordinance</i> amendments. Planning Commission conducted a public hearing on the proposed <i>Subdivision Ordinance</i> amendments. The Planning Commission closed the public hearing and tabled discussion about the ordinance until the August 12, 2009 meeting.
August 12, 2009	Planning Commission recommended approval (5-1 with one member absent, Worthington) of the <i>Subdivision Ordinance</i> amendments.
September 22, 2009	City Council conducted a public hearing on the proposed <i>Subdivision Ordinance</i> amendments. The ordinance was referred to an October 27, 2009 work session.
October 27, 2009	City Council conducted a work session on the <i>Subdivision Ordinance</i> amendments. City Council referred the proposed amendments back to the Planning Commission for their recommendation regarding the removal of access management provisions, clarification of clerical items and the dedication and naming of streets.
January 13, 2010	Planning Commission conducted a work session on the <i>Subdivision Ordinance</i> amendments. The item was forwarded to a February 24, 2010 work session.
February 24, 2010	Planning Commission conducted a work session on the <i>Subdivision Ordinance</i> amendments. The commission recommended that staff incorporate revised language that would allow for comment from Planning Commission for the approval of street dedications and street naming petitions.
March 10, 2010	Planning Commission recommended approval (5-0 with two members absent, Barnes, Oglesby) of the <i>Subdivision Ordinance</i> amendments.

FISCAL IMPACT: N/A

CONTACTS:

Tom Martin, City Planner - 455-3900; Bonnie Svrcek, Deputy City Manager/Acting Director of Community Development - 455-3900

ATTACHMENT(S):

Ordinance (containing changes only) – Chapter 24.1
Ordinance (containing changes only) – Chapter 35 – Streets and Sidewalks
Chapter 24.1 - Subdivision Ordinance (entire ordinance for comparison)
Planning Division Memo Section 24.1 Proposed Changes – February 10, 2010
Excerpt, City Council Minutes—September 22, 2009
Excerpt, City Council Minutes—October 27, 2009
Planning Commission Minutes – February 24, 2010
Planning Commission Minutes – March 10, 2010

REVIEWED BY: lkp

ORDINANCE

AN ORDINANCE TO AMEND AND REENACT THE CODE OF THE CITY OF LYNCHBURG, 1981, BY AMENDING SECTIONS 24.1-1. SUBDIVISION REGULATIONS, 24.1-3. PURPOSE, 24.1-5. WORDS AND TERMS, 24.1-6. AGENT, OR HIS DESIGNEE, 24.1-7. DUTIES, 24.1-9. PLATTING AND RECORDING REQUIRED, 24.1-10. DRAW AND CERTIFY, 24.1-11. OWNER'S STATEMENT, 24.1-12. NO LAND EXEMPT, 24.1-16.1. POSSIBLE FLOOD PLAIN, 24.1-17.1. BUILDING LINE, 24.1-18. LOT SIZES, 24.1-19. LOT SIZE, WATER OR SEWER, 24.1-20. LOT SIZE, NEITHER WATER NOR SEWER AVAILABLE, 24.1-21. SEPTIC TANKS, 24.1-21.1. DEVELOPMENT OF LARGE LOTS GENERALLY, 24.1-23. EASEMENTS, 24.1-24. FIRE PROTECTION, 24.1-25. BOND, 24.1-26. IMPROVEMENTS, 24.1-27. CITY OBLIGATION, 24.1-28. LOTS, 24.1-28.1. FLAG LOTS, 24.1-30. STREETS, 24.1-31. PUBLIC WATER SUPPLY AND SANITARY SEWER SYSTEM REQUIRED, 24.1-32. STORM DRAINAGE, 24.1-33. MONUMENTS, 24.1-34. RESERVATION OF LAND FOR PUBLIC PURPOSES, 24.1-34.1. VACATION OF BOUNDARY LINES, 24.1-36. PRELIMINARY SKETCH (NOT REQUIRED), 24.1-37. PRELIMINARY PLAT, 24.1-38. PROCEDURE, 24.1-39. PRELIMINARY PLAT MAY BE SUBMITTED AS FINAL PLAT, 24.1-42. FINAL PLAT, 24.1-44. APPROVAL, 24.1-45. EXCEPTIONS, 24.1-46. PENALTIES, 24.1-49. AMENDMENTS; TO AMEND AND REENACT THE CODE OF THE CITY OF LYNCHBURG, 1981, AS AMENDED, BY ADDING THERETO SECTIONS 24.1-16.2. FLOOD CONTROL AND DRAINAGE AND 24.1-25.1. PARTIAL AND FINAL RELEASE OF CERTAIN PERFORMANCE GUARANTEES; TO AMEND AND REENACT THE CODE OF THE CITY OF LYNCHBURG, 1981, BY REPEALING SECTIONS 24.1-4. MUTUAL RESPONSIBILITY, 24.1-8. TO CONSULT, 24.1-22. FLOOD CONTROL AND DRAINAGE AND 24.1-50. EFFECTIVE DATE, THE AMENDED, NEW AND REPEALED SECTIONS RELATING TO THE REGULATION OF THE SUBDIVISION OF LAND WITHIN THE CITY.

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

1. That in order to promote the public necessity, convenience, general welfare, and good zoning practice Sections 24.1-1, 24.1-3, 24.1-5, 24.1-6, 24.1-7, 24.1-9, 24.1-10, 24.1-11, 24.1-12, 24.1-16.1, 24.1-17.1, 24.1-18, 24.1-19, 24.1-20, 24.1-21, 24.1-21.1, 24.1-23, 24.1-24, 24.1-25, 24.1-26, 24.1-27, 24.1-28, 24.1-28.1, 24.1-30, 24.1-31, 24.1-32, 24.1-33, 24.1-34, 24.1-34.1, 24.1-36, 24.1-37, 24.1-38, 24.1-39, 24.1-42, 24.1-44, 24.1-45, 24.1-46, and 24.1-49 of the Code of the City of Lynchburg, 1981, as amended, be and the same are hereby amended and reenacted as follows:

Sec. 24.1-1. Subdivision regulations.

The following regulations are hereby adopted for the subdivision of land within the corporate limits of the City of Lynchburg and from and after the effective date of this ordinance, every ~~owner or proprietor~~ subdivider of any tract of land to which these regulations apply who subdivides such tract as provided in these regulations shall cause a plat of such subdivision developed and prepared in accordance with these regulations, with reference to known or permanent monuments, to be made and recorded in the office of the clerk of the circuit court, within deeds conveying such land are required by law to be recorded. A copy of said plat shall also be filed in the office of the city assessor. For any subdivision plat recorded prior to the adoption of this ordinance for which construction contracts for required improvements have not been signed, the subdivider shall be required to submit final plat documentation for approval by the city planner ~~agent~~ before such contracts are signed and sale or development of lots may be undertaken.

Sec. 24.1-3. Purpose.

The purpose of this ordinance is to establish certain subdivision standards and procedures for the City of Lynchburg, Virginia, and such of its environs as come under the jurisdiction of the governing body as provided for by the Code of Virginia, as amended.

These are part of a long-range plan to guide and facilitate the orderly beneficial growth and restoration of the community, and to promote the public health, safety, convenience, comfort, prosperity and general welfare. More specifically, the purposes of these standards and procedures are to provide a guide for the change that occurs when land and acreage become urban in character as a result of development for residential and non-residential purposes; to encourage the redevelopment of the central city; to provide assurance that the purchasers of lots are buying a commodity that is suitable for development and use; and to make possible the provision of public services in a safe, adequate and efficient manner.

Sec. 24.1-5. Words and terms.

For the purpose of this ordinance, certain words and terms used herein shall be interpreted or defined as follows: Words used in the present tense include the future, words in the singular number include the plural, and the plural the singular, unless the natural construction of the word indicates otherwise; the word "lot" includes the word "parcel"; the word "shall" is mandatory; the word "approve" shall be considered to be followed by the words "or disapprove"; any reference to this ordinance includes all ordinances amending or supplementing the same; all distances and areas refer to measurement in a horizontal plane.

~~(1) Agent: The representative of the City of Lynchburg who has been designated to serve as the agent of the city in administering this ordinance.~~

~~(2)~~(1) Alley: A permanent service way providing a secondary means of access to abutting properties.

(2) Arterial road: A moderate or high-capacity road which carries large volumes of traffic between areas in urban centers. Arterial roads are designated on the Virginia Department of Transportation's Virginia Highway Functional Classification map for the City of Lynchburg.

(3) Block: An area of land containing two (2) or more lots and bounded by streets providing access to such lots.

(4) Building line: A line set with respect to the frontage of a ~~plot~~ lot of land which is fixed by statute, ordinance, deed or contract and beyond which the owner of the land may not build.

(5) Building setback: The minimum distance that a building must be set back from the street line on which the lot abuts.

(6) Collector road: A moderate-capacity road which leads traffic from local roads or sections of neighborhoods to activity areas within the city. Collector roads are designated on the Virginia Department of Transportation's Virginia Highway Functional Classification map for the City of Lynchburg.

~~(6)~~ (7) Commission: The planning commission of the City of Lynchburg, Virginia.

~~(7)~~ (8) Cul-de-sac: A street with only one (1) outlet and having an appropriate turnaround for a safe and convenient reverse traffic movement.

~~(8)~~ (9) Dedicate(tion): An appropriation of land to some public use, made by the ~~owner~~ subdivider, and accepted for such use by or on behalf of the public.

~~(9) Developer: An owner of property being subdivided, whether or not represented by an agent.~~

(10) Driveway: The means of access to the building on a lot, connecting the building to the street on which the lot has frontage.

- (11) Easement: A grant by a property ~~owner~~ subdivider of the use of land for a specific purpose or purposes.
- (12) Flag lot: A lot which has less than the usual required street frontage and which meets the requirements of Section 24.1-28.1. Flag lots. Lots fronting on a cul-de-sac are not considered flag lots and are regulated by Section 35.1-22. Buildings, uses and lots.
- (13) Governing body: The city council of the City of Lynchburg, Virginia.
- (14) Health official: The ~~Health~~, director of the ~~City of Lynchburg, or a sanitarian.~~ Central Virginia Health District of the Virginia Department of Health.
- (15) Jurisdiction: The area or territory subject to the legislative control of the governing body.
- (16) Lot: A tract or parcel of land intended for transfer of ownership, use or improvement.
- (17) Lot, double frontage: A lot, the opposite ends of which abut on streets.
- (18) Lot of record: A lot, the plat of which has been recorded in the office of the clerk of the circuit court.
- (19) Lynchburg ~~general plan~~ comprehensive plan: The comprehensive plan of the City of Lynchburg as adopted and amended by the city council.
- (20) Monuments: Visible marks or indications left on natural or other objects indicating the lines and boundaries of a survey.
- (21) Plat: Includes the terms: map, plan, plot, replat or replot; a map or plan of a tract or parcel of land which is to be, or which has been, subdivided. When used as a verb "plat" is synonymous with "subdivide."
- (22) Property: Any tract, lot, parcel or several of the same collected together for the purpose of subdividing.
- (23) Public water or sewer: A water or sewer system designed to accommodate more than two (2) family residences, whether owned by the City of Lynchburg or by a private individual ~~or concern~~. This definition shall not apply to nonresidential subdivisions.
- ~~(24) Sight distance (across intersections): A straight line with unobstructed view measured in either direction across the corner between points, each fifty (50) feet back from the theoretical intersection of the edges of the pavement prolonged; both points three (3) feet above the grade of the pavement edge.~~
- ~~(25)~~(24) Sight distance ~~(along road)~~: A straight line with unobstructed view measured between a point three (3) feet above the finished grade of a road, at the center line of each traffic lane, and a point at a given minimum distance away from the first point, located six (6) inches above finished grade at a center line of the same traffic lane.
- ~~(26)~~(25) Street, private: An improved access road which has been approved by the City of Lynchburg as part of a planned unit development, cluster commercial development, or townhouse ~~lots for sale complex development~~, where an owners' association owns and maintains the access road. Also an improved access road which by a plat, deed or agreement recorded on or before September 12, 1989, has established joint usage rights and maintenance responsibilities among the owners of properties fronting on said improved access road.
- ~~(27)~~(26) Street, public: An improved dedicated right-of-way, or an improved road which has become public by right of use, for access use by the public, usually having a minimum pavement width of thirty

(30) feet and a minimum right-of-way width of fifty (50) feet unless the regulations of the City of Lynchburg require otherwise.

~~(28)~~(27) Street, width: The total width of the strip of land dedicated or reserved for public travel, including roadway, curbs, gutters, sidewalks and planting strips.

~~(29)~~(28) Subdivision: Division of any tract, parcel or lot of land into two (2) or more parts ~~at one time or any extended period of time~~. For the purposes of this ordinance, the alternation or reconfiguration of existing lot lines involving more than two (2) lots is also considered to be a subdivision. ~~However, the following exceptions apply:~~

a. The term "subdivision" shall not include the division of land into ten (10) acres or more for agricultural purposes, provided no new streets are required.

b. The city planner~~agent~~ may, however, permit the separation of one (1) parcel from a tract of land without complying with all requirements of this ordinance if it is (1) not in conflict with the general meaning and purpose of the ordinance, and (2) no new streets are required to serve the parcel.

~~c. The word "subdivide" and any derivative derivative thereof shall have reference to the term "subdivision" as defined in Section 24.1-5(26).~~

~~(30)~~(29) Subdivider: Any ~~one (1) or more individual, corporation or registered partnership, owning any owner of a tract, lot or parcel of land to be subdivided, or a group of two (2) or more persons owning any tract, lot or parcel of land to be subdivided, who have given their power of attorney to one of their group or to another individual to act on their behalf in planning, negotiating for, in representing or their legal representative~~ executing the legal requirements of the subdivision.

~~(31)~~(30) Technical review committee (TRC): A committee for review and recommendation to the city manager, planning commission, and city council, consisting of the city planner, city engineer, city traffic engineer, superintendent of inspections building official, director of utilities, urban forester and fire marshal or their designees and other city staff as appropriate.

Sec. 24.1-6. City planner~~Agent~~, or his designee.

This ordinance ~~will~~ shall be administered by the city planner, or his designee, in collaboration with the technical review committee who shall jointly determine compliance with the regulations contained herein. The city planner shall administer ~~with these~~ regulations contained herein. The city planner~~agent~~ shall ~~administer all subdivisions, provided no new streets are required to serve the parcel, in which case final approval may only be given by the city council~~ not approve any subdivision requiring a new street or street extension until the right-of-way has been accepted and the street name approved by the city manager after review by the technical review committee with comment from the planning commission. ~~Where a subdivision has been approved administratively by the city planner, no additional subdivision of these lots or of the residue tract will be approved within a period of two (2) years from the date of approval, unless the land is industrially-zoned or the two-year time limit is waived by the planning commission.~~ In so acting, the city planner shall be considered the agent of the governing body, and approval or disapproval by the city planner~~agent~~ shall constitute approval or disapproval as though it were given by the governing body. An appeal of right from any decision of the city planner~~agent~~ shall lie to the commission, thence to city council, thence to the circuit court of the City of Lynchburg.

Sec. 24.1-7. Duties.

The city planner~~agent~~ shall perform his or her duties regarding subdivision and subdividing in accordance with this ordinance and ~~Chapter 11, Article 7, Sections 15.1-465 through 15.1-485~~ Chapter

22, Article 6, Sections 15.2-2240 through 15.2-2276, and other applicable sections of the Code of Virginia (1950), as amended.

Sec. 24.1-9. Platting and recording required.

Any developer subdivider of any tract of land situated within the City of Lynchburg ~~who subdivides the same as defined herein~~ shall cause a plat of such subdivision, with reference to known or permanent monuments, to be made and recorded in the office of the clerk of the circuit court of the City of Lynchburg. No such plat of subdivision shall be recorded unless and until it shall have been submitted, approved and certified by the city planner~~agent~~ in accordance with the regulations set forth in this ordinance. No lot shall be sold in the subdivision before the plat shall have been recorded. Before any permits are issued to begin construction, the subdivider shall submit a notarized letter, or a copy of the plat with the clerk of courts' seal and signature, to the ~~superintendent of inspections, the city planner, and the city engineer~~city planner certifying that the plat has been recorded with the clerk of the circuit court.

Sec. 24.1-10. Draw and certify.

Every such plat shall be prepared by a licensed professional surveyor ~~, or other persons certified appropriately licensed~~ by the State Commonwealth of Virginia, who shall endorse upon each plat a certificate ~~signed by him~~, setting forth: (1) the source of the title of the land subdivided; and (2) the place of record of the last instrument in the chain of title. When the plat is of land acquired from more than one (1) source of title, the outlines of the several tracts shall be indicated upon the plat, within an insert block, or by means of a dotted boundary line. ~~When any part of the land proposed for subdivision lies in a drainage district, such fact shall be set forth on the plat of the proposed subdivision.~~

Sec. 24.1-11. ~~Owner's~~ Subdivider's statement.

Every such plat, or the deed of dedication to which the plat is attached, shall contain in addition to the surveyor's certificate a statement to the effect that "the above and foregoing" subdivision of (here insert correct description of the land subdivided) as appears in this plat is with the free consent and in accordance with the desire of the undersigned owners, ~~proprietors and trustees, if any~~ which shall be signed by the owners, ~~proprietors and trustees, if any~~ and shall be duly acknowledged before some officer authorized to take acknowledgements of deeds, and when thus executed and approved, as herein specified, shall be filed and recorded in the office of the clerk of the circuit court of the City of Lynchburg, Virginia, and indexed under the names of the landowners signing such statement and under the name of the subdivision.

Sec. 24.1-12. No land exempt.

No tract of land shall be subdivided ~~that is located within the City of Lynchburg, Virginia,~~ unless it conforms with the provisions of this ordinance.

Sec. 24.1-16.1. Possible flood plain.

To ensure that owners will have sufficient land upon which to build a structure which is flood free, compliance with floodway widths and the one hundred (100) year flood elevations contained within the city's Federal Emergency Management Agency (FEMA) flood insurance study (FIS) is mandatory. The city planner~~agent~~ may require the subdivider to provide elevation and flood profiles based on a one hundred (100) year flood plain (which means a flood of a magnitude likely to happen, on the average, only once every century) sufficient to demonstrate the land to be completely free of the danger of flood

water at an elevation of at least three (3) feet below any probable floor level of any building for human occupancy.

Sec. 24.1-17.1. Building line.

The building line shall comply with subdivision plat restrictions. This line shall not be closer to the street ~~line~~ than the required building setback in the zoning ordinance (~~Section 24.1-17~~).

Sec. 24.1-18. Lot sizes.

Lot sizes shall be in accordance with minimum requirements of the zoning ordinance, or the following subsections, whichever is more restrictive ~~shall apply~~:

(1) Lot size, public water and sewer: Lots served by both public water and sewerage systems shall be in accordance with the zoning ordinance.

(2) The following statement shall be shown on the plat when sewer and water lines are available, but not in place:

~~"The owner of this subdivision~~ subdivider agrees to construct a public water and sanitary sewerage system within the boundaries of the subdivision to meet the policies, regulations, and standards of the city."

Sec. 24.1-19. Lot size, public water or sewer.

(a) Residential subdivisions of five (5) lots or less may be served by private wells or septic tanks provided, that water and/or sewer are not available as defined by Section 24.1-31(c) and that no new roads are required and that lots served by only one (1) of water or sewerage system shall be twenty thousand (20,000) square feet or more in area and the following statement shall be shown on the plat:

~~"The owner of this subdivision~~ subdivider agrees to construct a water or a sanitary sewerage system to meet the policies, regulations, and standards of the city and/or ~~Lynchburg health~~ Virginia Department of Health. Before the construction of any dwelling can begin the ~~Lynchburg health department official~~ shall ~~be consulted to ensure~~ approve the proper location of the water or the sanitary sewerage system in relation to the location of the dwellings."

(b) Non-residential lots served by only one (1) of public water or sewerage system shall meet the requirements of the ~~Lynchburg health department official~~ and the city, ~~except where exempted by city ordinance or current city policy~~.

Sec. 24.1-20. Lot size, neither public water nor sewer available.

(a) Residential subdivisions of five (5) lots or less may be served by both private wells and septic tanks provided no new roads are required and lots served by neither public water nor sewerage systems shall be twenty-five thousand (25,000) square feet or more in area and the following statement shall be shown on the plat:

~~"The owner of this subdivision~~ subdivider does not agree to construct either a public water or a sanitary sewerage system. Before the construction of any dwelling can begin the city and the ~~Lynchburg health department official~~ shall ~~be consulted to ensure~~ approve the proper location of the water and sewer systems in relation to the location of the proposed dwellings."

(b) Nonresidential lots served by neither public water nor sewerage systems shall meet the requirements of the ~~Lynchburg health office department~~ official and the city, ~~except where exempted by the city ordinance or current city policy.~~

Sec. 24.1-21. Septic tanks.

The ~~city planner~~ agent shall not approve any subdivision where sanitary sewers are not provided unless the subdivision is of five (5) lots or less and the ~~city planner~~ agent receives in writing from the health official, a statement to the effect that the area contained in the subdivision is satisfactory for the installation of septic tanks, and that they will not, so far as can be determined, create hazards to public health. Final approval as to site suitability will be made prior to approval of the plat. ~~at the time of application for a building permit.~~

(a) Greater lot areas may be required or certain lots may be disapproved where individual septic tanks or individual wells are to be used, if the health official determines that there are factors ~~or~~ such as drainage, soil condition, or other conditions to cause potential health problems. Drainfield location shall be approved by the ~~Lynchburg health department~~ official.

(b) Public water and sewer required: The ~~city planner~~ agent shall not approve any subdivision of more than five (5) lots unless the subdivision is served by the city ("public") water and sewer system.

Sec. 24.1-21.1. Development of large lots generally.

Notwithstanding any other provisions of this article, subdivisions without public sewer service may be approved by the city council when the following conditions are met:

(a) Each proposed lot must have at least one (1) acre in area.

(b) The large lot development must have a minimum size of six (6) lots.

(c) City sewer service is not reasonably available and economically feasible to extend, as defined in Section 24.1-31(c) of the subdivision ordinance, and sewer service extension is not planned in the city's current capital improvements program.

~~(d) If the capital improvements program is revised to include sewer service extension to the area within twelve (12) months of the date of approval of the subdivision plat, or if funds are appropriated for sewer extension within the said twelve (12) months in connection with another development or plan, and a requested large lot development has not yet had an approved plat recorded or construction begun according to approved plans, then any large lot approval that has been given by the city council is hereby rescinded and the proposed development must meet all appropriate land development and sewer service regulations.~~

~~(e)~~ (d) The subdivision plat must include all ~~usual~~ standard sewer service easements requested by the city, in order that the development can be readily connected to city sewer service in the future.

~~(f)~~ (e) The ~~Commonwealth of Virginia department of health~~ official must approve each of the requested large lots as having sufficient area to accommodate two (2) septic disposal fields prior to subdivision approval by the city.

~~(g)~~ (f) All other city land development regulations must be met.

~~(h)~~ (g) The city council may disapprove any large lot development if it believes the development will be detrimental to the orderly development of the area or the efficient provision of public services.

Sec. 24.1-23. Easements.

~~Easements of seven and one-half (7 1/2) feet minimum in width on each side of the center line of the easement shall be provided for water, sewer, power and telephone lines and other utilities, as well as cable television service lines, storm drainage in the subdivision. Such easements shall be kept free of permanent structures and whenever possible shall be located adjacent to property lines. Such easements shall be laid out so as to ensure continuity of the for utilities from block to block and to adjacent property. Such utility easement shall be kept free of permanent structures and whenever possible shall be located adjacent to property lines. In situations when pipes exceeding thirty-six (36) inches in diameter and or pipes exceeding eight (8) feet in depth are necessary, an additional ten (10) feet of easement width may be required.~~

Easements shall be provided for electric, telephone, cable television and natural gas of sufficient width and location as determined by the appropriate utility company.

Nothing in this section is intended to prohibit the placement of public utilities within dedicated rights-of-way. Placement of private water and sewer lines is prohibited in the public right-of-way. The city planner~~agent~~ may require that easements for drainage through adjoining property be provided by the subdivider.

Sec. 24.1-24. Fire protection.

The installation of adequate fire hydrants and mains in a subdivision may be required by the city at locations approved by the city of Lynchburg, provided necessary public water is available. Fire protection shall meet the requirements of the applicable sections of the City of Lynchburg Fire Code.

Sec. 24.1-25. Bond.

Every subdivider shall provide to the city a guarantee of performance prior to the acceptance of dedication for public use of any right-of-way located within any subdivision or section thereof in which has constructed therein, or proposed to be constructed therein, any street, curb, gutter, sidewalk, bicycle trail, drainage or sewerage system, water line or part of a public system, or other improvement, or phase thereof as approved, site-related improvements required by the agent on the final plat, financed or to be financed local ordinances for vehicular ingress and egress, traffic signalization and control, structures necessary to ensure stability of critical slopes, stormwater management facilities, or other improvement dedicated for public use that is to be constructed in whole or in part by private funds, shall be accepted only if and is to be maintained by the owner or city. To guarantee such performance the subdivider: (1) certifies shall: (i) certify to the city engineer that the construction costs have been paid to the person constructing such facilities, or (2) furnishes ; (ii) furnish to the city engineer a certified check or, a financial institution's letter of credit, a cash escrow in the amount of the estimated costs of construction account, or a personal, corporate or property bond, or other financial arrangement with surety satisfactory to the city, hereinafter referred to as the "performance guarantee", in an amount sufficient for and conditioned upon the construction of such facilities, or a contract for the construction of such facilities, and a contractor's bond, with like surety, in like amount, and so conditioned, or furnishes to the governing body a bank or savings and loan association's (iii) furnish to the city engineer a financial institution's letter of credit on certain designated funds satisfactory to the governing body city engineer as to the bank or savings and loan association financial institution, the amount and the form. The bond, in an amount calculated by the city, shall be based upon a two-year projection of cost from the date of starting construction of said improvements to ensure that required improvements are completed in a

~~workmanlike manner in accordance with specifications and construction schedules established by the city. The improvements shall be completed within two (2) years from date of starting construction and the bond shall guarantee such performance. The bond shall not be released until the construction has been inspected and approved by the city. The amount of such performance guarantee shall equal the total estimated cost of construction based on unit prices for new construction in the city plus a reasonable allowance for estimated administrative costs, inflation, and potential damage to existing roads or utilities, which shall not exceed twenty-five (25) percent of the estimated construction costs. "Such facilities," as used in this section, means those facilities specifically provided for in this section.~~

~~(1) Within fifteen (15) days, after notification by the owner that the construction is complete, the city shall inspect the construction and notify the owner in writing of those items of construction which are not satisfactory, or that the construction is approved. The city may release fifty (50) percent of the bond upon notification by the owner that fifty (50) percent of the construction is complete. The owner shall certify that all construction costs have been paid to persons constructing the facilities and the city shall inspect the facilities, to ensure that fifty (50) percent of the work is complete, within fifteen (15) days of notification by the owner.~~

~~(2) The developer and the development principals thereof shall provide the city with a guarantee of warranty against defects for a period of one (1) year following acceptance of the subdivision public improvements by the city.~~

If a subdivider records a final plat which may be a section of a subdivision as shown on an approved preliminary subdivision plat and furnishes to the city a performance guarantee as defined above for facilities to be dedicated for public use and to be maintained by the city within said section, the developer shall have the right to record the remaining sections shown on the preliminary subdivision plat for a period of five (5) years from the recordation date of the first section subject to engineering and construction standards and zoning requirements in effect at the time that each remaining section is recorded.

Notwithstanding other provisions of this section, and provided the subdivider and the city have agreed on the delineation of sections within a proposed development, the subdivider shall not be required to furnish to the city a performance guarantee for the estimated cost of construction of facilities to be dedicated for public use within each section of the development until such time as construction plans are submitted for the section in which such facilities are to be located.

Sec. 24.1-26. Improvements.

Minimum improvements and construction standards required of all subdivisions are set forth in these regulations and in the applicable design standards and specifications of the ~~public works department of the City of Lynchburg~~ Manual of Specifications and Standard Details for construction. Prior to beginning any subdivision construction improvements, the ~~developer subdivider~~ shall have a ~~registered~~ professional civil engineer or other persons appropriately licensed by the Commonwealth of Virginia prepare for the city's approval, a complete set of engineering plans and specifications. The city shall approve, or notify the subdivider of those plans and specifications which are not satisfactory, in writing within fifteen (15) days of official submittal of such plans and specifications and provided the final plat has been approved by the ~~city planner agent~~. These processes may run concurrently, however, any changes required to the plat shall be at the expense of the subdivider.

Sec. 24.1-27. City obligation.

Nothing herein shall be construed as creating an obligation upon the city to pay for grading or paving, or for sidewalks, sewers, curb and gutter improvements or construction or any other costs in connection

therewith, other than that which has been specified ~~for certain required improvements elsewhere in this chapter.~~

Sec. 24.1-28. Lots.

Lots platted shall be in conformance with the following:

(a) Shape: The lot arrangement, design and shape shall be such that lots will provide satisfactory and desirable sites for buildings, and be properly related to topography, and conform to requirements of this ordinance. Lots shall not contain peculiarly shaped elongations solely to provide necessary square footage of area which would be unusable ~~for normal purposes.~~

(b) Location:

(1) Each lot shall have frontage on a public street or an existing private street, as defined in Section 24.1-5. Words and terms, reflected on the subdivision plat, or on a street which has become public by right of use, except lots in planned unit developments, cluster commercial developments, and townhouse ~~lots for sale complexes developments.~~

(2) Lots in planned unit developments, cluster commercial developments, and townhouse ~~lots for sale complexes developments~~ may front on private common drives and/or easements within the development which have access to an improved public street. Responsibility for maintenance of said private streets shall be with the association charged with management and ownership of common open space, property and facilities and shall be so stated on the plat.

~~(3) Each lot shall be located and designed such that a usable driveway can be built to access the lot directly from the street on which it has the required street frontage, except for lots in approved planned unit developments, cluster commercial developments, and townhouse lots for sale complexes.~~

(c) Corner lots: Corner lots shall have extra width sufficient for maintenance of required building lines on both streets as required by the zoning or subdivision ordinance, whichever is more restrictive.

~~(d) Sight distance (across intersections): Clear sight triangles of fifty (50) feet measured along edge of pavement lines from their points of junction shall be provided at all intersections, and no building, structure, grade or planting higher than three (3) feet above the center line of the street shall be permitted within such sight triangle.~~

~~(e)~~ (d) Side lines: Side lines of lots shall be approximately at right angles, or radial to the street line and be marked plainly before inspection by the city.

~~(f)~~ (e) Remnants: All remnants of lots below minimum size, as required in the zoning ordinance, left over after subdividing of a tract must be added to adjacent lots.

~~(g)~~ (f) Separate ownership: Where the land covered by a subdivision includes two (2) or more parcels in separate ownership, and lot arrangement is such that a property ownership line divides one (1) or more lots, a signed statement with free consent by all owners, proprietors and trustees shall accompany the final plat and lot sizes and arrangement shall meet the requirements of this ordinance. Said statement is to be deposited with the ~~clerk of council~~ city planner and held with the final plat until the subdivider is ready to record same, and they both shall then be recorded together.

~~(h)~~ (g) House numbers and street names: House numbering and street naming shall be in accordance with the ~~Lynchburg~~ city street naming/house numbering ordinance.

(i) ~~(h)~~ Standards for cluster housing developments: All units for sale in cluster housing developments must meet minimum standards specified in Section 35.1-56 of the zoning ordinance.

~~(j) County boundary lines: No proposed lot shall be split by a county boundary line where it is practical to create the lot otherwise. In no case will a permit be issued to build a structure which would be split by a county boundary line.~~

Sec. 24.1-28.1. Flag lots.

The creation of flag lots will only be considered in those instances where severe topographic constraints or unusual existing lot lines make this type of lot arrangement the only feasible way to develop the tract. In such cases the proposed subdivision may be approved by the city planner when the following conditions are met:

(a) Each flag lot shall have a minimum of fifty (50) feet of frontage on a street, public or private as defined in Section 24.1-5. Words and terms, except for a lot on a cul-de-sac which shall have a minimum street frontage of thirty (30) feet.

(b) The required minimum lot area shall meet the zoning ordinance requirement of the district in which it is located and shall not include the area of the long narrow "flagpole" portion.

(c) Not more than two (2) adjacent flag lots shall be created.

(d) The development of one (1) flag lot behind another flag lot shall be prohibited.

(e) A flag lot shall not be further subdivided until a public street to serve the proposed lot(s) is dedicated and constructed with a minimum right-of-way of fifty (50) feet, or unless a planned unit development, cluster commercial development, or townhouse ~~lots for sale complex~~ development is approved for the property, and a note to this effect shall be placed on each subdivision plat which contains a flag lot.

(f) A note shall be placed on the final subdivision plat stating that public services such as refuse collection, snow removal, and street maintenance will only be provided to the point where the flag lot meets the public street right-of-way.

(g) Flag lots with flagpole access strips greater than two hundred (200) feet in length shall provide, at the ~~developer's subdivider's~~ expense, a driveway which is capable of supporting emergency vehicles and which is at least ten (10) feet in width for the front half closest to the street and at least twenty (20) feet in width for the rear half to allow for the pass-by of vehicles.

(h) The maximum length for the flagpole access strip shall be seven hundred (700) feet in order to provide adequate fire protection.

(i) The house on a flag lot must have a setback of at least fifty (50) feet from all property lines.

(j) A driveway on a residential flag lot shall be located a minimum of five (5) feet from all lot lines, unless approval has been obtained from a shared driveway with one (1) of the adjacent lots.

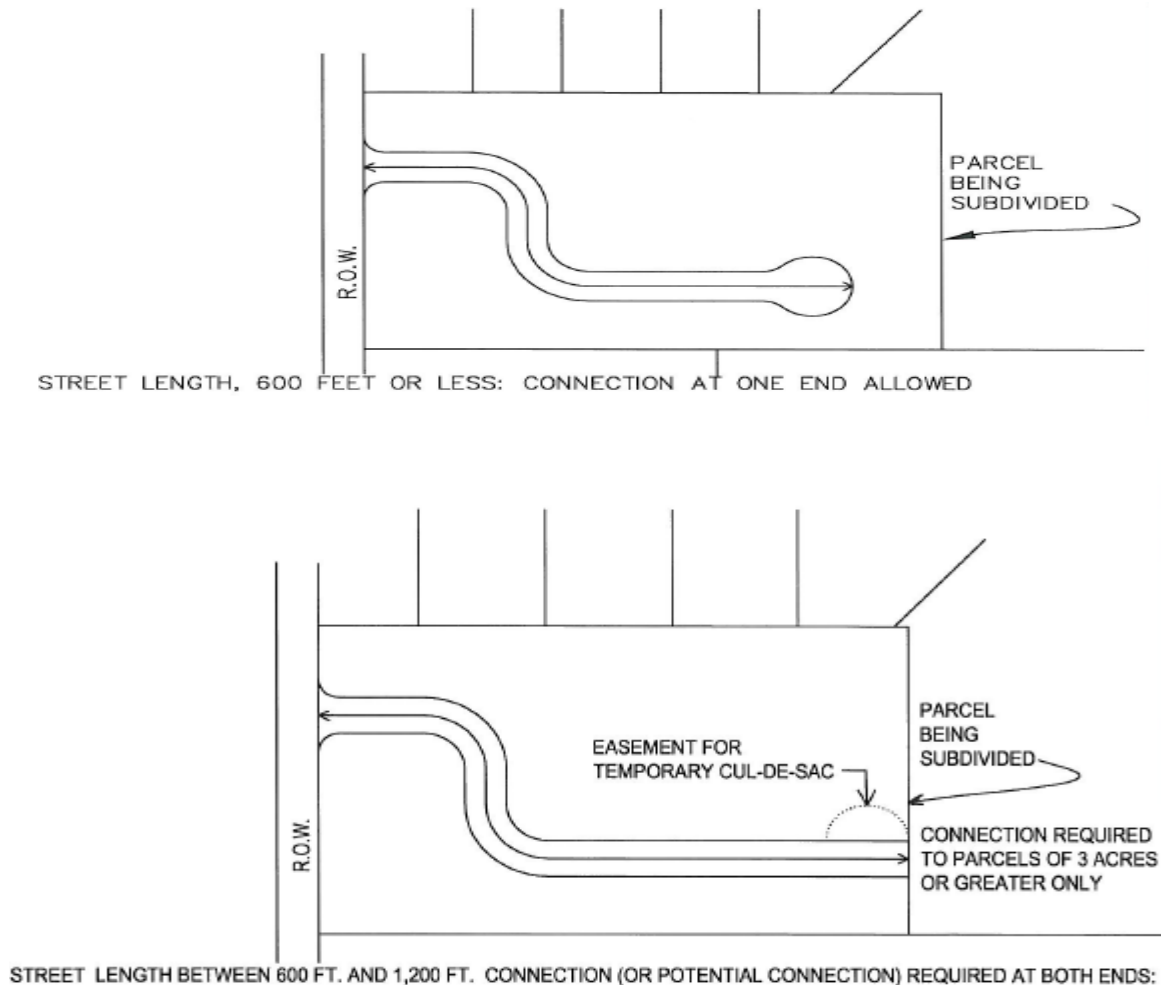
Sec. 24.1-30. Streets.

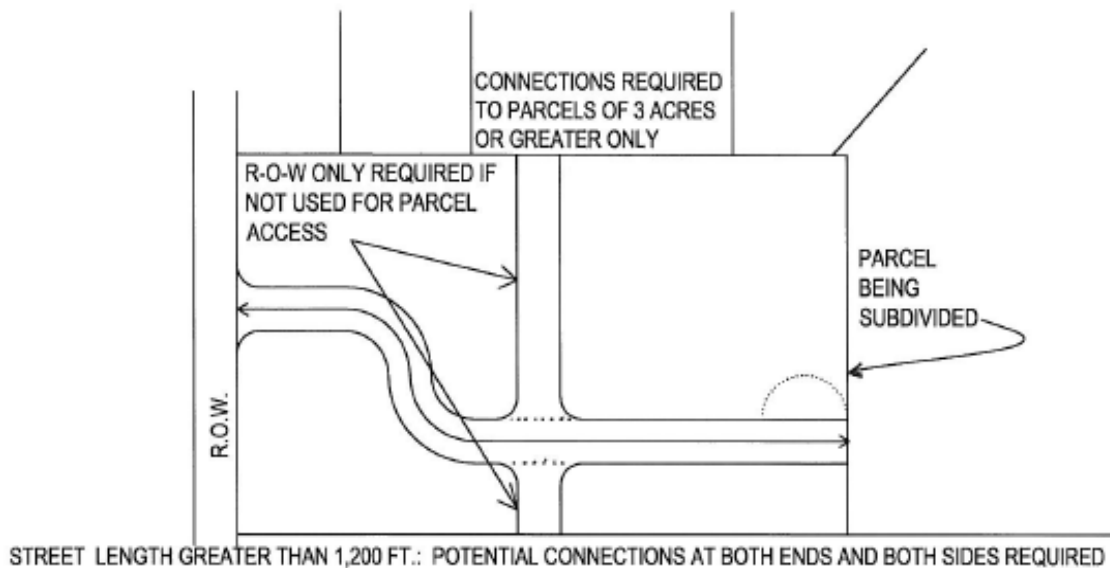
(a) (1) Residential: In residential subdivisions where the streets are dedicated to public use, all street and drainage improvements, ~~excluding curbs and gutters~~, shall be installed by the subdivider ~~at his cost~~. The subdivider shall clear and grade every street to the full width of the right-of-way with provisions for mowable three (3) to one (1) or flatter slopes on private property, except where topography prohibits.

Specifications and requirements shall be in accordance with the standards established ~~by the city~~ in the City of Lynchburg, Manual of Specifications and Standard Details.

(2) Nonresidential: In nonresidential subdivisions where the streets are dedicated to public use, the cost and installation of all streets and drainage improvements shall be in accordance with current city policy, as established by city council.

(b) Alignment and layout: The arrangement of streets in new subdivisions shall make provision for the continuation of existing, proposed and future streets in adjoining areas. The street arrangement must be such as to cause no unnecessary hardship to owners of adjoining property when they plat their own land and seek to provide for convenient access to it. In residential and commercial subdivisions, street segments of six hundred (600) feet in length or greater shall have right-of-way dedicated to provide street connections at each end. Street segments of one thousand two hundred (1,200) feet in length or greater shall have right of way dedicated to provide street connections at each end and at least one (1) potential connection to the left and one (1) potential connection to the right adjoining properties. Notwithstanding other requirements of this section, connections shall not be required to any adjoining parcel of less than three (3) acres in size. Whenever possible, streets should intersect at right angles. In all hillside areas, streets running with contours shall be required to intersect at angles of not less than sixty (60) degrees, unless approved by the city. Where topographical features are prohibitive, no dedication for street continuation shall be required.





(c) Improvements required: The subdivider shall improve right-of-way one hundred (100) feet beyond the beginning of the furthest parcel or the end of the furthest driveway location, whichever is farther. This improvement shall include a turnaround facility as detailed by the Manual of Specifications and Standard Details. The subdivider shall improve the full length of any right-of-way within the subdivision that connects to an existing or proposed street.

(d) Improvements not required: Except where specifically required by paragraph (c) above, whenever right-of-way is dedicated solely to provide required connections to adjoining property, the subdivider shall only be required to dedicate an unimproved right-of-way. ~~to give convenient access, acceptable to the city, to owners of adjoining property except where the subdivider's lots front on such right-of-way, the right-of-way shall be improved and extended to the property line of the adjoining property owners and where topographical features are prohibitive, no dedication for access shall be required.~~

~~(e)~~ (e) Service drives: Whenever a proposed subdivision contains or is adjacent to a limited access highway or expressway, where adequate access is not provided, provision shall be made for a service drive or marginal street approximately parallel to such right-of-way at a distance suitable for an appropriate use of the land between such highway or expressway and the proposed subdivision. Such distance shall be determined with due consideration of the minimum distance required for ingress and egress to the limited access highway or expressway. The right-of-way of any major highway or street projected across any railroad, limited access highway or expressway shall be of adequate width to provide for the cuts or fills required for any future separation of grades.

~~(f)~~ (f) Approach angle: Streets shall approach the major or collector streets at an angle of not less than eighty (80) degrees, unless the ~~city~~ engineer shall approve a lesser angle of approach for reasons of contour, terrain or matching of existing patterns.

~~(g)~~ (g) Minimum widths: The minimum width of proposed streets, measured from lot line to lot line, shall be in accordance with regulations established by the City of Lynchburg, Manual of Specifications and Standard Details. Street widths are typically but not always ~~However, in no case shall a street be less than fifty (50) feet in width. The street width shall be based on the post development average daily traffic and shall be of sufficient width to accommodate the typical street cross section designated therein. If an existing street is to be utilized for access and such street is not of sufficient width per the criteria of the City of Lynchburg Manual of Specifications and Standard Details and the subdivider owns property on both sides of the street, then provisions shall be made on the plat to widen the street to accommodate the standard street width. Alleys, if permitted, shall be not less than twenty (20) feet, nor more than~~

~~twenty-eight (28) feet in width. If an existing street is to be utilized and such street is not fifty (50) feet in width and the subdivider owns property on both sides of the street, then provisions shall be made on the plat to widen such street to fifty (50) feet or the standard width of that street, whichever is greater. Should the subdivider subdivision about on only one (1) side of an existing street, the subdivider shall dedicate enough land so that then provisions shall be made on the plat to widen one-half (1/2) of the width of such street, to accommodate the standard street width as measured from the centerline to the subdivision property line, shall be twenty-five (25) feet or one-half (1/2) the standard width of such street, whichever is greater of the existing street.~~

Alleys for vehicular access, if permitted, shall be not less than fourteen (14) feet in width for one way traffic nor more than twenty eight (28) feet in width for two way traffic.

~~(f)~~ (h) Grading and paving widths: Grading and paving of all streets dedicated to public use shall be in accordance with regulations established by the City of Lynchburg, Manual of Specifications and Standard Details.

~~(g)~~ (i) Grades: The grades of streets shall be in accordance with specifications established by the city, and such grades as submitted on subdivision plats shall be approved by the city prior to final action by the city planner agent. ~~Wherever feasible, Maximum allowable street grades should not exceed ten (10) percent and the maximum allowable grade shall be fifteen (15) percent, unless otherwise approved by the city engineer.~~

~~(h)~~ (j) Cul-de-sacs: ~~Minor Terminal streets (cul-de-sacs), designed to have one (1) end permanently closed, shall be not longer than twelve hundred (1,200) feet to the beginning of the turnaround unless approved by the city. Each cul-de-sac must shall be terminated by a permanent or temporary turnaround per the Manual of Specifications and Standard Details, of one hundred (100) feet in right-of-way diameter. This requirement does not apply to nonresidential subdivisions as these streets will be approved by the city.~~

~~(i)~~ (k) Curbs, and gutters and sidewalks: Curbs, and gutters are required ~~and in accordance with~~ regulations established by the City of Lynchburg, Manual of Specifications and Standard Details. Except where pedestrian traffic is explicitly prohibited, sidewalks are required (i) on at least one (1) side of all streets, (ii) on both sides of streets with a post-development traffic count of greater than six thousand (6,000) vehicles per day. The cost of said curbs, and gutters and sidewalks shall be borne fifty (50) percent by the city and fifty (50) percent by the developer subdivider. Reimbursements shall be in accordance with regulations established by the City of Lynchburg, Manual of Specifications and Standard Details, per the year of origination of the subdivision.

~~(j)~~ Sidewalks: ~~Sidewalks shall be provided by the subdivider where need is demonstrated by the agent with consideration to each subject location with respect to: (1) pedestrian safety, speed limit, street width and street alignment; (2) vicinity of schools, parks, playgrounds, and/or commercial development; (3) street traffic with 6,000 minimum vehicles per day; and~~

~~(4) pedestrian traffic with minimum of 75 people per day. Where need for sidewalks is determined by the agent, cost shall be borne 50 percent by the city and 50 percent by the subdivided.~~

~~(k)~~ (l) Alleys: Deadend alleys, if unavoidable, shall be provided with adequate turnaround facilities as determined by the city.

~~(l)~~ (m) Identification signs: Street name signs shall be installed by the city at cost to the subdivider.

~~(m)~~ (n) Street lighting: Where the subdivider desires street lighting, no installation cost shall be borne by the city. ~~Where underground utilities are installed, the subdivider shall install conduit and markers for mounting bases to permit future installation of street lighting.~~

Sec. 24.1-31. Public water supply and sanitary sewer system required.

Subdivisions of more than five (5) lots shall be served by the city ("public") water and sewer systems.

(a) Sewer and/or water available: Where a public water supply and/or a public sanitary sewer system are (reasonably accessible as defined in Section 24.1-31(c)) the said water supply and/or sanitary sewer system shall be designed and extended to adequately serve all lots within the subdivision, according to the design standards issued by the city public works department. All plans are to be approved by the city.

The cost of installing the sanitary sewer and water system including all appurtenances, except connections and meters, within the subdivision boundaries shall be paid one hundred (100) per-cent by the subdivider for the size mains needed to serve the subdivision. The minimum size main shall be as determined by the city. If larger mains are required by the city to serve other areas, then the difference in cost, based on the city's annual bid prices, shall be paid by the city. The city will extend and pay one hundred (100) percent of the cost to provide water and/or sewer lines to the subdivision boundary according to Section 24.1-31(c).

Service connections for both water and/or sanitary sewer shall be constructed to each lot within the subdivision. ~~The cost of these connections will be paid one hundred (100) percent by the city based on the city's annual bid prices.~~ Reimbursements shall be in accordance with regulations established by the City of Lynchburg, Manual of Specifications and Standard Details, per the year of origination of the subdivision. The subdivision plat will contain a notation to the effect that appropriate sewer/water connection and availability fees will be charged by the city at the time of connection to the system.

(b) Sewer and/or water not available: Where a public water supply and/or a public sanitary sewer system are not reasonably accessible as defined in Section 24.1-31(c). the extension of these systems by the subdivider will not be required; however, where the subdivider desires the extension of such systems which exceeds the ratio stated in Section 24.1-31(c) and agrees to pay the additional cost of the extension to the subdivision boundary, then the city shall extend the lines in accordance with Section 24.1-31(a).

(c) Water/sewer lines availability defined: Reasonably available water and/or sewer lines are defined as those lines which are economically feasible to extend from water and sewer lines mandated by the 1976 annexation decree and/or other lines previously constructed.

To be economically feasible in a residential subdivision, there must be at least one (1) lot for each one hundred (100) feet of utility line construction. The following are examples of feasibility ratios:

Feet of water/sewer line construction	Required number of lots
5,000	50
3,000	30
1,000	10
500	5

For extensions to multi-family subdivisions the feasibility ratio would require two (2) dwelling units per one hundred (100) feet of extension. Thus:

Feet of water/sewer line construction	Required number of dwelling units
5,000	100
3,000	60
1,000	20
500	10

(d) Lots in cluster developments including townhouses ~~for sale~~ and condominiums: Public water and sewer systems shall serve each individual lot in all cluster developments including townhouses ~~for sale~~ and condominiums. The public system shall be brought to an appropriate location(s) on the property line of the development adjacent to a public right-of-way or through a public easement. ~~From that appropriate location(s), the cluster development shall provide private system connecting each unit to the public system. Said private system and payment for service shall become the responsibility of the association charged with management and ownership of common open space, property, and facilities and shall be so stated on the plat.~~

(e) In cases where an obstacle (such as a stream, railroad, or highway crossing, etc.) increases the construction cost beyond twenty (20) percent of the normal distance to dollar ratios, based on the city's annual contract pricing, the subdivider may be required to pay a larger share of the sewer and water facility construction costs as determined by the city's physical development committee.

Sec. 24.1-32. Storm drainage.

A storm drainage system shall be required to adequately provide for drainage of the subdivision. The subdivider shall pay the cost of this system. The subdivider may be required to pay ~~his~~ the pro rata share of sewerage and drainage facilities outside ~~his~~ the subdivision property limits which are necessitated by the construction or improvement of ~~his~~ the subdivision or development.

Sec. 24.1-33. Monuments.

(a) Visible for inspection: Upon completion of subdivision streets, sewers and other improvements, the subdivider shall make certain that all monuments required by the city are clearly visible for inspection and use. Such monuments shall be inspected and approved by the city before any improvements are accepted by the governing body. All monuments shall be set by a surveyor licensed by the Commonwealth of Virginia.

(b) Location—concrete, ~~stone~~: Two (2) permanent reinforced monuments as prescribed by the city shall be placed on the longest street tangent intervisible. Such permanent monuments shall be ~~stone or reinforced concrete at least twenty-four (24) inches long and six (6) inches square and shall be set to approved finished grades as practicable~~ as specified in the City of Lynchburg, Manual of Specifications and Standard Details.

(c) Location—iron: All other lot corners shall be marked with pipe or solid iron not less than one-half (1/2) inch in diameter and fifteen (15) inches long and driven so as to be flush with the finished grade. When rock is encountered, surveyor shall determine a suitable method for providing a permanent marker.

Sec. 24.1-34. Reservation of land for public purposes.

The city may require subdividers of residential subdivisions to set aside land for parks, playgrounds, schools, libraries, municipal buildings and similar public uses, subject to the following regulations:

(a) Subdividers shall not be required to reserve land for public purposes other than streets and drainage, except on a reimbursement basis. The subdivider shall be reimbursed by the jurisdiction or agency requiring the land. The city shall be required to obtain an option upon the property involved for a negotiated period following the recording of the plat for such purchase. If the land is not purchased within the said negotiated period by the city and the subdivider, it may be sold as lots for the same purpose for which the subdivision was platted. To facilitate such possible eventual sale of reserved land as separate lots, the subdivider shall show on ~~his~~ the final plat, by dotted lines and dotted numbers, the

sizes and dimensions of lots to be created within the boundaries of any such reserved land, and may sell such lots, after the expiration date of the reservation, by lot number, without filing an amended plat.

(b) The city shall make certain that lands so reserved are divisible in the same manner as the remainder of the subdivision so that the subdivider will not be required to reserve an unusable portion of ~~his~~ the subdivision.

(c) Nothing herein shall be construed to mean that land may be set aside for commercial purposes in a residential district, without the land so required for commercial use being zoned appropriately in accordance with the zoning ordinance.

Sec. 24.1-34.1. Vacation or alteration of boundary lines.

(a) The ~~city planner agent~~ may approve the vacation, relocation, or alteration of boundary lines of any lot or parcel of land shown on a valid and properly recorded plat of a subdivision or re-subdivision approved as provided for in this subdivision ordinance and executed by the owner or owners of such land, as provided in Section 24.1-42. Such approval may be given provided that the vacation, relocation, or alteration of a lot line does not involve the relocation or alteration of streets, alleys, easements for public passage, or other public areas; and, provided further, that no easements or utility rights-of-way shall be relocated or altered without the express consent of all persons holding an interest therein.

(b) The city planner may approve a plat altering or relocating the boundary line between no more than two (2) lots or parcels provided that all monuments necessary to alter or relocate the boundary line and at least one (1) lot corner are indicated on the plat. All other information may be indicated by providing reference to and as shown on a valid and properly recorded subdivision plat.

(c) The city planner may allow the vacating of lot lines by recordation of a deed providing that no easements or utility rights-of-way located along any lot lines to be vacated shall be extinguished or altered without the express consent of all persons holding any interest therein. The deed shall be approved in writing, on its face, by the city planner. The deed shall reference the recorded plat by which the lot line was originally created.

Sec. 24.1-36. Preliminary sketch (not required).

The subdivider may, ~~if he so chooses, submit to the planning division~~ submit to the planning division a preliminary sketch of the proposed subdivision ~~to the planning division~~ prior to ~~his~~ preparing an engineering preliminary and/or final plat. Submission of the preliminary plat shall not constitute the official filing of a proposed subdivision. The purpose of such preliminary sketch is to permit the planning division to advise the subdivider whether his plans, in general, are in accordance with the requirements of this ordinance. The planning division, upon submission of any preliminary sketch, shall study it, and advise the subdivider within fifteen (15) days ~~wherein~~ whether it appears that changes would be necessary. The planning division may mark the preliminary sketch indicating necessary changes and any such marked sketch should be returned to the planning division with the preliminary plat. The preliminary sketch shall be as follows:

The preliminary sketch may be drawn on white paper, or on a print of a topographic map of the property. It shall be drawn to scale. It shall show the name, location and dimensions of all streets entering the property, adjacent to the property or terminating at the boundary of the property to be subdivided. It shall show the location of all proposed streets, lots, parks, playgrounds and other proposed uses of the land to be subdivided and shall include the approximate dimensions.

Sec. 24.1-37. Preliminary plat.

The subdivider shall present to the planning division the appropriate number, as the city planner determines are needed, of eighteen (18) copies of a preliminary layout at a scale of not less than one hundred (100) feet to the inch and on sheets having a maximum size of seventeen (17) inches by twenty-two (22) inches as a preliminary plat and the preliminary plat shall be accompanied by plan and profile sheets at a scale of fifty (50) feet to the inch horizontal and ten (10) feet to the inch vertical.

The preliminary plat shall include the following information:

- (a) Name of subdivision, owner, subdivider, surveyor or engineer, date of drawing, number of sheets, true and/or magnetic north point and scale.
- (b) Location of proposed subdivision by an insert map with a north arrow and scale at a scale of not less than two (2) inches equal one (1) mile showing adjoining roads, their name and number, counties, subdivisions and other landmarks.
- (c) The boundary survey or existing survey of record provided such survey shows a closure with an accuracy of not less than one (1) in five thousand (5,000), total acreage, acreage of subdivided area, number and approximate area and frontage of all building lots, existing buildings within the boundaries of the tract, names of owners and their property lines within the boundaries of the tract, delineation of flood plain districts, and names of owners and their property lines adjoining such boundaries.
- (d) All existing platted streets, including alleyways, and all proposed streets, their names and widths; existing and proposed utility or other easements, public areas and parking spaces, culverts, drains and water courses, their names and other pertinent data.
- (e) All parcels of land to be dedicated for public use and the conditions of such dedication.
- (f) Topography at maximum intervals of five (5) feet.
- (g) Elevations of existing and proposed ground surface at all street intersections and at points of major grade change along the center line of streets together with proposed grade lines connecting therewith, or as necessary for the city to reasonably interpret the intention of the subdivider. Major grade changes shall be indexed to profile sheets.
- (h) Proposed connections with existing sanitary sewers and existing water supply or alternate means of sewage disposal and water supply.
- (i) Provisions for collecting and discharging surface drainage and preliminary descriptions of any structures that may be required.

Sec. 24.1-38. Procedure.

The city planner~~agent~~ or his appointed representative shall discuss the preliminary plat with the subdivider in order to determine whether or not ~~his~~ the preliminary plat generally conforms to the requirements of the subdivision ordinance.

The subdivider shall then be advised in writing within fifteen (15) days, which may be by formal letter or by meaningful markings or descriptions on ~~his~~ the copy of the preliminary plat, concerning any additional data that may be required, the character and extent of public improvements that will have to be made, and an estimate of the cost of construction or improvements and the amount of the surety bond which will be required as a prerequisite to approval of the final subdivision plat. In determining the cost of required improvements and the amount of the surety bond, the city planner~~agent~~ may require the

subdivider to furnish a bona fide estimate of the cost of improvements to assist the city planner~~agent~~ in determining the amount of surety bond.

Sec. 24.1-39. Preliminary plat ~~may be submitted~~ approval as final plat.

The preliminary plat may be submitted as the final plat where approved by the city planner~~agent~~ and provided no change, erasure or revision shall be made on any preliminary or final plat nor on accompanying data sheets after approval of the city planner~~agent~~ has been endorsed in writing on the plat or sheets, unless authorization for such changes has been granted in writing by the city planner~~agent~~.

Sec. 24.1-42. Final plat.

~~If no preliminary plat is submitted in accordance with Section 24.1-39,~~ The submission of a final plat shall constitute the official filing of a proposed subdivision. ~~Twenty (20)~~ The appropriate number, as the city planner determines are needed, of copies of the final plat shall be submitted to the city for final approval and subsequent recording. Blue or black line prints (surveyor's copies) shall be clearly and legibly drawn at a scale of not more than one hundred (100) feet to the inch on sheets having a maximum size of seventeen (17) inches by twenty-two (22) inches.

For any subdivision of five (5) lots or more the digital data associated with the creation of the subdivision plat shall be provided to the city planner~~agent~~ in a format approved by the city. The digital data shall be "georeferenced" to the State Plane Coordinate System, North American Datum 1983, Virginia South Zone #4502. The data shall be certified by a licensed ~~engineer or surveyor or other persons~~ appropriately licensed by the Commonwealth of Virginia for accuracy and correctness. Where the subdivider can show that the subdivision plat was not created using computer aided design (CAD) software, or adherence to these requirements would produce unnecessary hardships the city planner~~agent~~ may grant an exception in whole or in part to the requirements for digital data submission.

The final plat shall include the following information and all information which is required on the preliminary plat shall be provided on the final plat:

(a) Name of subdivision, city, state, owner, true and/or magnetic north point and scale of drawing and number of sheets. If shown on more than one (1) sheet, matched lines shall clearly indicate where the several sheets join. A space shall be reserved for the signature of the city engineer and the city planner~~clerk of council~~ if no new streets are dedicated. If the plat includes the acceptance of right-of-way, a space shall be reserved for the signature of the city engineer and the city manager.

(b) Location of proposed subdivision by an insert map with north arrow and scale at a scale of not less than two (2) inches equal one (1) mile indicating adjoining roads, their names and numbers, counties, subdivisions and other landmarks.

(c) A boundary survey with an error of closure within the limits of one (1) in five thousand (5,000) related to the magnetic meridian and showing the location of all monuments and their type of material within the boundary of the subdivision. The survey may be related to the U. S. Coast and Geodetic Survey state grid north if the coordinate of two (2) adjacent corners of the subdivision are shown.

(d) ~~Certificates signed by the surveyor setting forth~~ The source of title of the owners of the land subdivided and the place of record of the last instrument in the chain of title.

(e) A statement to the effect that the subdivision as it appears on this plat is with the free consent and in accordance with the desires of the owners, proprietors and trustees, if any, which shall be signed by the

owners, proprietors and trustees, if any, and shall be duly acknowledged before some officer authorized to take acknowledgements to deeds.

(f) When the subdivision consists of land acquired from more than one (1) source of title the outlines of the various tracts shall be indicated by dotted lines and identification of the respective tracts shall be placed on the plat.

(g) The accurate location and dimensions by bearings and distances with all curve data on all lots and street lines, boundaries of all proposed or existing easements and utilities, existing parks, school sites or other public areas, the number and area of all building lots, all existing public and private streets, their names, numbers and widths, water courses and their names, if any, delineation of flood plain ~~districts~~ zones, names of owners and their property lines within the boundary of the subdivision and the names of owners and their property lines adjoining said boundaries.

(h) All dimensions shall be shown in feet and decimals of a foot to the closest two (2) decimal points, all bearings shall be shown in degrees and minutes to the nearest minute.

(i) The data of all curves along the street frontages shall be shown in detail at the curve or in a curve data table containing the following; delta angle, radius, arc, tangent, chord and chord bearings.

(j) Any restrictions imposed by the subdivider shall be shown on the plat, or on attached sheet(s) in which case it shall be stated on the plat that deed restrictions are on the said attached sheet(s) or as filed in Plat Cabinet number (identify number) of the office of the clerk of the circuit court.

(k) Where public water and or sewer systems are to be provided it shall be indicated on the plat and shall reflect whether such facilities will be owned by the City of Lynchburg or privately owned, indicating the name or title of the owner.

(l) A statement as to whether utilities will be placed overhead or underground.

(m) All other applicable minimum standards for surveys as defined within Chapter 20 of the Virginia Administrative Code.

A house number shall be assigned to each lot created by the subdivision as provided in section 35-114 and chapter 35, article VII of the city code.

Sec. 24.1-44. Approval.

The city planner~~agent~~ shall not approve the final plat until ~~he has received~~ receipt of a written statement from the ~~health department official~~ official that the subject property is suitable for the proposed development; nor shall ~~he approve~~ the plat be approved when city public water and/or sewer is to be provided until the city planner~~agent~~ receives in writing that the system has been approved and accepted by the City of Lynchburg or the subdivider has the required surety in place. Where a subdivision has been approved administratively by the city planner, no additional subdivision of the new lots or of the residue tract shall be approved within a period of two (2) years from the date of approval, unless the land is industrially-zoned or the two-year time limit is waived by the city planner.

(a) Approval of the final plat shall be written on the face of the plat by the city engineer and city planner~~clerk of council~~ if no new streets are dedicated. Approval of the final plat that includes acceptance of right-of-way shall be written on the face of the plat by the city engineer and city manager; all copies shall be retained by the ~~clerk of council~~city planner until the subdivider is ready to record same. (See also Section 24.1-28(g).) The city planner~~agent~~ shall notify the subdivider in writing when the plat is approved and the subdivider shall record the plat within six (6) months after final approval. The city planner~~agent~~

may, on written request of the subdivider, grant an extension of this time, otherwise he shall mark the plat void and return same to the subdivider.

(b) The city council, commission or ~~other agent~~ city planner shall render a decision on the proposed plat right-of-way within sixty (60) days after it has been submitted for approval by either approving or disapproving such plat in writing, and giving with the latter specific reasons therefore.

Specific reasons for disapproval may be contained in a separate document or may be written on the plat itself, and shall relate in general terms such modifications or corrections as will permit approval of the plat.

If the city council, commission or ~~other agent~~ city planner fails to approve or disapprove the plat within sixty (60) days after it has been officially submitted for approval, the subdivider, after ten (10) days' written notice to the commission or city planner ~~agent~~, may petition the circuit court of the city ~~or county in which the land involved, or the major part thereof, is located~~, to decide whether the plat should or should not be approved. The court shall hear the matter and make and enter such order with respect thereto as it deems proper, which may include directing approval of the plat.

If the city council, commission or ~~other agent~~ city planner disapproves a plat and the subdivider contends that such disapproval was not properly based on the ordinance applicable thereto, or was arbitrary or capricious, he may appeal to the circuit court having jurisdiction ~~of such land and the court shall hear and determine the case as soon as may be.~~

The time requirements contained in this section shall not apply to the submission of any preliminary subdivision plat.

Sec. 24.1-45. Exceptions.

Where the subdivider can show that a provision of these standards would cause unnecessary hardship if strictly adhered to, or where, because of topographical or other conditions peculiar to the site, in the opinion of the city planner ~~agent~~ a departure may be made without destroying the intent of such provisions, the city planner ~~agent~~ may authorize an exception. When the city planner ~~agent~~ or subdivider desires, the matter shall be referred first to the commission ~~or~~ and thence to city council for review. Any exceptions authorized under the provisions of this section shall be stated in writing on the plat, by the city planner ~~agent~~, commission or city council with the reasoning set forth on which the departure was justified.

~~The agent may allow the vacating of lot lines by recordation of a deed providing that no easements or utility rights of way located along any lot lines to be vacated shall be extinguished or altered without the express consent of all persons holding any interest therein. The deed shall be approved in writing, on its face, by the agent. The deed shall reference the recorded plat by which the lot line was originally created.~~

Sec. 24.1-46. Penalties.

~~Any person violating the foregoing provisions of this ordinance shall not be granted a building permit or extended public utilities and shall be subject to a fine of not more than one hundred dollars (\$100.00) for each lot or parcel of land so subdivided or transferred or sold; and the description of such lot or parcel by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from such penalties or from the remedies herein provided.~~

(a) Any person violating the provisions of this chapter shall not be granted a building permit or extended public utilities and any violation of this chapter shall be a misdemeanor punishable by a fine of not less

than ten dollars (\$10.00) nor more than one thousand dollars (\$1,000.00) for each lot or parcel of land subdivided, transferred or sold and the description of such lot or parcel by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from such penalties or from the remedies herein provided. If the violation is uncorrected at the time of the conviction, the court shall order the violator to abate or remedy the violation in compliance with the zoning ordinance, within a time period established by the court. Failure to remove or abate a zoning violation within the specified time period shall constitute a separate misdemeanor offense punishable by a fine of not less than ten dollars (\$10.00) nor more than one thousand dollars (\$1,000.00), and any such failure during any succeeding ten (10)-day period shall constitute a separate misdemeanor offense for each ten (10)-day period punishable by a fine of not less than one hundred dollars (\$100.00) nor more than one thousand five hundred dollars (\$1,500.00).

(b) Any violation or attempted violation of this chapter, or of any regulation adopted hereunder may be restrained, corrected, or abated as the case may be by injunction or other appropriate proceeding. At any time after the filing of an injunction or other appropriate proceeding to restrain, correct, or abate a zoning ordinance violation and where the owner of the real property is a party to such proceeding, the zoning administrator may record a memorandum of lis pendens pursuant to Section 8.01-268 of the Code of Virginia. Any memorandum of lis pendens admitted to record in an action to enforce a zoning ordinance shall expire after one hundred eighty (180) days. If the city has initiated an enforcement proceeding against the owner of the real property and such owner subsequently transfers the ownership of the real property to an entity in which the owner holds an ownership interest greater than fifty (50) percent, the pending enforcement proceeding shall continue to be enforced against the owner.

Sec. 24.1-49. Amendments.

This ordinance may be amended in whole or in part. The commission on its own initiative may, or at the request of the city council shall, prepare and recommend amendments to this ordinance. The procedure for such amendment shall be the same as for the preparation and recommendation and approval and adoption of the original ordinance; provided, that no such amendment shall be adopted by the governing body without a reference of the proposed amendment to the commission for recommendation, nor until sixty (60) days after such reference, if no recommendation is made by the commission. Provided, further, that the provisions of ~~Section 15.1-431~~ Section 15.2-2204 of the Code of Virginia (1950), as amended, regarding advertisement and public hearings have been complied with.

2. That in order to promote the public necessity, convenience, general welfare, and good zoning practice by adding thereto Sections 24.1-16.2. Flood control and drainage and 24.1-25.1. Partial and final release of certain performance guarantees, as follows:

Sec. 24.1-16.2. Flood control and drainage.

The subdivider shall provide that information necessary to determine what improvements are required to develop the subject property, including topography, drainage plans and flood control devices. The plans for such improvements shall include a statement from a licensed professional engineer or other persons appropriately licensed by the Commonwealth of Virginia, that such improvements when installed will be adequate for development. In subdivisions where the streets are dedicated to public use, the city engineer shall either approve or disapprove the plans.

Sec. 24.1-25.1. Partial and final release of certain performance guarantees.

(a) The city shall provide for the periodic partial and final complete release of any performance guarantee required by the city under this article within thirty (30) days after receipt of written notice by the subdivider of completion of part or all of any required public facilities unless the city engineer notifies the subdivider in writing of nonreceipt of approval, or of any specified defects or deficiencies in construction and suggested corrective measures prior to the expiration of the thirty (30) day period. Any inspection of such public facilities shall be based solely upon conformance with the Manual of Specification and Standard Details and the approved design plan for the facilities for which the performance guarantee is applicable, and shall not include the approval of any person other than an employee of the city or a person who has contracted with the city.

(b) If no such action is taken by the city within the time specified above, the request shall be deemed approved, and a partial release shall be granted to the subdivider. No final release shall be granted until after expiration of such thirty (30)-day period and there is an additional request in writing sent by certified mail return receipt to the city manager. The city engineer shall act within ten (10) working days of receipt of the request; then if no action is taken, the request shall be deemed approved and final release granted to the subdivider.

(c) After receipt of the written notices required above, if the city takes no action within the times specified above and the subdivider files suit in the local circuit court to obtain partial or final release of a performance guarantee, the circuit court, upon finding the city was without good cause in failing to act, shall award such subdivider his reasonable costs and attorney's fees.

(d) The city shall not refuse to make a periodic partial or final release of a performance guarantee for any reason not directly related to the specified defects or deficiencies in construction of the public facilities covered by said performance guarantee.

(e) Upon the completion of at least thirty (30) percent of the public facilities covered by any performance guarantee, and upon written request by the subdivider, the city shall make periodic partial releases of such performance guarantee in a cumulative amount equal to no less than ninety (90) percent of the original amount of the completed work for which the performance guarantee was taken. The city shall not be required to execute more than three (3) periodic partial releases in any twelve (12)-month period. Upon final completion and acceptance of the public facilities, the city shall release any remaining performance guarantee to the subdivider. For the purpose of final release, the term "acceptance" means: when the public facility is accepted by and taken over for operation and maintenance by the state agency, local government department or agency, or other public authority which is responsible for maintaining and operating such public facility upon acceptance.

3. That in order to promote the public necessity, convenience, general welfare, and good zoning practice by repealing Sections 24.1-4. Mutual responsibility, 24.1-8. To consult, 24.1-22. Flood control and drainage, and 24.1-50. Effective date, as follows:

~~Sec. 24.1-4. Mutual responsibility.~~

~~There is a mutual responsibility between the subdivider and the city of Lynchburg to divide the land so as to improve the general use pattern of the land being subdivided.~~

~~Sec. 24.1-8. To consult.~~

~~In the performance of his duties the agent may call for opinions or decisions, either verbal or written, from other departments in considering details of any submitted plat. This authority of the agent shall have particular reference to the technical review committee, and the health official.~~

~~Sec. 24.1-22. Flood control and drainage.~~

~~The subdivider may be required to provide that information necessary to determine what improvements are required to properly develop the subject property, including contour intervals, drainage plans and flood control devices. The plans for such improvements shall include a statement from an engineer, or any other person certified by the State of Virginia, that such improvements when properly installed will be adequate for proper development. In subdivisions where the streets are dedicated to public use the city council shall either approve or disapprove the plans.~~

~~Sec. 24.1-50. Effective date.~~

~~This ordinance was duly considered, following a required public hearing, and was adopted by the City of Lynchburg, Virginia, on November 14, 1978.~~

4. That this ordinance shall become effective on its passage.

Adopted

Certified:

Interim Clerk of Council

040L1

ORDINANCE

AN ORDINANCE TO AMEND AND REENACT SECTIONS 35-101, 35-108 AND 35-111 OF THE CODE OF THE CITY OF LYNCHBURG, 1981, THE AMENDED SECTIONS RELATING TO THE NAMING OF STREETS WITHIN THE CITY.

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

1. That Sections 35-101, 35-108 and 35-111 of the Code of the City of Lynchburg, 1981, be and the same are hereby amended and reenacted as follows:

Sec. 35-101. Compliance with article.

Except as provided in the city's subdivision ordinance A~~all~~ dedicated streets, public ways, and all private roads coming under this article, established or acquired after the twenty-sixth day of July, 1977, shall be named or renamed in accordance with the provisions of this article.

Sec. 35-108. Procedure generally.

Except as provided in the city's subdivision ordinance T~~the~~ procedure for naming or renaming any street within the city limits on or after the twenty-sixth day of July, 1977, shall be as provided in sections 35-109 through 35-114.

Sec. 35-111. Review of proposed names.

Except as provided in section 24.1-6 and 24.1-30 of the city's subdivision ordinance P~~p~~roposed street names will be reviewed by the city technical review committee, planning commission and council, with the final decision resting with the council.

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

Adopted:

Certified:

Interim Clerk of Council

040L2

Excerpt from the Minutes of the City Council Meeting of September 22, 2009

// In the matter of City Code, a public hearing was held regarding amending Section 24.1, Subdivision Ordinance, to correct outdated terminology, reflect current City policies and recommend changes regarding vehicle access management, street connectivity and public infrastructure. City Planner Tom Martin provided a brief summary regarding the changes to the Subdivision Ordinance. Mr. Martin reviewed the proposed changes:

Section 21--Require Health Official approval for site suitability for septic tanks and drainfield location.

Section 25 – 25.1--Policy for Bond Reimbursement and Partial Reimbursement consistent with Code of Virginia.

Section 26--Allow the subdivision plat approval and the engineering plan approval processes to run concurrently, but put the burden of ensuring proper coordination between them on the developer.

Section 28--Access Management provisions for residential driveways and shared direct access.

Section 30(b)--Require the coordination of street patterns with potential development on adjoining parcels.

Section 30(g)--Clarify provisions to widen streets based on "Average Daily Traffic". Reduce alley width requirements from minimum of 20 feet to 14 feet.

Section 30(i)--Reduce the maximum street grade allowed without engineering approval from 15% to 10%.

Section 30(k)--Require sidewalks in subdivisions along one side of street. Provision to require on both sides of street based on 6,000 car/day traffic count.

Section 31(d) -- Require that utility services to townhouses must go to each individual lot and not simply to the common ground.

Section 31(e) – Indicate that subdividers may be required to partially fund off-site utility extensions to their property in the event where obstacles increase construction costs by more than 20%.

Section 46 – Updates from Code of Virginia relating to penalties for violations of the Subdivision Ordinance.

Mr. Martin stated that staff is recommending that City Council conduct a public hearing and schedule discussion regarding the Subdivision Ordinance for a future work session. One individual spoke in support of the proposed changes to the Subdivision Ordinance. There was no one else present who wished to speak to this item, and the public hearing was closed. On motion of Council Member Johnson, seconded by Council Member Perrow, Council by the following recorded vote agreed to schedule discussion regarding the Subdivision Ordinance to a future work session:

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

Excerpt from the Minutes of the City Council Meeting of October 27, 2009

// City Planner Tom Martin advised regarding further changes to the Subdivision Ordinance:

Section 24.1-5. Words and terms.

(24) Public water or sewer: A water or sewer system designed to accommodate more than two (2) family residences, whether owned by the City of Lynchburg or a private individual ~~or concern~~. This definition shall not apply to nonresidential subdivisions.

Suggestion: replace "a private individual" with "privately owned".

Section 24.1-5. Words and terms.

(25) Sight distance triangle: A straight line with unobstructed view measured fifty (50) feet along the edge of pavement lines from their points of junction with points being three (3) feet above the pavement edge.

Suggestion: Delete definition of "Sight distance triangle"

Section 24.1-28. Lots.

(3) Residential Driveways: It is the city's intent to limit the number of new access points to existing arterial and collector streets and to maintain good access management of its streets. Required frontage and access should be from local streets. Residential driveways shall not be permitted from arterials and collectors unless size, topography, shape or other prohibitive conditions, as approved by the subdivision agent, would prevent access from a local street. Each lot shall be located and designed such that a usable driveway can be built to access the lot directly from the street on which it has the required street frontage, except for lots in approved planned unit developments, cluster commercial developments, and townhouse lots for sale complexes.

Suggestion: Remove new language and keep stricken language.

Section 24.1-28. Lots.

4) Shared Direct Access and Internal Vehicle Circulation: All multifamily residential, commercial and industrial developments fronting on existing arterial and collector streets shall be designed to achieve direct and convenient vehicular access between adjacent multifamily residential, commercial and industrial properties including outparcels, subject to the provisions of this ordinance.

i. The shared direct access and/or internal vehicular circulation provisions shall apply to all properties, including outparcels, owned or controlled by the subdivider or that are the subject to a single site plan or plan of development.

ii. In determining whether a site plan meets the requirements of this section, the technical review committee shall consider the characteristics of the proposed development, the information in the traffic study prepared pursuant to this section, the existing uses on adjacent properties, and the foreseeable development of adjacent properties based on the existing uses, existing zoning designations, comprehensive plan designations and factors and development patterns in the area.

iii. The shared direct access provisions of this ordinance shall not be required to provide primary access to a public street for an adjacent commercial property not owned or controlled by the subdivider or subject to a single site plan or plan of development that would not otherwise exist. An subdivider shall not be required to provide primary access through the shared direct access provisions to a public street to benefit an adjacent commercial property not owned or controlled by the subdivider or subject to a single site plan or plan of development that would not otherwise exist.

iv. A subdivider shall not be required to construct any improvements allowing shared direct access with adjacent commercial properties other than on property owned or controlled by the subdivider or subject to a single site plan or plan of development in order to meet this standard. A subdivider shall not be required to dedicate any property or property interest to the city to meet this standard.

v. In the event that an owner of adjacent commercial property will not consent to a design allowing shared direct access at the time of development, the development shall be designed and constructed to allow for the establishment of shared direct access with adjoining commercial properties in the future should the consent of the adjacent owner or owners become available.

Suggestion: Remove new language

Section 24.1-28. Lots.

d) Sight distance (~~across intersections~~) triangle: Clear sight distance triangles of fifty (50) feet measured along edge of pavement lines from their points of junction shall be provided at all intersections, and no building, structure, grade or planting higher than three (3) feet above the center line of the street shall be permitted within such sight distance triangle.

Suggestion: Remove new language.

Section 24.1-30. Streets. (b)

Suggestion: Revise image caption to match text. (Less than 600')

Section 24.1-44. Approval

b) The ~~city council, commission or other~~ agent shall render a decision on the proposed plat ~~right-of-way~~ within sixty (60) days after it has been submitted for approval by either approving or disapproving such plat in writing, and giving with the latter specific reasons therefore. Specific reasons for disapproval may be contained in a separate document or may be written on the plat itself, and shall relate in general terms such modifications or corrections as will permit approval of the plat.

Suggestion: Remove "city council, commission or other"

Include "proposed plat" remove "right of way".

Section 24.1-44. Approval

If the ~~city council, commission or other~~ agent fails to approve or disapprove the plat within sixty (60) days after it has been officially submitted for approval, the subdivider, after ten (10) days' written notice to the commission or agent, may petition the circuit court of the city ~~or county in which the land involved, or the major part thereof, is located~~, to decide whether the plat should or should not be approved. The court

shall hear the matter and make and enter such order with respect thereto as it deems proper, which may include directing approval of the plat.

If the ~~city council, commission or other~~ agent disapproves a plat and the subdivider contends that such disapproval was not properly based on the ordinance applicable thereto, or was arbitrary or capricious, he may appeal to the circuit court having jurisdiction ~~of such land and the court shall hear and determine the case as soon as may be.~~

Suggestion: Remove "city council, commission or other"

Section 24.1-45. Exceptions.

Where the subdivider can show that a provision of these standards would cause unnecessary hardship if strictly adhered to, or where, because of topographical or other conditions peculiar to the site, in the opinion of the agent a departure may be made without destroying the intent of such provisions, the agent may authorize an exception after consultation with the City Attorney. When the agent or subdivider desires, the matter shall be referred first to the commission ~~or~~ and thence to city council for review. Any exceptions authorized under the provisions of this section shall be stated in writing on the plat, by the agent, commission or city council with the reasoning set forth on which the departure was justified.

Suggestion: Add wording "after consultation with the City Attorney".

Mr. Martin indicated that following City Council's review, the recommendation would be to refer this revised document back to the Planning Commission prior to bringing it back to City Council for adoption. City Manager Kimball Payne also inquired if City Council wanted to revise the language in Section 24.1-6 regarding street dedications/naming of new streets to allow that function to be handled administratively. Mr. Payne explained that this would speed up the process for developers. Following the presentation, Council agreed with the recommendation to revise the ordinance, have the Planning Commission review the changes, and to bring the ordinance back to City Council at a later date for adoption.

MINUTES FROM THE FEBRUARY 24, 2010 PLANNING COMMISSION MEETING (MINUTES HAVE BEEN APPROVED):

Mr. Martin explained that the Subdivision Ordinance had gone to City Council on October 27, 2009. City Council recommended that it come back to the Planning Commission because some of the changes proposed by staff were significant. Staff thought that the principles of access management might have been applied too heavily in the Subdivision Ordinance by applying them to the entire City. They tried to take access management out of the Subdivision Ordinance and develop access management corridors instead.

The change to replace the proposed term "subdivider" with the original text referencing the "owner" of the land in Section 24.1-5(5) on page 3 was accepted.

The change to add "involving more than two (2) lots" on page 6 was accepted.

There was discussion about removing Planning Commission and City Council as approving bodies for street naming and right-of-way acceptance in Section 24.1-6. This change is being proposed in order to expedite the subdivision and street acceptance policy. It was presented to City Council as Planning Commission and City Council still being involved with the understanding that the petition would move along as quickly as possible. City Council discussed the issue and accepted the proposal of it being done as an administrative process but sent it back to the Planning Commission for their comment.

Commissioner Swienton's impression is that it is the City Manager's desire for Planning Commission and City Council to be removed and the process to be done administratively. He did not perceive that Council had an opinion other than to take it back to Planning Commission. Commissioner Swienton would like it put back in and if Council strikes it, he understands that is their decision to make. Commissioner Swienton finds it helpful to have the street namings and right-of-way acceptances to come to the commission because he can see the concept of what a developer plans to do. However, he does not want to hold up anything unnecessarily. He would like to see these taken to Council at the very next meeting after Planning Commission sees them. He made the points that it is a land use item and that he thinks the number of street dedications or extensions they will have in the future will be relatively low.

Commissioner Barnes noted that in the absence of the City Manager's rationale and argument for making this change, he would agree with Commissioner Swienton. Street connections have implications for land use. It is Mr. Martin's understanding, although he cannot speak for the City Manager, that street dedications are normally approved very easily. Handling them the way the current ordinance is written puts a time burden on the developer in terms of getting the subdivision approved.

Commissioner Sale asked if a by-right development could be held up by a negative vote the commission and City Council. Mr. Martin said it could but there would have to be some very good reasons for not accepting a street. Ultimately, Mr. Martin thought it would end up in a court case. There is nothing that Mr. Martin is aware of that mandates that the City accept the dedication of a street but he was not sure why it would not be accepted in the case of a by-right development.

Mr. Martin thought that there are valid reasons for doing the process either way. The revised Subdivision Ordinance has attempted to address some issues like street connectivity and making sure that cul-de-sacs are not terminated unnecessarily. However, it is a good idea for the commission to have a pulse on development patterns. If the Planning Commission were removed from the process, staff could still keep the commission informed of what subdivisions are occurring.

Commissioner Swienton pointed out that the current process allows the public to be informed of what is going on around them. He views that as being very important. Commissioner Barnes' main concern from a planning perspective is that someone in a by-right development might want to put in a street that didn't connect well with the surrounding properties. Mr. Martin said they have tried to write language in the Subdivision Ordinance that would address some of their concerns.

Mr. Martin noted that another approach could be to have the Planning Commission review the namings and extensions as part of the administrative process. The commissioners liked this as a possible compromise.

Commissioner Swienton commented that he does not want to slow down the process and wants to be sensitive to the cost a developer incurs when the process is delayed. Mr. Martin will attempt to draft some compromise language and bring it back to the commission. The Planning Commission would see the namings and extensions after they have gone to the Technical Review Committee. Commissioner Swienton asked how much time this would save a developer if this process were implemented. Mr. Martin estimated at least thirty days.

The changes to delete Section 24.1-5(25 and the graphic, renumber "Words and Terms" section and delete Section 24.1-28(d) on pages 4 and 5 were all accepted.

The change to restore building "line" and delete street "line" in Section 24.1-17.1 on page 1 was accepted.

The change to delete "except where exempted by the city ordinance or current policy" in Section 24.1-19(b) water or sewer and Section 24.1-20(b) on page 12 was accepted.

The change to replace "agent" with "city engineer" in Section 24.1-25(iii) on page 15 was accepted.

The change to restore "civil engineer" and delete "surveyor" in Section 24.1-26 on page 18 was accepted.

The changes to delete Section 24.1-28(b)(3) and Section 24.1-28(4) on page 19 and 20 were accepted.

There was discussion about the changes to add "or alteration" on page 31, language allowing approval of a plat altering or relocating a boundary line by referencing a valid and properly recorded plat on page 32 and relocating language allowing vacating of lot lines by deed from Section 24.1-45 on page 32. Mr. Martin explained that a surveyor had raised some issues with this section. If a small portion of a lot line is moved between one parcel and another, the current regulations of the Subdivision Ordinance require that both properties are entirely surveyed instead of being able to reference previous plats. These proposed changes would allow the approval of a plat in those circumstances. Previous plats would have to be referenced and at least one corner would have to be surveyed.

Mr. Martin was not sure the City Surveyor liked these changes, but the City Assessor who actually makes the parcel changes thought the changes were fine. The surveyor who brought this up felt it would be significantly cheaper to survey the line that is moving rather than surveying the lot boundaries. That is not permitted the way the ordinance is currently written. The commissioners thought that was a valid point. Mr. Talian thought that the City Surveyor's argument pertained to smaller lots. The City Surveyor felt that if you did not go around the entire parcel someone might not actually be aware of where their boundary lines truly are. A previous error could cause someone to make a poor decision about giving up a portion of their property. The commissioners wondered how often this happens and thought it was probably pretty rare. Mr. Talian and Mr. Martin were not sure how often it occurs.

After some discussion, the commissioners thought the way the ordinance is currently written does put a significant financial burden on the property owners and that it is the property owner's responsibility to know his boundary lines. They felt it was an imposition of additional time and cost to require the surveying of both lots every time a boundary line is moved. The commissioners pointed out that one or both parties could pay a partial or full survey of the entire boundary if there were any concerns.

Mr. Martin and Commissioner Swienton will discuss some proposed compromise language and the Subdivision Ordinance will be brought back to the March 10, 2010 meeting.

MINUTES FROM THE MARCH 10, 2010 PLANNING COMMISSION MEETING (MINUTES HAVE BEEN APPROVED):

There was some discussion about the changes to Section 24.1-6 dealing with the review of street dedications. This section has been reworked to allow for comment by the Planning Commission after review by the Technical Review Committee (TRC). Mr. Martin explained that new streets and extensions will be administratively approved by the City Manager. Before the City Manager approves them, they will go to TRC and the Planning Commission. Chair Hamilton did not think this actually changed the length of the process. Mr. Martin said that it does; it takes at least one to two months off the process because they will not have to go to City Council. As soon as Planning Commission comments, the City Manager could approve the street the next day.

Commissioner Swienton commented that it does bring them to the attention of the public and significantly shortens the approval process. The commission still has the ability to provide comment should they see something that needs amending. Any comments could be addressed by staff without it coming back to the commission and the City Manager could approve the street after any comments are addressed.

Chair Hamilton asked Mr. Martin to remind them how all the shared direct access items would be addressed now that they have been taken out of the *Subdivision Ordinance*. Mr. Martin reminded them that it was decided during the review of Chapter 14 Transportation that access management corridors would be studied. Those would be corridors like Old Forest Road, Lakeside Drive and Campbell Avenue, for some examples. Region 2000 and the City are working together to study Old Forest Road in more detail.

Commissioner Hannon made a motion, which was seconded by Commissioner Swienton, to approve the *Subdivision Ordinance* and forward it to City Council.

Commissioner Hannon commended the Planning Division for their hard work. Commissioner Sale agreed with that comment and voiced his appreciation for staff coming to all the Planning Commission meetings. He thinks it will be a valuable asset to the City. Commissioner Swienton thanked staff for their hard work and for the recent work on the compromise language dealing with street dedications and namings. Chair Hamilton thought they had come to some good conclusions on some of the philosophical arguments.

ARTICLE I. EFFECT OF ORDINANCE

Sec. 24.1-1. Subdivision regulations.

The following regulations are hereby adopted for the subdivision of land within the corporate limits of the City of Lynchburg and from and after the effective date of this ordinance, every ~~owner or proprietor~~ subdivider of any tract of land to which these regulations apply who subdivides such tract as provided in these regulations shall cause a plat of such subdivision developed and prepared in accordance with these regulations, with reference to known or permanent monuments, to be made and recorded in the office of the clerk of the circuit court, within deeds conveying such land are required by law to be recorded. A copy of said plat shall also be filed in the office of the city assessor. For any subdivision plat recorded prior to the adoption of this ordinance for which construction contracts for required improvements have not been signed, the subdivider shall be required to submit final plat documentation for approval by the city planner~~agent~~ before such contracts are signed and sale or development of lots may be undertaken.

ARTICLE II. PURPOSE AND TITLE

Sec. 24.1-2. Title.

This ordinance is known and shall be cited as the "Subdivision Ordinance of the City of Lynchburg."

Sec. 24.1-3. Purpose.

The purpose of this ordinance is to establish certain subdivision standards and procedures for the City of Lynchburg, Virginia, and such of its environs as come under the jurisdiction of the governing body as provided for by the Code of Virginia, as amended.

These are part of a long-range plan to guide and facilitate the orderly beneficial growth and restoration of the community, and to promote the public health, safety, convenience, comfort, prosperity and general welfare. More specifically, the purposes of these standards and procedures are to provide a guide for the change that occurs when

land and acreage become urban in character as a result of development for residential and non-residential purposes; to encourage the redevelopment of the central city; to provide assurance that the purchasers of lots are buying a commodity that is suitable for development and use; and to make possible the provision of public services in a safe, adequate and efficient manner.

Sec. 24.1-4. ~~Mutual responsibility.~~ Repealed

~~There is a mutual responsibility between the subdivider and the city of Lynchburg to divide the land so as to improve the general use pattern of the land being subdivided.~~

ARTICLE III. DEFINITIONS

Sec. 24.1-5. Words and terms.

For the purpose of this ordinance, certain words and terms used herein shall be interpreted or defined as follows: Words used in the present tense include the future, words in the singular number include the plural, and the plural the singular, unless the natural construction of the word indicates otherwise; the word "lot" includes the word "parcel"; the word "shall" is mandatory; the word "approve" shall be considered to be followed by the words "or disapprove"; any reference to this ordinance includes all ordinances amending or supplementing the same; all distances and areas refer to measurement in a horizontal plane.

~~(1) Agent: The representative of the City of Lynchburg who has been designated to serve as the agent of the city in administering this ordinance.~~

~~(2)~~(1) Alley: A permanent service way providing a secondary means of access to abutting properties.

(2) Arterial road: A moderate or high-capacity road which carries large volumes of traffic between areas in urban centers. Arterial roads are designated on the Virginia Department of Transportation's Virginia Highway Functional Classification map for the City of Lynchburg.

(3) Block: An area of land containing two (2) or more lots and bounded by streets providing access to such lots.

(4) Building line: A line set with respect to the frontage of a ~~plot~~ lot of land which is fixed by statute, ordinance, deed or contract and beyond which the owner of the land may not build.

(5) Building setback: The minimum distance that a building must be set back from the street line on which the lot abuts.

(6) Collector road: A moderate-capacity road which leads traffic from local roads or sections of neighborhoods to activity areas within the city. Collector roads are designated on the Virginia Department of Transportation's Virginia Highway Functional Classification map for the City of Lynchburg.

~~(6)~~ (7) Commission: The planning commission of the City of Lynchburg, Virginia.

~~(7)~~ (8) Cul-de-sac: A street with only one (1) outlet and having an appropriate turnaround for a safe and convenient reverse traffic movement.

~~(8)~~ (9) Dedicate(tion): An appropriation of land to some public use, made by the ~~owner~~ subdivider, and accepted for such use by or on behalf of the public.

~~(9) Developer: An owner of property being subdivided, whether or not represented by an agent.~~

(10) Driveway: The means of access to the building on a lot, connecting the building to the street on which the lot has frontage.

(11) Easement: A grant by a property ~~owner~~ subdivider of the use of land for a specific purpose or purposes.

(12) Flag lot: A lot which has less than the usual required street frontage and which meets the requirements of Section 24.1-28.1. Flag lots. Lots fronting on a cul-de-sac are not considered flag lots and are regulated by Section 35.1-22. Buildings, uses and lots.

(13) Governing body: The city council of the City of Lynchburg, Virginia.

(14) Health official: ~~The Health, director of the City of Lynchburg, or a sanitarian.~~ Central Virginia Health District of the Virginia Department of Health.

(15) Jurisdiction: The area or territory subject to the legislative control of the governing body.

(16) Lot: A tract or parcel of land intended for transfer of ownership, use or improvement.

(17) Lot, double frontage: A lot, the opposite ends of which abut on streets.

(18) Lot of record: A lot, the plat of which has been recorded in the office of the clerk of the circuit court.

(19) ~~Lynchburg general plan~~ comprehensive plan: The comprehensive plan of the City of Lynchburg as adopted and amended by the city council.

(20) Monuments: Visible marks or indications left on natural or other objects indicating the lines and boundaries of a survey.

(21) Plat: Includes the terms: map, plan, plot, replat or replot; a map or plan of a tract or parcel of land which is to be, or which has been, subdivided. When used as a verb "plat" is synonymous with "subdivide."

(22) Property: Any tract, lot, parcel or several of the same collected together for the purpose of subdividing.

(23) Public water or sewer: A water or sewer system designed to accommodate more than two (2) family residences, whether owned by the City of Lynchburg or by a private individual ~~or concern~~. This definition shall not apply to nonresidential subdivisions.

~~(24) Sight distance (across intersections): A straight line with unobstructed view measured in either direction across the corner between points, each fifty (50) feet back from the theoretical intersection of the edges of the pavement prolonged; both points three (3) feet above the grade of the pavement edge.~~

~~(25)~~(24) Sight distance ~~(along road)~~: A straight line with unobstructed view measured between a point three (3) feet above the

finished grade of a road, at the center line of each traffic lane, and a point at a given minimum distance away from the first point, located six (6) inches above finished grade at a center line of the same traffic lane.

~~(26)~~(25) Street, private: An improved access road which has been approved by the City of Lynchburg as part of a planned unit development, cluster commercial development, or townhouse ~~lots for sale complex~~ development, where an owners' association owns and maintains the access road. Also an improved access road which by a plat, deed or agreement recorded on or before September 12, 1989, has established joint usage rights and maintenance responsibilities among the owners of properties fronting on said improved access road.

~~(27)~~(26) Street, public: An improved dedicated right-of-way, or an improved road which has become public by right of use, for access use by the public, usually having a minimum pavement width of thirty (30) feet and a minimum right-of-way width of fifty (50) feet unless the regulations of the City of Lynchburg require otherwise.

~~(28)~~(27) Street, width: The total width of the strip of land dedicated or reserved for public travel, including roadway, curbs, gutters, sidewalks and planting strips.

~~(29)~~(28) Subdivision: Division of any tract, parcel or lot of land into two (2) or more parts ~~at one time or any extended period of time~~. For the purposes of this ordinance, the alteration or reconfiguration of existing lot lines involving more than two (2) lots is also considered to be a subdivision. ~~However, the following exceptions apply:~~

a. The term "subdivision" shall not include the division of land into ten (10) acres or more for agricultural purposes, provided no new streets are required.

b. The city planner~~agent~~ may, however, permit the separation of one (1) parcel from a tract of land without complying with all requirements of this ordinance if it is (1) not in conflict with the general meaning and purpose of the ordinance, and (2) no new streets are required to serve the parcel.

~~c. The word "subdivide" and any derivative derivative thereof shall have reference to the term "subdivision" as defined in Section 24.1-5(26).~~

~~(30)~~(29) Subdivider: Any ~~one (1) or more individual, corporation or registered partnership, owning any~~ owner of a tract, lot or parcel of land to be subdivided, a group of two (2) or more persons owning any tract, lot or parcel of land to be subdivided, who have given their power of attorney to one of their group or to another individual to act on their behalf in planning, negotiating for, in representing or their legal representative executing the legal requirements of the subdivision.

~~(31)~~(30) Technical review committee (TRC): A committee for review and recommendation to the city manager, planning commission, and city council, consisting of the city planner, city engineer, city traffic engineer, superintendent of inspections building official, director of utilities, urban forester and fire marshal or their designees and other city staff as appropriate.

ARTICLE IV. ADMINISTRATION

Sec. 24.1-6. City planner~~Agent~~, or his designee.

This ordinance ~~will~~ shall be administered by the city planner, or his designee, in collaboration with the technical review committee who shall jointly determine compliance with the regulations contained herein. The city planner shall administer ~~with these~~ these regulations contained herein. The city planner shall administer ~~all subdivisions, provided no new streets are required to serve the parcel, in which case final approval may only be given by the city council~~ not approve any subdivision requiring a new street or street extension until the right-of-way has been accepted and the street name approved by the city manager after review by the technical review committee with comment from the planning commission. ~~Where a subdivision has been approved administratively by the city planner, no additional subdivision of these lots or of the residue tract will be approved within a period of two (2) years from the date of approval, unless the land is industrially zoned or the two year time limit is waived by the planning commission.~~ In so acting, the city planner shall be considered the agent of the governing body, and approval or disapproval by the city planner~~agent~~ shall constitute approval or disapproval as though it were given by the governing body. An appeal of right from any decision of the city planner~~agent~~ shall lie to the commission, thence to city council, thence to the circuit court of the City of Lynchburg.

Sec. 24.1-7. Duties.

The ~~city planner~~agent shall perform his or her duties regarding ~~subdivision and subdividing~~ in accordance with this ordinance and ~~Chapter 11, Article 7, Sections 15.1-465 through 15.1-485 Chapter 22, Article 6, Sections 15.2-2240 through 15.2-2276~~, and other applicable sections of the Code of Virginia (1950), as amended.

Sec. 24.1-8. ~~To consult.~~ Repealed

~~In the performance of his duties the agent may call for opinions or decisions, either verbal or written, from other departments in considering details of any submitted plat. This authority of the agent shall have particular reference to the technical review committee, and the health official.~~

ARTICLE V. PROCEDURE FOR PREPARING AND RECORDING PLATS

Sec. 24.1-9. Platting and recording required.

Any ~~developer~~ subdivider of any tract of land situated within the City of Lynchburg ~~who subdivides the same as defined herein~~ shall cause a plat of such subdivision, with reference to known or permanent monuments, to be made and recorded in the office of the clerk of the circuit court of the City of Lynchburg. No such plat of subdivision shall be recorded unless and until it shall have been submitted, approved and certified by the ~~city planner~~agent in accordance with the regulations set forth in this ordinance. No lot shall be sold in the subdivision before the plat shall have been recorded. Before any permits are issued to begin construction, the subdivider shall submit a notarized letter, or a copy of the plat with the clerk of courts' seal and signature, to the ~~superintendent of inspections, the city planner, and the city engineer~~city planner certifying that the plat has been recorded with the clerk of the circuit court.

Sec. 24.1-10. Draw and certify.

Every such plat shall be prepared by a licensed professional surveyor ; or other persons ~~certified~~ appropriately licensed by the ~~State~~ Commonwealth of Virginia, who shall endorse upon each plat a certificate ~~signed by him~~, setting forth: (1) the source of the title of the land subdivided; and (2) the place of record of the last instrument in the chain of title. When the plat is of land acquired from more than one (1) source of title, the outlines of the several tracts shall be indicated upon the plat, within an insert block, or by means of a dotted boundary line. ~~When any part of the land proposed for subdivision lies in a drainage district, such fact shall be set forth on the plat of the proposed subdivision.~~

Sec. 24.1-11. ~~Owner's~~ Subdivider's statement.

Every such plat, or the deed of dedication to which the plat is attached, shall contain in addition to the surveyor's certificate a statement to the effect that "the above and foregoing" subdivision of (here insert correct description of the land subdivided) as appears in this plat is with the free consent and in accordance with the desire of the undersigned owners, ~~proprietors and trustees, if any~~ which shall be signed by the owners, ~~proprietors and trustees, if any~~ and shall be duly acknowledged before some officer authorized to take acknowledgements of deeds, and when thus executed and approved, as herein specified, shall be filed and recorded in the office of the clerk of the circuit court of the City of Lynchburg, Virginia, and indexed under the names of the landowners signing such statement and under the name of the subdivision.

Sec. 24.1-12. No land exempt.

No tract of land shall be subdivided ~~that is located within the City of Lynchburg, Virginia,~~ unless it conforms with the provisions of this ordinance.

Sec. 24.1-13. Private contracts.

This ordinance bears no relation to any private easement, covenant, agreement or restriction, nor is the responsibility of enforcing such private easement, covenant, agreement or restriction implied herein by any public official. When this ordinance calls for more restrictive standards than are required by private contract, the provisions of this ordinance shall control.

Sec. 24.1-14. Necessary changes.

No change, erasure or revision shall be made on any preliminary or final plat, nor any accompanying data sheets after approval of the city planner~~agent~~ has been endorsed in writing on the plat or sheets, unless authorization for such changes has been granted in writing by the agent.

Sec. 24.1-15. Fees.

There shall be a charge for the examination and approval or disapproval of every plat reviewed by the city planner~~agent~~. At the time of filing the plat, the subdivider shall deposit with the city planner~~agent~~ a check payable to the City of Lynchburg in the amount set forth in the fee schedule adopted by city council.

ARTICLE VI. GENERAL REGULATIONS

Sec. 24.1-16. Flooding.

Land subject to flooding and land deemed to be topographically unsuitable shall not be platted for residential occupancy, nor for such other uses as may increase danger to health, life, or property, or aggravate erosion or flood hazard. Such land within the subdivision shall be set aside on the plat for such uses as shall not be endangered by periodic or occasional flooding or shall not produce conditions contrary to public welfare.

Sec. 24.1-16.1. Possible flood plain.

To ensure that owners will have sufficient land upon which to build a structure which is flood free, compliance with floodway widths and the one hundred (100) year flood elevations contained within the ~~city's~~ Federal Emergency Management Agency (FEMA) flood insurance study (FIS) is mandatory. The ~~city planner~~agent may require the subdivider to provide elevation and flood profiles based on a one hundred (100) year flood plain (which means a flood of a magnitude likely to happen, on the average, only once every century) sufficient to demonstrate the land to be completely free of the danger of flood water at an elevation of at least three (3) feet below any probable floor level of any building for human occupancy.

Sec. 24.1-16.2. Flood control and drainage

The subdivider shall provide that information necessary to determine what improvements are required to develop the subject property, including topography, drainage plans and flood control devices. The plans for such improvements shall include a statement from a licensed professional engineer or other persons appropriately licensed by the Commonwealth of Virginia, that such improvements when installed will be adequate for development. In subdivisions where the streets are dedicated to public use, the city engineer shall either approve or disapprove the plans.

Sec. 24.1-17. Building site and setback.

The site and setback of buildings within a subdivision shall comply with the zoning ordinance.

Sec. 24.1-17.1. Building line.

The building line shall comply with subdivision plat restrictions. This ~~line~~ shall not be closer to the street ~~line~~ than the required building setback in the zoning ordinance (~~Section 24.1-17~~).

Sec. 24.1-18. Lot sizes.

Lot sizes shall be in accordance with minimum requirements of the zoning ordinance, or the following subsections, whichever is more restrictive ~~shall apply~~:

(1) Lot size, public water and sewer: Lots served by both public water and sewerage systems shall be in accordance with the zoning ordinance.

(2) The following statement shall be shown on the plat when sewer and water lines are available, but not in place:

~~"The owner of this subdivision~~ subdivider agrees to construct a public water and sanitary sewerage system within the boundaries of the subdivision to meet the policies, regulations, and standards of the city."

Sec. 24.1-19. Lot size, public water or sewer.

(a) Residential subdivisions of five (5) lots or less may be served by private wells or septic tanks provided, that water and/or sewer are not available as defined by Section 24.1-31(c) and that no new roads are required and that lots served by only one (1) of water or sewerage ~~system~~ shall be twenty thousand (20,000) square feet or more in area and the following statement shall be shown on the plat:

~~"The owner of this subdivision~~ subdivider agrees to construct a water or a sanitary sewerage system to meet the policies, regulations, and standards of the city and/or ~~Lynchburg health~~ Virginia Department of Health. Before the construction of any dwelling can begin the ~~Lynchburg health department official~~ shall ~~be consulted to ensure~~ approve the proper location of the water or the sanitary sewerage system in relation to the location of the dwellings."

(b) Non-residential lots served by only one (1) of public water or sewerage system shall meet the requirements of the ~~Lynchburg health department official~~ and the city, ~~except where exempted by city ordinance or current city policy.~~

Sec. 24.1-20. Lot size, neither public water nor sewer available.

(a) Residential subdivisions of five (5) lots or less may be served by both private wells and septic tanks provided no new roads are required and lots served by neither public water nor sewerage systems shall be twenty-five thousand (25,000) square feet or more in area and the following statement shall be shown on the plat:

~~"The owner of this subdivision~~ subdivider does not agree to construct either a public water or a sanitary sewerage system. Before the construction of any dwelling can begin the city and the ~~Lynchburg health department official~~ shall ~~be consulted to ensure~~ approve the proper location of the water and sewer systems in relation to the location of the proposed dwellings."

(b) Nonresidential lots served by neither public water nor sewerage systems shall meet the requirements of the ~~Lynchburg health office department official~~ and the city, ~~except where exempted by the city ordinance or current city policy.~~

Sec. 24.1-21. Septic tanks.

The ~~city planner~~ agent shall not approve any subdivision where sanitary sewers are not provided unless the subdivision is of five (5) lots or less and the ~~city planner~~ agent receives in writing from the health official, a statement to the effect that the area contained in the subdivision is satisfactory for the installation of septic tanks, and that they will not, so far as can be determined, create hazards to public health. Final approval as to site suitability will be made prior to approval of the plat. ~~at the time of application for a building permit.~~

(a) Greater lot areas may be required or certain lots may be disapproved where individual septic tanks or individual wells are to be used, if the health official determines that there are factors ~~or~~ such as drainage, soil condition, or other conditions to cause potential health problems. Drainfield location shall be approved by the ~~Lynchburg health department official~~.

(b) Public water and sewer required: The ~~city planner~~ agent shall not approve any subdivision of more than five (5) lots unless the subdivision is served by the city ("public") water and sewer system.

Sec. 24.1-21.1. Development of large lots generally.

Notwithstanding any other provisions of this article, subdivisions without public sewer service may be approved by the city council when the following conditions are met:

- (a) Each proposed lot must have at least one (1) acre in area.
- (b) The large lot development must have a minimum size of six (6) lots.
- (c) City sewer service is not reasonably available and economically feasible to extend, as defined in Section 24.1-31(c) of the subdivision ordinance, and sewer service extension is not planned in the city's current capital improvements program.
- ~~(d) If the capital improvements program is revised to include sewer service extension to the area within twelve (12) months of the date of approval of the subdivision plat, or if funds are appropriated for sewer extension within the said twelve (12) months in connection with another development or plan, and a requested large lot development has not yet had an approved plat recorded or construction begun according to approved plans, then any large lot approval that has been given by the city council is hereby rescinded and the proposed development must meet all appropriate land development and sewer service regulations.~~
- (e) (d) The subdivision plat must include all ~~usual~~ standard sewer service easements requested by the city, in order that the development can be readily connected to city sewer service in the future.
- ~~(f) (e)~~ (e) The ~~Commonwealth of Virginia department of health~~ official must approve each of the requested large lots as having sufficient area to accommodate two (2) septic disposal fields prior to subdivision approval by the city.
- ~~(g) (f)~~ (f) All other city land development regulations must be met.
- ~~(h) (g)~~ (g) The city council may disapprove any large lot development if it believes the development will be detrimental to the orderly development of the area or the efficient provision of public services.

Sec. 24.1-22. Flood control and drainage. Repealed

~~The subdivider may be required to provide that information necessary to determine what improvements are required to properly develop the subject property, including contour intervals, drainage plans and flood control devices. The plans for such improvements shall include a statement from an engineer, or any other person certified by the State of Virginia, that such improvements when properly installed will be adequate for proper development. In subdivisions where the streets are dedicated to public use the city council shall either approve or disapprove the plans.~~

Sec. 24.1-23. Easements.

~~Easements of seven and one-half (7 1/2) twenty (20) feet minimum in width on each side of the center line of the easement shall be provided for water, sewer, power and telephone lines and other utilities, as well as cable television service lines, storm drainage in the subdivision. Such easements shall be kept free of permanent structures and whenever possible shall be located adjacent to property lines. Such easements shall be laid out so as to ensure continuity of the for utilities from block to block and to adjacent property. Such utility easement shall be kept free of permanent structures and whenever possible shall be located adjacent to property lines. In situations when pipes exceeding thirty-six (36) inches in diameter and or pipes exceeding eight (8) feet in depth are necessary, an additional ten (10) feet of easement width may be required.~~

Easements shall be provided for electric, telephone, cable television and natural gas of sufficient width and location as determined by the appropriate utility company.

Nothing in this section is intended to prohibit the placement of public utilities within dedicated rights-of-way. Placement of private water and sewer lines is prohibited in the public right-of-way. The city planner~~agent~~ may require that easements for drainage through adjoining property be provided by the subdivider.

Sec. 24.1-24. Fire protection.

The installation of adequate fire hydrants and mains in a subdivision may be required by the city at locations approved by the city of Lynchburg, provided necessary public water is available. Fire

protection shall meet the requirements of the applicable sections of the City of Lynchburg Fire Code.

Sec. 24.1-25. Bond.

Every subdivider shall provide to the city a guarantee of performance prior to the acceptance of dedication for public use of any right-of-way located within any subdivision or section thereof in which any street, curb, gutter, sidewalk, bicycle trail, drainage or sewer system, water line, site-related improvements required by local ordinances for vehicular ingress and egress, traffic signalization and control, structures necessary to ensure stability of critical slopes, stormwater management facilities, or other improvement dedicated for public use that is to be constructed in whole or in part by private funds, and is to be maintained by the city. To guarantee such performance the subdivider shall: (i) certify to the city engineer that the construction costs have been paid to the person constructing such facilities (ii) furnish to the city engineer a certified check, a financial institution's letter of credit, a cash escrow account, or a personal, corporate or property bond, with surety satisfactory to the governing body city engineer, hereinafter referred to as the "performance guarantee," in an amount sufficient for and conditioned upon the construction of such facilities, or a contract for the construction of such facilities and the contractor's bond, with like surety, in like amount and so conditioned, or (iii) furnish to the city engineer a financial institution's letter of credit on certain designated funds satisfactory to the city engineer agent as to the financial institution, the amount and the form. The amount of such performance guarantee shall equal the total estimate cost of construction based on unit prices for new construction in the city plus a reasonable allowance for estimated administrative costs, inflation, and potential damage to existing roads or utilities, which shall not exceed twenty-five (25) percent of the estimated construction costs. "Such facilities," as used in this section, means those facilities specifically provided for in this section.

~~(1) Within fifteen (15) days, after notification by the owner that the construction is complete, the city shall inspect the construction and notify the owner in writing of those items of construction which are not satisfactory, or that the construction is approved. The city may release fifty (50) percent of the bond upon notification by the owner that fifty (50) percent of the construction is complete. The owner shall certify that all construction costs have been paid to persons constructing the facilities and the city shall inspect the facilities, to~~

~~ensure that fifty (50) percent of the work is complete, within fifteen (15) days of notification by the owner.~~

~~(2) The developer and the development principals thereof shall provide the city with a guarantee of warranty against defects for a period of one (1) year following acceptance of the subdivision public improvements by the city.~~

If a subdivider records a final plat which may be a section of a subdivision as shown on an approved preliminary subdivision plat and furnishes to the city a performance guarantee as defined above for facilities to be dedicated for public use and to be maintained by the city within said section, the developer shall have the right to record the remaining sections shown on the preliminary subdivision plat for a period of five years from the recordation date of the first section subject to engineering and construction standards and zoning requirements in effect at the time that each remaining section is recorded.

Notwithstanding other provisions of this section, and provided the subdivider and the city have agreed on the delineation of sections within a proposed development, the subdivider shall not be required to furnish to the city a performance guarantee for the estimate cost of construction of facilities to be dedicated for public use within each section of the development until such time as construction plans are submitted for the section in which such facilities are to be located.

Sec. 24.1-25.1 Partial and final release of certain performance guarantees.

(a) The city shall provide for the periodic partial and final complete release of any performance guarantee required by the city under this article within thirty (30) days after receipt of written notice by the subdivider of completion of part or all of any required public facilities unless the city engineer notifies the subdivider in writing of nonreceipt of approval, or of any specified defects or deficiencies in construction and suggested corrective measures prior to the expiration of the thirty (30)-day period. Any inspection of such public facilities shall be based solely upon conformance with the Manual of Specification and Standard Details and the approved design plan for the facilities for which the performance guarantee is applicable, and shall not include the approval of any person other than an employee of the city or a person who has contracted with the city.

(b) If no such action is taken by the city within the time specified above, the request shall be deemed approved, and a partial release shall be granted to the subdivider. No final release shall be granted until after expiration of such thirty (30)-day period and there is an additional request in writing sent by certified mail return receipt to the city manager. The city engineer shall act within ten working days of receipt of the request; then if no action is taken the request shall be deemed approved and final release granted to the subdivider.

(c) After receipt of the written notices required above, if the city takes no action within the times specified above and the subdivider files suit in the local circuit court to obtain partial or final release of a performance guarantee, the circuit court, upon finding the city was without good cause in failing to act, shall award such subdivider his reasonable costs and attorneys' fees.

(d) The city shall not refuse to make a periodic partial or final release of a performance guarantee for any reason not directly related to the specified defects or deficiencies in construction of the public facilities covered by said performance guarantee.

(e) Upon the completion of at least thirty (30) percent of the public facilities covered by any performance guarantee, and upon written request by the subdivider, the city shall make periodic partial releases of such performance guarantee in a cumulative amount equal to no less than ninety percent of the original amount of the completed work for which the performance guarantee was taken. The city shall not be required to execute more than three periodic partial releases in any twelve-month period. Upon final completion and acceptance of the public facilities, the city shall release any remaining performance guarantee to the subdivider. For the purpose of final release, the term "acceptance" means: when the public facility is accepted by and taken over for operation and maintenance by the state agency, local government department or agency, or other public authority which is responsible for maintaining and operating such public facility upon acceptance.

Sec. 24.1-26. Improvements.

Minimum improvements and construction standards required of all subdivisions are set forth in these regulations and in the applicable design standards and specifications of the ~~public works department of~~ the City of Lynchburg Manual of Specifications and Standard Details for

construction. Prior to beginning any subdivision construction improvements, the ~~developer~~ subdivider shall have a ~~registered~~ professional civil engineer or other persons appropriately licensed by the Commonwealth of Virginia prepare for the city's approval, a complete set of engineering plans and specifications. The city shall approve, or notify the subdivider of those plans and specifications which are not satisfactory, in writing within fifteen (15) days of official submittal of such plans and specifications and provided the final plat has been approved by the city planner~~agent~~. These processes may run concurrently, however, any changes required to the plat shall be at the expense of the subdivider.

Sec. 24.1-27. City obligation.

Nothing herein shall be construed as creating an obligation upon the city to pay for grading or paving, or for sidewalks, sewers, curb and gutter improvements or construction or any other costs in connection therewith, other than that which has been specified ~~for certain~~ required improvements elsewhere in this chapter.

Sec. 24.1-28. Lots.

Lots platted shall be in conformance with the following:

(a) Shape: The lot arrangement, design and shape shall be such that lots will provide satisfactory and desirable sites for buildings, and be properly related to topography, and conform to requirements of this ordinance. Lots shall not contain peculiarly shaped elongations solely to provide necessary square footage of area which would be unusable ~~for normal purposes.~~

(b) Location:

(1) Each lot shall have frontage on a public street or an existing private street, as defined in Section 24.1-5. Words and terms, reflected on the subdivision plat, or on a street which has become public by right of use, except lots in planned unit developments, cluster commercial developments, and townhouse ~~lots for sale~~ complexes developments.

(2) Lots in planned unit developments, cluster commercial developments, and townhouse ~~lots for sale complexes~~ developments

may front on private common drives and/or easements within the development which have access to an improved public street. Responsibility for maintenance of said private streets shall be with the association charged with management and ownership of common open space, property and facilities and shall be so stated on the plat.

~~(3) Each lot shall be located and designed such that a usable driveway can be built to access the lot directly from the street on which it has the required street frontage, except for lots in approved planned unit developments, cluster commercial developments, and townhouse lots for sale complexes.~~

(c) Corner lots: Corner lots shall have extra width sufficient for maintenance of required building lines on both streets as required by the zoning or subdivision ordinance, whichever is more restrictive.

~~(d) Sight distance (across intersections): Clear sight triangles of fifty (50) feet measured along edge of pavement lines from their points of junction shall be provided at all intersections, and no building, structure, grade or planting higher than three (3) feet above the center line of the street shall be permitted within such sight triangle.~~

~~(e)~~ (d) Side lines: Side lines of lots shall be approximately at right angles, or radial to the street line and be marked plainly before inspection by the city.

~~(f)~~ (e) Remnants: All remnants of lots below minimum size, as required in the zoning ordinance, left over after subdividing of a tract must be added to adjacent lots.

~~(g)~~ (f) Separate ownership: Where the land covered by a subdivision includes two (2) or more parcels in separate ownership, and lot arrangement is such that a property ownership line divides one (1) or more lots, a signed statement with free consent by all owners, proprietors and trustees shall accompany the final plat and lot sizes and arrangement shall meet the requirements of this ordinance. Said statement is to be deposited with the ~~clerk of council~~ city planner and held with the final plat until the subdivider is ready to record same, and they both shall then be recorded together.

~~(h)~~ (g) House numbers and street names: House numbering and street naming shall be in accordance with the ~~Lynchburg~~ city street naming/house numbering ordinance.

(i) (h) Standards for cluster housing developments: All units for sale in cluster housing developments must meet minimum standards specified in Section 35.1-56 of the zoning ordinance.

~~(j) County boundary lines: No proposed lot shall be split by a county boundary line where it is practical to create the lot otherwise. In no case will a permit be issued to build a structure which would be split by a county boundary line.~~

Sec. 24.1-28.1. Flag lots.

The creation of flag lots will only be considered in those instances where severe topographic constraints or unusual existing lot lines make this type of lot arrangement the only feasible way to develop the tract. In such cases the proposed subdivision may be approved by the city planner when the following conditions are met:

(a) Each flag lot shall have a minimum of fifty (50) feet of frontage on a street, public or private as defined in Section 24.1-5. Words and terms, except for a lot on a cul-de-sac which shall have a minimum street frontage of thirty (30) feet.

(b) The required minimum lot area shall meet the zoning ordinance requirement of the district in which it is located and shall not include the area of the long narrow "flagpole" portion.

(c) Not more than two (2) adjacent flag lots shall be created.

(d) The development of one (1) flag lot behind another flag lot shall be prohibited.

(e) A flag lot shall not be further subdivided until a public street to serve the proposed lot(s) is dedicated and constructed with a minimum right-of-way of fifty (50) feet, or unless a planned unit development, cluster commercial development, or townhouse ~~lots for sale complex~~ development is approved for the property, and a note to this effect shall be placed on each subdivision plat which contains a flag lot.

(f) A note shall be placed on the final subdivision plat stating that public services such as refuse collection, snow removal, and street maintenance will only be provided to the point where the flag lot meets the public street right-of-way.

(g) Flag lots with flagpole access strips greater than two hundred (200) feet in length shall provide, at the ~~developer's~~ subdivider's expense, a driveway which is capable of supporting emergency vehicles and which is at least ten (10) feet in width for the front half closest to the street and at least twenty (20) feet in width for the rear half to allow for the pass-by of vehicles.

(h) The maximum length for the flagpole access strip shall be seven hundred (700) feet in order to provide adequate fire protection.

(i) The house on a flag lot must have a setback of at least fifty (50) feet from all property lines.

(j) A driveway on a residential flag lot shall be located a minimum of five (5) feet from all lot lines, unless approval has been obtained from a shared driveway with one (1) of the adjacent lots.

Sec. 24.1-29. Blocks.

(a) Residential: Residential blocks shall be in conformance with the following:

(1) Length: The maximum length of blocks generally shall be twelve hundred (1,200) feet and the minimum length of blocks upon which lots have frontage shall be five hundred (500) feet unless topographic conditions prohibit the same.

(2) Width: Blocks shall be wide enough to allow two (2) tiers of lots of minimum depth, unless prevented by topographical conditions or size of the property. Where the parcel fronts on a major thoroughfare, the city may approve a single tier of lots of minimum depth.

(3) Orientation: Where a subdivision adjoins a major thoroughfare, the city may require that the lesser dimension of the block shall front or back upon such major thoroughfare to avoid unnecessary ingress or egress.

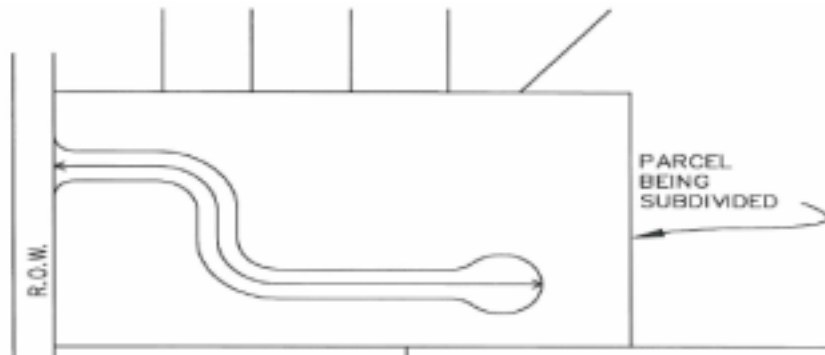
(b) Nonresidential: Blocks intended for nonresidential use shall be designed specifically for such purposes with adequate space set aside for off-street parking and delivery facilities in accordance with the zoning ordinance.

Sec. 24.1-30. Streets.

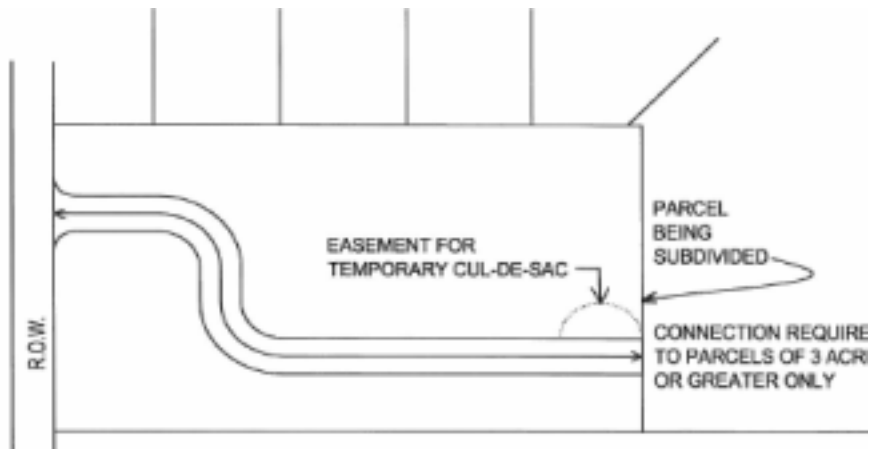
(a) (1) Residential: In residential subdivisions where the streets are dedicated to public use, all street and drainage improvements, ~~excluding curbs and gutters,~~ shall be installed by the subdivider ~~at his cost.~~ The subdivider shall clear and grade every street to the full width of the right-of-way with provisions for mowable three (3) to one (1) or flatter slopes on private property, except where topography prohibits. Specifications and requirements shall be in accordance with the standards established by the city in the City of Lynchburg, Manual of Specifications and Standard Details.

(2) Nonresidential: In nonresidential subdivisions where the streets are dedicated to public use, the cost and installation of all streets and drainage improvements shall be in accordance with current city policy, as established by city council.

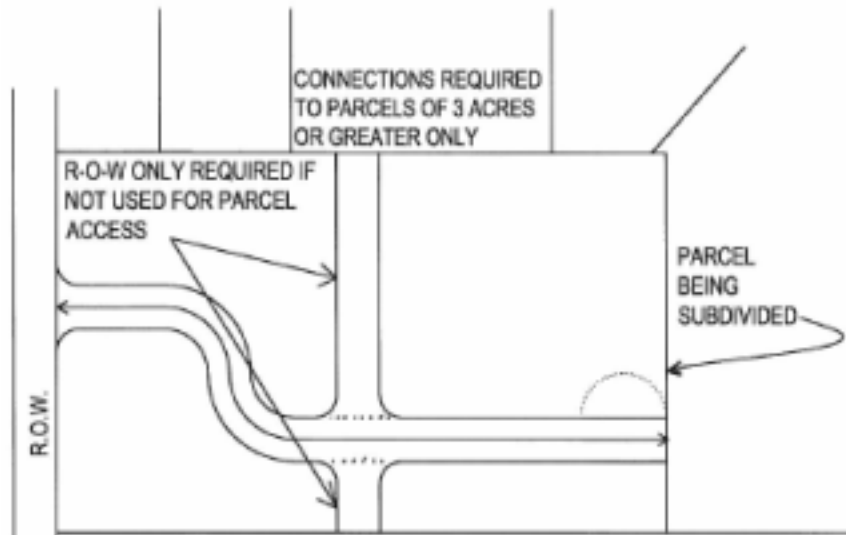
(b) Alignment and layout: The arrangement of streets in new subdivisions shall make provision for the continuation of existing, proposed and future streets in adjoining areas. The street arrangement must be such as to cause no unnecessary hardship to owners of adjoining property when they plat their own land and seek to provide for convenient access to it. In residential and commercial subdivisions, street segments of six hundred (600) feet in length or greater shall have right-of-way dedicated to provide street connections at each end. Street segments of one thousand two hundred (1,200) feet in length or greater shall have right of way dedicated to provide street connections at each end and at least one (1) potential connection to the left and one (1) potential connection to the right adjoining properties. Notwithstanding other requirements of this section, connections shall not be required to any adjoining parcel of less than three (3) acres in size. Whenever possible, streets should intersect at right angles. In all hillside areas, streets running with contours shall be required to intersect at angles of not less than sixty (60) degrees, unless approved by the city. Where topographical features are prohibitive, no dedication for street continuation shall be required.



Street Length: Less than 600 Feet



Street Length: 600 - 1,199 Feet.
 Connection (or potential connection) required at both ends.



Street Length: 1,200 feet or greater.

Potential connections required at both ends and both sides.

(c) Improvements Required: The subdivider shall improve right-of-way one hundred (100) feet beyond the beginning of the furthest parcel or the end of the furthest driveway location, whichever is farther. This improvement shall include a turnaround facility as detailed by the Manual of Specifications and Standard Details. The subdivider shall improve the full length of any right-of-way within the subdivision that connects to an existing or proposed street.

(d) Improvements Not Required: Except where specifically required by paragraph (c) above, whenever right-of-way is dedicated solely to provide required connections to adjoining property, the subdivider shall only be required to dedicate an unimproved right-of-way_ to give convenient access, acceptable to the city, to owners of adjoining property except where the subdivider's lots front on such right-of-way, the right-of-way shall be improved and extended to the property line of the adjoining property owners and where topographical features are prohibitive, no dedication for access shall be required.

(e) (e) Service drives: Whenever a proposed subdivision contains or is adjacent to a limited access highway or expressway, where adequate access is not provided, provision shall be made for a service drive or marginal street approximately parallel to such right-of-way at a distance suitable for an appropriate use of the land between such highway or expressway and the proposed subdivision. Such distance shall be determined with due consideration of the minimum distance required for ingress and egress to the limited access highway or

expressway. The right-of-way of any major highway or street projected across any railroad, limited access highway or expressway shall be of adequate width to provide for the cuts or fills required for any future separation of grades.

~~(d)~~ (f) Approach angle: Streets shall approach the major or collector streets at an angle of not less than eighty (80) degrees, unless the ~~city~~ city engineer shall approve a lesser angle of approach for reasons of contour, terrain or matching of existing patterns.

~~(e)~~ (g) Minimum widths: The minimum width of proposed streets, measured from lot line to lot line, shall be in accordance with regulations established by the City of Lynchburg, Manual of Specifications and Standard Details. ~~Street widths are typically but not always~~ However, in no case shall a street be less than fifty (50) feet in width. The street width shall be based on the post development average daily traffic and shall be of sufficient width to accommodate the typical street cross section designated therein. If an existing street is to be utilized for access and such street is not of sufficient width per the criteria of the City of Lynchburg Manual of Specifications and Standard Details and the subdivider owns property on both sides of the street, then provisions shall be made on the plat to widen the street to accommodate the standard street width. Alleys, if permitted, shall be not less than twenty (20) feet, nor more than twenty-eight (28) feet in width. If an existing street is to be utilized and such street is not fifty (50) feet in width and the subdivider owns property on both sides of the street, then provisions shall be made on the plat to widen such street to fifty (50) feet or the standard width of that street, whichever is greater. Should the subdivider subdivision abut on only one (1) side of an existing street, the subdivider shall dedicate enough land so that then provisions shall be made on the plat to widen one-half (1/2) of the width of such street, to accommodate the standard street width as measured from the centerline to the subdivision property line, shall be twenty-five (25) feet or one-half (1/2) the standard width of such street, whichever is greater of the existing street.

Alleys for vehicular access, if permitted, shall be not less than fourteen (14) feet in width for one way traffic nor more than twenty-eight (28) feet in width for two way traffic.

~~(f)~~ (h) Grading and paving widths: Grading and paving of all streets dedicated to public use shall be in accordance with regulations

established by the City of Lynchburg, Manual of Specifications and Standard Details.

~~(g)~~ (i) Grades: The grades of streets shall be in accordance with specifications established by the city, and such grades as submitted on subdivision plats shall be approved by the city prior to final action by the city planner~~agent~~. ~~Wherever feasible, Maximum allowable~~ street grades should not exceed ten (10) percent ~~and the maximum allowable grade shall be fifteen (15) percent~~, unless otherwise approved by the city engineer.

~~(h)~~ (j) Cul-de-sacs: ~~Minor~~ Terminal streets (cul-de-sacs), designed to have one end permanently closed, ~~shall be not longer than twelve hundred (1,200) feet to the beginning of the turnaround unless approved by the city. Each cul-de-sac must~~ shall be terminated by a permanent or temporary turnaround per the Manual of Specifications and Standard Details. ~~of one hundred (100) feet in right-of-way diameter. This requirement does not apply to nonresidential subdivisions as these streets will be approved by the city.~~

(i) (k) Curbs, and gutters and sidewalks: Curbs, and gutters are required ~~and in accordance with regulations established by the City of Lynchburg, Manual of Specifications and Standard Details~~. Except where pedestrian traffic is explicitly prohibited, sidewalks are required (i) on at least one (1) side of all streets, (ii) on both sides of streets with a post-development traffic count of greater than six thousand (6,000) vehicles per day. The cost of said curbs, ~~and gutters and sidewalks~~ shall be borne fifty (50) percent by the city and fifty (50) percent by the developer subdivider. Reimbursements shall be in accordance with regulations established by the City of Lynchburg, Manual of Specifications and Standard Details, per the year of origination of the subdivision.

~~(j) Sidewalks: Sidewalks shall be provided by the subdivider where need is demonstrated by the agent with consideration to each subject location with respect to: (1) pedestrian safety, speed limit, street width and street alignment; (2) vicinity of schools, parks, playgrounds, and/or commercial development; (3) street traffic with 6,000 minimum vehicles per day; and~~

~~(4) pedestrian traffic with minimum of 75 people per day. Where need for sidewalks is determined by the agent, cost shall be borne 50 percent by the city and 50 percent by the subdivided.~~

~~(k)~~ (l) Alleys: Deadend alleys, if unavoidable, shall be provided with adequate turnaround facilities as determined by the city.

~~(l)~~ (m) Identification signs: Street name signs shall be installed by the city at cost to the subdivider.

~~(m)~~ (n) Street lighting: Where the subdivider desires street lighting, no installation cost shall be borne by the city. ~~Where underground utilities are installed, the subdivider shall install conduit and markers for mounting bases to permit future installation of street lighting.~~

Sec. 24.1-31. Public water supply and sanitary sewer system required.

Subdivisions of more than five (5) lots shall be served by the city ("public") water and sewer systems.

(a) Sewer and/or water available: Where a public water supply and/or a public sanitary sewer system are (reasonably accessible as defined in Section 24.1-31(c)) the said water supply and/or sanitary sewer system shall be designed and extended to adequately serve all lots within the subdivision, according to the design standards issued by the city public works department. All plans are to be approved by the city.

The cost of installing the sanitary sewer and water system including all appurtenances, except connections and meters, within the subdivision boundaries shall be paid one hundred (100) percent by the subdivider for the size mains needed to serve the subdivision. The minimum size main shall be as determined by the city. If larger mains are required by the city to serve other areas, then the difference in cost, based on the city's annual bid prices, shall be paid by the city. The city will extend and pay one hundred (100) percent of the cost to provide water and/or sewer lines to the subdivision boundary according to Section 24.1-31(c).

Service connections for both water and/or sanitary sewer shall be constructed to each lot within the subdivision. ~~The cost of these connections will be paid one hundred (100) percent by the city based on the city's annual bid prices.~~ Reimbursements shall be in accordance with regulations established by the City of Lynchburg, Manual of Specifications and Standard Details, per the year of origination of the subdivision. The subdivision plat will contain a notation to the effect

that appropriate sewer/water connection and availability fees will be charged by the city at the time of connection to the system.

(b) Sewer and/or water not available: Where a public water supply and/or a public sanitary sewer system are not reasonably accessible as defined in Section 24.1-31(c). the extension of these systems by the subdivider will not be required; however, where the subdivider desires the extension of such systems which exceeds the ratio stated in Section 24.1-31(c) and agrees to pay the additional cost of the extension to the subdivision boundary, then the city shall extend the lines in accordance with Section 24.1-31(a).

(c) Water/sewer lines availability defined: Reasonably available water and/or sewer lines are defined as those lines which are economically feasible to extend from water and sewer lines mandated by the 1976 annexation decree and/or other lines previously constructed.

To be economically feasible in a residential subdivision, there must be at least one (1) lot for each one hundred (100) feet of utility line construction. The following are examples of feasibility ratios:

Feet of water/sewer line construction	Required number of lots
5,000	50
3,000	30
1,000	10
500	5

For extensions to multi-family subdivisions the feasibility ratio would require two (2) dwelling units per one hundred (100) feet of extension. Thus:

Feet of water/sewer line construction	Required number of dwelling units
5,000	100
3,000	60
1,000	20
500	10

(d) Lots in cluster developments including townhouses ~~for sale~~ and condominiums: Public water and sewer systems shall serve each individual lot in all cluster developments including townhouses ~~for sale~~ and condominiums. The public system shall be brought to an appropriate location(s) on the property line of the development adjacent to a public right-of-way or through a public easement. ~~From that appropriate location(s). the cluster development shall provide~~

~~private system connecting each unit to the public system. Said private system and payment for service shall become the responsibility of the association charged with management and ownership of common open space, property, and facilities and shall be so stated on the plat.~~

(e) In cases where an obstacle (such as a stream, railroad, or highway crossing, etc.) increases the construction cost beyond twenty (20) percent of the normal distance to dollar ratios, based on the city's annual contract pricing, the subdivider may be required to pay a larger share of the sewer and water facility construction costs as determined by the city's physical development committee.

Sec. 24.1-32. Storm drainage.

A storm drainage system shall be required to adequately provide for drainage of the subdivision. The subdivider shall pay the cost of this system. The subdivider may be required to pay ~~his~~ the pro rata share of sewerage and drainage facilities outside ~~his~~ the subdivision property limits which are necessitated by the construction or improvement of ~~his~~ the subdivision or development.

Sec. 24.1-33. Monuments.

(a) Visible for inspection: Upon completion of subdivision streets, sewers and other improvements, the subdivider shall make certain that all monuments required by the city are clearly visible for inspection and use. Such monuments shall be inspected and approved by the city before any improvements are accepted by the governing body. All monuments shall be set by a surveyor licensed by the Commonwealth of Virginia.

(b) Location—~~concrete, stone~~: Two (2) permanent reinforced monuments as prescribed by the city shall be placed on the longest street tangent intervisible. Such permanent monuments shall be ~~stone or reinforced concrete at least twenty-four (24) inches long and six (6) inches square and shall be set to approved finished grades as practicable~~ as specified in the City of Lynchburg, Manual of Specifications and Standard Details.

(c) Location—iron: All other lot corners shall be marked with pipe or solid iron not less than one-half (1/2) inch in diameter and fifteen (15) inches long and driven so as to be flush with the finished grade. When

rock is encountered, surveyor shall determine a suitable method for providing a permanent marker.

Sec. 24.1-34. Reservation of land for public purposes.

The city may require subdividers of residential subdivisions to set aside land for parks, playgrounds, schools, libraries, municipal buildings and similar public uses, subject to the following regulations:

(a) Subdividers shall not be required to reserve land for public purposes other than streets and drainage, except on a reimbursement basis. The subdivider shall be reimbursed by the jurisdiction or agency requiring the land. The city shall be required to obtain an option upon the property involved for a negotiated period following the recording of the plat for such purchase. If the land is not purchased within the said negotiated period by the city and the subdivider, it may be sold as lots for the same purpose for which the subdivision was platted. To facilitate such possible eventual sale of reserved land as separate lots, the subdivider shall show on ~~his~~ the final plat, by dotted lines and dotted numbers, the sizes and dimensions of lots to be created within the boundaries of any such reserved land, and may sell such lots, after the expiration date of the reservation, by lot number, without filing an amended plat.

(b) The city shall make certain that lands so reserved are divisible in the same manner as the remainder of the subdivision so that the subdivider will not be required to reserve an unusable portion of ~~his~~ the subdivision.

(c) Nothing herein shall be construed to mean that land may be set aside for commercial purposes in a residential district, without the land so required for commercial use being zoned appropriately in accordance with the zoning ordinance.

Sec. 24.1-34.1. Vacation or alteration of boundary lines.

(a) The city planner~~agent~~ may approve the vacation, relocation, or alteration of boundary lines of any lot or parcel of land shown on a valid and properly recorded plat of a subdivision or re-subdivision approved as provided for in this subdivision ordinance and executed by the owner or owners of such land, as provided in Section 24.1-42. Such approval may be given provided that the vacation, relocation, or

alteration of a lot line does not involve the relocation or alteration of streets, alleys, easements for public passage, or other public areas; and, provided further, that no easements or utility rights-of-way shall be relocated or altered without the express consent of all persons holding an interest therein.

(b) The city planner may approve a plat altering or relocating the boundary line between no more than two (2) lots or parcels provided that all monuments necessary to alter or relocate the boundary line and at least one (1) lot corner are indicated on the plat. All other information may be indicated by providing reference to and as shown on a valid and properly recorded subdivision plat.

(c) The city planner may allow the vacating of lot lines by recordation of a deed providing that no easements or utility rights-of-way located along any lot lines to be vacated shall be extinguished or altered without the express consent of all persons holding any interest therein. The deed shall be approved in writing, on its face, by the city planner. The deed shall reference the recorded plat by which the lot line was originally created.

ARTICLE VII. APPROVAL OF PLATS

Sec. 24.1-35. Approval required before construction and sale.

Whenever any subdivision of land is proposed, and before any permit for the erection of a structure shall be granted, the subdivider shall comply with the following requirements regarding approval of plats.

Sec. 24.1-36. Preliminary sketch (not required).

The subdivider may, ~~if he so chooses,~~ submit ~~to the planning division~~ a preliminary sketch of the proposed subdivision to the planning division prior to his preparing an engineering preliminary and/or final plat. Submission of the preliminary plat shall not constitute the official filing of a proposed subdivision. The purpose of such preliminary sketch is to permit the planning division to advise the subdivider whether his plans, in general, are in accordance with the requirements of this ordinance. The planning division, upon submission of any preliminary sketch, shall study it, and advise the subdivider within fifteen (15)

days ~~wherein~~ whether it appears that changes would be necessary. The planning division may mark the preliminary sketch indicating necessary changes and any such marked sketch should be returned to the planning division with the preliminary plat. The preliminary sketch shall be as follows:

The preliminary sketch may be drawn on white paper, or on a print of a topographic map of the property. It shall be drawn to scale. It shall show the name, location and dimensions of all streets entering the property, adjacent to the property or terminating at the boundary of the property to be subdivided. It shall show the location of all proposed streets, lots, parks, playgrounds and other proposed uses of the land to be subdivided and shall include the approximate dimensions.

Sec. 24.1-37. Preliminary plat.

The subdivider shall present to the planning division the appropriate number, as the city planner determines are needed, of eighteen (18) copies of a preliminary layout at a scale of not less than one hundred (100) feet to the inch and on sheets having a maximum size of seventeen (17) inches by twenty-two (22) inches as a preliminary plat and the preliminary plat shall be accompanied by plan and profile sheets at a scale of fifty (50) feet to the inch horizontal and ten (10) feet to the inch vertical.

The preliminary plat shall include the following information:

(a) Name of subdivision, owner, subdivider, surveyor or engineer, date of drawing, number of sheets, true and/or magnetic north point and scale.

(b) Location of proposed subdivision by an insert map with a north arrow and scale at a scale of not less than two (2) inches equal one (1) mile showing adjoining roads, their name and number, counties, subdivisions and other landmarks.

(c) The boundary survey or existing survey of record provided such survey shows a closure with an accuracy of not less than one (1) in five thousand (5,000), total acreage, acreage of subdivided area, number and approximate area and frontage of all building lots, existing buildings within the boundaries of the tract, names of owners and their property lines within the boundaries of the tract, delineation

of flood plain districts, and names of owners and their property lines adjoining such boundaries.

(d) All existing platted streets, including alleyways, and all proposed streets, their names and widths; existing and proposed utility or other easements, public areas and parking spaces, culverts, drains and water courses, their names and other pertinent data.

(e) All parcels of land to be dedicated for public use and the conditions of such dedication.

(f) Topography at maximum intervals of five (5) feet.

(g) Elevations of existing and proposed ground surface at all street intersections and at points of major grade change along the center line of streets together with proposed grade lines connecting therewith, or as necessary for the city to reasonably interpret the intention of the subdivider. Major grade changes shall be indexed to profile sheets.

(h) Proposed connections with existing sanitary sewers and existing water supply or alternate means of sewage disposal and water supply.

(i) Provisions for collecting and discharging surface drainage and preliminary descriptions of any structures that may be required.

Sec. 24.1-38. Procedure.

The city planner~~agent~~ or his appointed representative shall discuss the preliminary plat with the subdivider in order to determine whether or not ~~his~~ the preliminary plat generally conforms to the requirements of the subdivision ordinance.

The subdivider shall then be advised in writing within fifteen (15) days, which may be by formal letter or by meaningful markings or descriptions on ~~his~~ the copy of the preliminary plat, concerning any additional data that may be required, the character and extent of public improvements that will have to be made, and an estimate of the cost of construction or improvements and the amount of the surety bond which will be required as a prerequisite to approval of the final subdivision plat. In determining the cost of required improvements and the amount of the surety bond, the city planner~~agent~~ may require the subdivider to furnish a bona fide estimate of the cost of

improvements to assist the city planner~~agent~~ in determining the amount of surety bond.

Sec. 24.1-39. Preliminary plat ~~may be submitted~~ approval as final plat.

The preliminary plat may be submitted as the final plat where approved by the city planner~~agent~~ and provided no change, erasure or revision shall be made on any preliminary or final plat nor on accompanying data sheets after approval of the city planner~~agent~~ has been endorsed in writing on the plat or sheets, unless authorization for such changes has been granted in writing by the city planner~~agent~~.

Sec. 24.1-40. No guarantee.

Approval by the city planner~~agent~~ of the preliminary plat does not constitute a guarantee of approval of the final plat.

Sec. 24.1-41. Twelve months' limit.

The subdivider shall have not more than twelve (12) months after receiving official notification concerning the preliminary plat to file with the city a final subdivision plat in accordance with this ordinance. Failure to do so shall make preliminary approval null and void. The city planner~~agent~~ may, on written request and with good cause shown by the subdivider, grant an extension of this time limit.

Sec. 24.1-42. Final plat.

~~If no preliminary plat is submitted in accordance with Section 24.1-39,~~
The submission of a final plat shall constitute the official filing of a proposed subdivision. ~~Twenty (20)~~ The appropriate number, as the city planner determines are needed, of copies of the final plat shall be submitted to the city for final approval and subsequent recording. Blue or black line prints (surveyor's copies) shall be clearly and legibly drawn at a scale of not more than one hundred (100) feet to the inch on sheets having a maximum size of seventeen (17) inches by twenty-two (22) inches.

For any subdivision of five (5) lots or more the digital data associated with the creation of the subdivision plat shall be provided to the city planner~~agent~~ in a format approved by the city. The digital data shall be "georeferenced" to the State Plane Coordinate System, North American Datum 1983, Virginia South Zone #4502. The data shall be certified by a licensed ~~engineer or surveyor or other persons~~ appropriately licensed by the Commonwealth of Virginia for accuracy and correctness. Where the subdivider can show that the subdivision plat was not created using computer aided design (CAD) software, or adherence to these requirements would produce unnecessary hardships the city planner~~agent~~ may grant an exception in whole or in part to the requirements for digital data submission.

The final plat shall include the following information and all information which is required on the preliminary plat shall be provided on the final plat:

(a) Name of subdivision, city, state, owner, true and/or magnetic north point and scale of drawing and number of sheets. If shown on more than one (1) sheet, matched lines shall clearly indicate where the several sheets join. A space shall be reserved for the signature of the city engineer and the city planner ~~clerk of council~~ if no new streets are dedicated. If the plat includes the acceptance of right-of-way, a space shall be reserved for the signature of the city engineer and the city manager.

(b) Location of proposed subdivision by an insert map with north arrow and scale at a scale of not less than two (2) inches equal one (1) mile indicating adjoining roads, their names and numbers, counties, subdivisions and other landmarks.

(c) A boundary survey with an error of closure within the limits of one (1) in five thousand (5,000) related to the magnetic meridian and showing the location of all monuments and their type of material within the boundary of the subdivision. The survey may be related to the U. S. Coast and Geodetic Survey state grid north if the coordinate of two (2) adjacent corners of the subdivision are shown.

(d) ~~Certificates signed by the surveyor setting forth~~ The source of title of the owners of the land subdivided and the place of record of the last instrument in the chain of title.

(e) A statement to the effect that the subdivision as it appears on this plat is with the free consent and in accordance with the desires of the

owners, proprietors and trustees, if any, which shall be signed by the owners, proprietors and trustees, if any, and shall be duly acknowledged before some officer authorized to take acknowledgements to deeds.

(f) When the subdivision consists of land acquired from more than one (1) source of title the outlines of the various tracts shall be indicated by dotted lines and identification of the respective tracts shall be placed on the plat.

(g) The accurate location and dimensions by bearings and distances with all curve data on all lots and street lines, boundaries of all proposed or existing easements and utilities, existing parks, school sites or other public areas, the number and area of all building lots, all existing public and private streets, their names, numbers and widths, water courses and their names, if any, delineation of flood plain ~~districts~~ zones, names of owners and their property lines within the boundary of the subdivision and the names of owners and their property lines adjoining said boundaries.

(h) All dimensions shall be shown in feet and decimals of a foot to the closest two (2) decimal points, all bearings shall be shown in degrees and minutes to the nearest minute.

(i) The data of all curves along the street frontages shall be shown in detail at the curve or in a curve data table containing the following; delta angle, radius, arc, tangent, chord and chord bearings.

(j) Any restrictions imposed by the subdivider shall be shown on the plat, or on attached sheet(s) in which case it shall be stated on the plat that deed restrictions are on the said attached sheet(s) or as filed in Plat Cabinet number (identify number) of the office of the clerk of the circuit court.

(k) Where public water and or sewer systems are to be provided it shall be indicated on the plat and shall reflect whether such facilities will be owned by the City of Lynchburg or privately owned, indicating the name or title of the owner.

(l) A statement as to whether utilities will be placed overhead or underground.

(m) All other applicable minimum standards for surveys as defined within Chapter 20 of the Virginia Administrative Code.

A house number shall be assigned to each lot created by the subdivision as provided in section 35-114 and chapter 35, article VII of the city code.

Sec. 24.1-43. Conditions.

The plat shall not be approved until the subdivider has complied with the general requirements and minimum standards of design in accordance with this ordinance and has made satisfactory arrangements of surety bond to cover the cost of necessary improvements to the satisfaction of the city.

Sec. 24.1-44. Approval.

The ~~city planner~~~~agent~~ shall not approve the final plat until ~~he has received receipt of~~ a written statement from the ~~health department official~~ that the subject property is suitable for the proposed development; nor shall ~~he approve~~ the plat ~~be approved~~ when city public water and/or sewer is to be provided until the ~~city planner~~~~agent~~ receives in writing that the system has been approved and accepted by the City of Lynchburg or the subdivider has the required surety in place. Where a subdivision has been approved administratively by the city planner, no additional subdivision of the new lots or of the residue tract shall be approved within a period of two (2) years from the date of approval, unless the land is industrially-zoned or the two-year time limit is waived by the city planner.

(a) Approval of the final plat shall be written on the face of the plat by the city engineer and ~~city planner~~ ~~clerk of council~~ if no new streets are dedicated. Approval of the final plat that includes acceptance of right-of-way shall be written on the face of the plat by the city engineer and city manager; all copies shall be retained by the ~~clerk of council~~ city planner until the subdivider is ready to record same. (See also Section 24.1-28(g).) The ~~city planner~~~~agent~~ shall notify the subdivider in writing when the plat is approved and the subdivider shall record the plat within six (6) months after final approval. The ~~city planner~~~~agent~~ may, on written request of the subdivider, grant an extension of this time, otherwise he shall mark the plat void and return same to the subdivider.

(b) The city council, commission or ~~other agent~~city planner shall render a decision on the proposed plat right-of-way within sixty (60) days after it has been submitted for approval by either approving or disapproving such plat in writing, and giving with the latter specific reasons therefore.

Specific reasons for disapproval may be contained in a separate document or may be written on the plat itself, and shall relate in general terms such modifications or corrections as will permit approval of the plat.

If the city council, commission or ~~other agent~~city planner fails to approve or disapprove the plat within sixty (60) days after it has been officially submitted for approval, the subdivider, after ten (10) days' written notice to the commission or city planner~~agent~~, may petition the circuit court of the city ~~or county in which the land involved, or the major part thereof, is located,~~ to decide whether the plat should or should not be approved. The court shall hear the matter and make and enter such order with respect thereto as it deems proper, which may include directing approval of the plat.

If the city council, commission or ~~other agent~~city planner disapproves a plat and the subdivider contends that such disapproval was not properly based on the ordinance applicable thereto, or was arbitrary or capricious, he may appeal to the circuit court having jurisdiction of such land and the court shall hear and determine the case as soon as may be.

The time requirements contained in this section shall not apply to the submission of any preliminary subdivision plat.

ARTICLE VIII. EFFECTUAL CLAUSES

Sec. 24.1-45. Exceptions.

Where the subdivider can show that a provision of these standards would cause unnecessary hardship if strictly adhered to, or where, because of topographical or other conditions peculiar to the site, in the opinion of the city planner~~agent~~ a departure may be made without destroying the intent of such provisions, the city planner~~agent~~ may authorize an exception. When the city planner~~agent~~ or subdivider desires, the matter shall be referred first to the commission ~~or and~~

thence to city council for review. Any exceptions authorized under the provisions of this section shall be stated in writing on the plat, by the city planner~~agent~~, commission or city council with the reasoning set forth on which the departure was justified.

~~The agent may allow the vacating of lot lines by recordation of a deed providing that no easements or utility rights-of-way located along any lot lines to be vacated shall be extinguished or altered without the express consent of all persons holding any interest therein. The deed shall be approved in writing, on its face, by the agent. The deed shall reference the recorded plat by which the lot line was originally created.~~

Sec. 24.1-46. Penalties.

~~Any person violating the foregoing provisions of this ordinance shall not be granted a building permit or extended public utilities and shall be subject to a fine of not more than one hundred dollars (\$100.00) for each lot or parcel ot ~~of~~ land so subdivided or transferred or sold; and the description of such lot or parcel by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from such penalties or from the remedies herein provided.~~

(a) Any person violating the provisions of this chapter shall not be granted a building permit or extended public utilities and any violation of this chapter shall be a misdemeanor punishable by a fine of not less than ten dollars (\$10.00) nor more than one thousand dollars (\$1,000.00) for each lot or parcel of land subdivided, transferred or sold and the description of such lot or parcel by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from such penalties or from the remedies herein provided. If the violation is uncorrected at the time of the conviction, the court shall order the violator to abate or remedy the violation in compliance with the zoning ordinance, within a time period established by the court. Failure to remove or abate a zoning violation within the specified time period shall constitute a separate misdemeanor offense punishable by a fine of not less than ten dollars (\$10.00) nor more than one thousand dollars (\$1,000.00), and any such failure during any succeeding ten (10)-day period shall constitute a separate misdemeanor offense for each ten (10)-day period punishable by a fine of not less than one hundred dollars (\$100.00) nor more than one thousand five hundred dollars (\$1,500.00).

(b) Any violation or attempted violation of this chapter, or of any regulation adopted hereunder may be restrained, corrected, or abated as the case may be by injunction or other appropriate proceeding. At any time after the filing of an injunction or other appropriate proceeding to restrain, correct, or abate a zoning ordinance violation and where the owner of the real property is a party to such proceeding, the zoning administrator may record a memorandum of lis pendens pursuant to Section 8.01-268 of the Code of Virginia. Any memorandum of lis pendens admitted to record in an action to enforce a zoning ordinance shall expire after one hundred eighty (180) days. If the city has initiated an enforcement proceeding against the owner of the real property and such owner subsequently transfers the ownership of the real property to an entity in which the owner holds an ownership interest greater than fifty (50) percent, the pending enforcement proceeding shall continue to be enforced against the owner.

Sec. 24.1-47. Validity.

Should any section, subsection or provision of this subdivision ordinance be declared by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of such subdivision ordinance as a whole or any part thereof other than the part so declared to be invalid or unconstitutional.

Sec. 24.1-48 Repealed.

Sec. 24.1-49. Amendments.

This ordinance may be amended in whole or in part. The commission on its own initiative may, or at the request of the city council shall, prepare and recommend amendments to this ordinance. The procedure for such amendment shall be the same as for the preparation and recommendation and approval and adoption of the original ordinance; provided, that no such amendment shall be adopted by the governing body without a reference of the proposed amendment to the commission for recommendation, nor until sixty (60) days after such reference, if no recommendation is made by the commission. Provided, further, that the provisions of ~~Section 15.1-431~~

Section 15.2-2204 of the Code of Virginia (1950), as amended, regarding advertisement and public hearings have been complied with.

~~Sec. 24.1-50. Effective date. Repealed~~

~~This ordinance was duly considered, following a required public hearing, and was adopted by the City of Lynchburg, Virginia, on November 14, 1978.~~

// A regular meeting of the Council of the City of Lynchburg was held on the 23rd day of March, 2010, at 4:00 P.M. in the Council Chamber, City Hall, Joan F. Foster, President, presiding. The following Members were present:

Present: Dodson, Gillette, Helgeson, Nelson, Perrow, Foster 6

Absent: Johnson 1

// Mayor Foster stated that Council Member Johnson would not be attending today's meeting because he was in Mississippi due to family emergency.

// Deputy City Manager Bonnie Svrcek, responding to a request from Vice Mayor Dodson regarding the Stakeholders' Meeting, which was held on March 18, 2010, explained the proposed Institutional Overlay District for non profit institutions and campus-like institutions. Ms. Svrcek stated that the purpose of the meeting was to explore ways the City could support the growth of its campus-like institutions while mitigating the need for Conditional Use Permit (CUP) approval. Ms. Svrcek went on to say that the City Manager outlined three items during the meeting regarding the Institutional Overlay District concept.

These items are:

- 1) Impact of institutions on surrounding area
- 2) Respect for the institutional master plans
- 3) Enforcement of environmental regulations

Ms. Svrcek explained the current Zoning CUP approvals for each institution.

// City Manager Kimball Payne completed the presentation of the FY 2011 Operating Budget which include the following items:

- External Service Providers
- Component Units
- Various Funds

During Mr. Payne's presentation Council raised two questions requiring staff follow up. Council Member Perrow asked for a report of the City's debt load over the past 5 years by Fund as well as how much had been retired and Vice Mayor Dodson asked for more information on Liberty University's contract agreement with Greater Lynchburg Transit Company (GLTC).

// City Manager Kimball Payne stated that staff was present to answer questions regarding the following items which was previously identified by Council for further discussion:

- Information Technology
- Animal Control
- Public Works – Brush & Bulk Collection
- Library
- Museum
- Parks and Recreation
- City Market

During the staff presentation Council raised two questions requiring follow up: Vice Mayor Dodson requested that Public Works provide a cost estimate on each of the following services:

- loose leaf removal
- bulk/brush pick-up
- trash removal from the Expressway
- trash removal from Boonsboro Road to the James River

Council Member Helgeson asked if The Friends of the Library would be willing to donate \$10,000 to assist with youth programming if the downtown branch library remained closed.

// Communications and Marketing Director JoAnn Martin gave a brief report regarding the 2010 Citizens Survey. Ms. Martin stated that the City had conducted a Citizens Survey every two years beginning in 2004 which was administered by the National Research Center (NRC) and endorsed by the International City/County Management Association (ICMA). Ms. Martin went on to say that Council identified citizen engagement as an area of importance during the budget retreat and the Citizens Survey was a useful tool in continuing efforts in civic engagement and participation. The Survey also provided important service measures and benchmark data that are especially critical in a challenging economic environment. Ms. Martin explained that the NRC is offering a discount of up to \$1,100 to returning clients if an agreement is signed before April 2010. During discussion, Council Members raised concerns regarding the Citizens Survey due to budget challenges and constraints and Council decided not to fund the Citizens Survey this year but committed in doing the survey again in the future.

// There were no items for roll call.

// City Council recessed the meeting at 7:00 p.m.

// City Council reconvened the meeting at 7:30 p.m. Vice Mayor Dodson gave the Invocation, followed by the Pledge of Allegiance.

// Mayor Foster recognized Katie Nylund, a member of the Mayor's Youth Council.

// Copies of the minutes of the March 9, 2010 meeting, having been previously furnished Council, reading was dispensed with, and on motion of Council Member Gillette, seconded by Council Member Helgeson, Council by the following recorded vote approved the minutes as presented:

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

// Copies of the minutes of the March 16, 2010 meeting, having been previously furnished Council, reading was dispensed with, and on motion of Council Member Gillette, seconded by Council Member Helgeson, Council by the following recorded vote approved the minutes as presented:

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

// In the matter of Fire – General, Resolution #R-10-017 amending the FY 2010 City/Federal/State Aid Fund budget and appropriating \$33,500, with \$26,800 reimbursement, to purchase an upgrade to the

Plymovent system for Station No. 2 on Grace Street and a fire alarm system for Station No. 6 on Fort Avenue, laid over from the March 9, 2010 meeting, was again presented and read, and on motion of Council Member Gillette, seconded by Council Member Helgeson, Council by the following recorded vote adopted the Resolution:

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

// In the matter of Public Works - General, Resolution #R-10-018 amending the FY 2010 City/Federal/State Aid Fund budget and appropriating \$298,000, with \$240,000 reimbursement, to convert traffic signals, message boards, and some street lights to energy efficient light-emitting diode (LED) technology, laid over from the March 9, 2010 meeting, was again presented and read, and on motion of Council Member Gillette, seconded by Council Member Helgeson, Council by the following recorded vote adopted the Resolution:

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

// In the matter of Community Development - General, City Council Report #10 regarding amending the FY 2010 City/Federal/State Aid Fund budget and appropriating \$106,488, fully reimbursable, to provide 13 units of tenant-based rental assistance and associated supportive services. Council Member Helgeson, Chair of the Finance Committee, stated that the item came before the Finance Committee and made a motion to approve the request. No second was needed, and Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-10-020, as presented, amending the FY 2010 City/Federal/State Aid Fund budget and appropriating \$106,488, fully reimbursable, to provide 13 units of tenant-based rental assistance and associated supportive services:

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

// In the matter of Housing Authority, a public hearing was held regarding City Council Report #11 regarding a request from the Lynchburg Redevelopment and Housing Authority (LRHA) for authorization to pursue acquisition of blighted property at 234 Stoneridge Street under Section 36-19.5 of the Code of Virginia. LRHA Manager Connie Snavelly provided a brief summary regarding the request. There was no one else present who wished to speak to this item, and the public hearing was closed. On motion of Council Member Perrow, seconded by Council Member Helgeson, Council by the following recorded vote adopted Resolution #R-10-021, as presented, approving a request from the Lynchburg Redevelopment and Housing Authority for authorization to pursue acquisition of blighted property at 234 Stoneridge Street under Section 36-19.5 of the Code of Virginia:

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

// In the matter of Housing Authority, a public hearing was held regarding City Council Report #12 regarding a request from the Lynchburg Redevelopment and Housing Authority (LRHA) for authorization to pursue acquisition of blighted property at 1005 Pansy Street under Section 36-19.5 of the Code of Virginia. LRHA Manager Connie Snavelly provided a brief summary regarding the request. Ms. Barber, the property owner, addressed Council stating that she was in the process of remodeling the property at 1005 Pansy Street and would like Council to give an extension to have the repairs done. Mr. Merle Calendar spoke stating that he had been hired to remodel and bring the property at 1005 Pansy Street up to code. There was no one else present who wished to speak to this item, and the public hearing was closed. Council Member Gillette made a motion to deny this request. Council Member Helgeson seconded the motion with a friendly amendment to table the item for 30 days. Council Member Gillette would accept the friendly amendment for 60 days instead of 30. Council Member Helgeson accepted the changes to his friendly amendment and the motion was seconded. City Attorney Walter Erwin suggested to Council that they could postpone the item indefinitely, that way it would not come back to Council unless the Housing Authority notifies the City that no progress was being made. Council Member Helgeson amended his friendly amendment to table this item indefinitely and Council Member Gillette accepted the friendly amendment. After further discussion Council by the following recorded vote tabled this item indefinitely:

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

// In the matter of Housing Authority, a public hearing was held regarding City Council Report #13 regarding a request from the Lynchburg Redevelopment and Housing Authority (LRHA) for authorization to pursue acquisition of blighted property at 2221 Campbell Avenue under Section 36-19.5 of the Code of Virginia. LRHA Manager Connie Snavelly provided a brief summary regarding the request. Ms. Snavelly stated that Bank representatives stated that they were in the process of foreclosing on the property and are looking for a potential buyer. There was no one else present who wished to speak to this item, and the public hearing was closed. Council Member Perrow stated that he did not see a need to take any action on this item. On motion of Council Member Perrow, seconded by Council Member Gillette, Council by the following recorded vote tabled this item indefinitely:

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

// In the matter of Housing Authority, a public hearing was held regarding City Council Report #14 regarding a request from the Lynchburg Redevelopment and Housing Authority (LRHA) for authorization to pursue acquisition of blighted property at 407 Pine Street under Section 36-19.5 of the Code of Virginia. LRHA Manager of Connie Snavelly provided a brief summary regarding the request. There was no one else present who wished to speak to this item, and the public hearing was closed. On motion of Council Member Perrow, seconded by Council Member Helgeson, Council by the following recorded vote adopted

Resolution #R-10-022, as presented, approving the request from the Lynchburg Redevelopment and Housing Authority for authorization to pursue acquisition of blighted property at 407 Pine Street under Section 36-19.5 of the Code of Virginia:

Ayes: Dodson, Gillette, Helgeson, Nelson, Perrow, Foster

6

Noes:

0

Absent: Johnson

1

// In the matter of Housing Authority, a public hearing was held regarding City Council Report #15 regarding a request from the Lynchburg Redevelopment and Housing Authority (LRHA) for authorization to pursue acquisition of blighted property at 416 Pine Street under Section 36-19.5 of the Code of Virginia. LRHA Manager Connie Snavelly provided a brief summary regarding the request. Ms. Snavelly stated that the Housing Authority had received correspondence from the property owner in which he indicated that he would take one of the following actions concerning his property, (1) make repairs and secure funds according to the deficiencies outlined in the 60 day notice by October 1, 2010; (2) sell the property to the Authority; or (3) sell the property to a buyer on the open market. After receiving this information, staff spoke with the owner to obtain clarification concerning his plans. His response was that he would do one of the three actions listed above by October 1, 2010. Ms. Snavelly also stated that the owner called Authority staff after receiving notice of the public hearing to ask about the public hearing. The owner stated that he came to Lynchburg in November 2009 and spoke with someone about the property. He couldn't remember the names of the people he spoke with but he indicated that the office was on Church Street. The property owner also indicated that these individuals told him that they did not have a case open on the property. Therefore since he lost the 60 day notice that was sent to him by the Authority, and did not remember the name of the agency that sent the letter and after speaking with City staff, he assumed nothing else needed to be done. There was no one else present who wished to speak to this item, and the public hearing was closed. On Motion of Council Member Perrow to continue this item to the April 27th Council meeting, seconded by Council Member Helgeson, Council by the following recorded vote continued the item for 30 days:

Ayes: Dodson, Gillette, Helgeson, Nelson, Perrow, Foster

6

Noes:

0

Absent: Johnson

1

// In the matter of Housing Authority, a public hearing was held regarding City Council Report #16 regarding a request from the Lynchburg Redevelopment and Housing Authority (LRHA) for authorization to pursue acquisition of blighted property at 1816 -1818 Vine Street under Section 36-19.5 of the Code of Virginia. LRHA Manager Connie Snavelly provided a brief summary regarding the request. There was no one else present who wished to speak to this item, and the public hearing was closed. On motion of Council Member Helgeson, seconded by Council Member Gillette, Council by the following recorded vote adopted Resolution #R-10-023, as presented, approving a request from the Lynchburg Redevelopment

and Housing Authority for authorization to pursue acquisition of blighted property at 1816-1818 Vine Street under Section 36-19.5 of the Code of Virginia:

Ayes: Dodson, Gillette, Helgeson, Nelson, Perrow, Foster 6

Noes: 0

Absent: Johnson 1

// In the matter of Public Works – Sewer/Water, City Council Report # 17 to approve the request of Habitat for Humanity to waive the charges for water and sewer availability fees for 1613 Monsview Place and to reimburse the monies already paid for such fees was considered. Council Member Perrow made a motion to deny this request seconded by Council Member Helgeson. After further discussion, Vice Mayor Dodson made a substitute motion, seconded by Council Member Nelson to table this item to receive additional information. Council by the following recorded vote postponed this item to April 13th Council meeting:

Ayes: Dodson, Gillette, Helgeson, Nelson, Foster 5

Noes: Perrow 1

Absent: Johnson 1

// In the matter of Police - General, City Council Report #18 regarding amending the FY 2010 City/Federal/State Aid Fund budget and appropriating \$285,000, fully reimbursable, to purchase a Chemical Biological Radiological Nuclear Explosive (CBRNE) Armored Incident Response Vehicle and CBRNE Personal Protective Equipment for the Police department. Council Member Helgeson, Chair of the Finance Committee, stated that the item came before the Finance Committee and made a motion to approve the request. No second was needed, and Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-10-024, as presented, amending the FY 2010 City/Federal/State Aid Fund budget and appropriating \$285,000, fully reimbursable, to purchase a Chemical Biological Radiological Nuclear Explosive (CBRNE) Armored Incident Response Vehicle and CBRNE Personal Protective Equipment for the Police department:

Ayes: Dodson, Gillette, Helgeson, Nelson, Perrow, Foster 6

Noes: 0

Absent: Johnson 1

// In the matter of City Code, City Council Report # 19 was considered. On motion of Council Member Gillette, seconded by Council Member Perrow, Council by the following recorded vote adopted Ordinance #O-10- 025, as amended, to amend the City Code relating to certain domestic animals and fowl going at large within the City:

Ayes: Gillette, Helgeson, Nelson, Perrow, Foster 5

Noes: Dodson 1

Absent: Johnson 1

// The meeting was adjourned at 9:02 P.M.

// An additional scheduled meeting of the Council of the City of Lynchburg was held on the 30th day of March, 2010, at 4:00 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 the FY2011 Budget. The following Members were present:

Present: Dodson, Gillette, Helgeson, Nelson, Perrow, Foster

6

Absent: Johnson

1

// Mayor Foster stated that Council Member Johnson was still in Mississippi due to family emergency.

// Mayor Foster read the following statement: "As you know, last week I received a letter from Liberty University Chancellor Jerry Falwell, Jr. asking that City Council consider a revision to the Zoning Ordinance that would remove the conditional use permit requirement for schools and colleges from the General Business (B-5) District. Chancellor Falwell also asked that this be accomplished prior to the May 4th election. While an examination of the issue is appropriate, and of course it is already underway with the discussion of creating an Institutional Overlay District, I believe that this is not something that should be rushed into. It is an important matter. I have consulted with staff and have been advised that trying to accomplish such a significant change in the Zoning Ordinance with such a short period of time would be extremely challenging, inconsistent with the requirements of the Zoning Ordinance regarding such amendments, and potentially could really open us to legal challenges. Therefore, we have a couple of options:

1. We could place this matter on Council's next regular work session, on April 13th, for discussion, or
2. We could send the matter directly to the Planning Commission for them to make a recommendation to us. That today would require a resolution from us, from Council today.

If we do either though, I would ask that the following be examined and considered:

1. The history of the zoning of the land on which Liberty campus has been built, including the conditional use permits that have been approved by Council.
2. Possible alternatives to the overlay district, including an amendment to the B-5 section of the Zoning Ordinance as requested by Liberty, the creation of a special zone for colleges and universities, and other possibilities.
3. Information on other institutions affected by the conditional use permit requirement and how their development might be facilitated by similar changes to the Zoning Ordinance.
4. The various issues then to be considered when exploring ways to facilitate institutional development.

Most Council members, and I have talked to each one of you individually, have expressed a willingness to explore ways to encourage and facilitate institutional development within our community. So have representatives from the various other institutions. And, there has been considerable public interest in this matter as well. I believe that either of the options I am offering today would be a proper consideration of this matter. What would you all's desire be in this matter"?

A motion was made by Council Member Perrow and seconded by Vice Mayor Dodson to select option #2 which is to send this matter directly to the Planning Commission.

After discussion from Council, Mayor Foster called for a vote; Council by the following recorded vote sent the item to the Planning Commission:

Ayes: Dodson, Gillette, Helgeson, Nelson, Perrow, Foster	6
No:	0
Absent: Johnson	1

// Council Member Nelson read the following Disclosure of Personal Interest statement with regard to the school division. Pursuant to Section 2.2-311 (A)(2) and (4) and 2.2-311 (5)(G) of the Code of Virginia, I, John Randolph Nelson, do have and acknowledged the following disclosure with regard to the fact that I may be participating in the discussions concerning the school division. My wife is an employee of the school division, its possible that my wife could be affected by the budget if it were approved by council, even though the impact of the approval of the budget may have on my wife is speculative and uncertain, I do feel, and have concluded, that I am nevertheless able to participate in these discussions and the adoption of the budget fairly objectively and in the public interest and therefore intend to participate in the discussions and vote upon the adoption of the school budget including allocation of funds for the City Public Schools and I have filed this statement with the City Attorney with regard to that.

// School Board Chair Mary Ann Barker along with School Superintendent Paul McKendrick and Chief Financial Officer Beverly Padgett provided an overview regarding the Lynchburg City Schools FY 2010-2011 Operating Budget. Ms. Barker's power point presentation included the top priorities which were discussed during the Schools retreat, which are (1) continuation in trying to close the achievement gaps, (2) improving and conquering the graduation rate, (3) reorganizing alternative education, (4) develop a viable and responsible Capital Improvement Plan (CIP), (5) improve staff recruitment, retention and development (6) enhancing marketing and communications and trying to stay in touch with area business leaders, parents and community members to educate them about the challenges, about what Schools have to offer and the Schools many successes were among the items discussed. Ms. Barker stated that the budget process was very comprehensive and entailed a very lengthy process. Ms. Barker went on to say that the Schools are facing an \$8.8 million dollar shortfall from the State and appreciate the City's proposal of level funding.

// Ms. Padgett reviewed the following:

- Operating Fund Revenue
- Operating Fund Expenditures
- 2010-2011 Operating Budget Summary
- 2010-2011 Operating Budget Reductions
- Free/Reduced Lunch Data
- Per Pupil Expenditures
- Indicators of Success

// Dr. McKendrick explained items that the Schools decided to reduce that would not affect student achievements, including for the third year no salary increases for the staff, cut 65 positions, the second year in a row not purchasing new books, closing one school building, eliminate high school summer school for credit, and turning over some of the costs of insurance to the staff.

// City Manager Kimball Payne reviewed the Compensation Board FY2011 Revenue Projections. Mr. Payne explained the impact on constitutional offices from the State and explained where the Constitutional offices stood after the adoption of the budget by the General Assembly. Mr. Payne went on to say in every case more money came from the State than anticipated.

// Commissioner of the Revenue Mitch Nuckles stated that the Commissioner office was short two positions but only requested funding from Council for one customer service position.

// Treasurer David Thurman stated that he was requesting \$21,000 for his office and explained that the office has only 2 positions and if one of the positions were cut he would face a real problem. Mr. Payne stated that the Treasurer's office cannot function with less than 2 people.

// Commonwealth Attorney Michael Doucette stated that currently his office has an attorney position vacant and has another attorney planning on leaving at the end of June. Mr. Doucette went on to say that he has not advertised for either position because he is waiting to see what the budget situation is. Mr. Doucette explained that he is looking at a loss of services unless Council can save these positions. Mr. Doucette asked that two assistant commonwealth attorney positions be filled.

// Sheriff Ronald Gillespie stated that he was requesting Council to restore approximately \$78,000 in funding that was cut from his budget by the State.

// Circuit Court Clerk Ronald Irvine stated that there was no additional request above what the city manager's proposal was.

// Due to time constraints Social Services item was postponed until April 13 work session.

// The meeting was adjourned at 6:47 P.M.

Interim Clerk of Council

// An additional scheduled meeting of the Council of the City of Lynchburg was held on the 6th day of April, 2010, at 7:00 P.M. in the Council Chamber, City Hall, Joan F. Foster, President, presiding. The purpose of the meeting was to conduct a public hearing regarding the FY2011 Proposed Budget and the 2011-2015 Capital Improvements Program. The following Members were present:

Present: Dodson, Gillette, Helgeson, Nelson, Perrow, Foster

6

Absent: Johnson

1

// Mayor Foster announced that the Federal government is currently conducting the 2010 Census and encouraged each citizen to complete and mail back their 2010 Census form and remember we can't move forward until you mail it back.

// City Manager Kimball Payne gave a brief overview of the FY 2011 Proposed Budget stating the following:

1. Experiencing challenges from our revenue stream from local taxes while also coping with unprecedented reduction in funding from state-mandated locally-delivered services and the demand for these services remains high.
2. City infrastructure continues to age and have experienced unavoidably rising costs in a number of areas.

Mr. Payne explained that there were those extraordinary circumstances which required an extraordinary response and city staff has been preparing for this new budget since July of last year. Mr. Payne stated that a number of things have been done to address this, jobs have been frozen, provided a retirement incentive that has resulted in about 90 vacancies, that reduced cost through a variety of initiatives and through a lot of hard work on the part of city staff.

Mr. Payne went on to say that we have conducted unprecedented citizen and employee outreach and we have looked at budget scenarios that examined the impact on service delivery if we had 90% of the resources that we have in the current year. Mr. Payne stated that the three major priorities by the public and City Council are public safety, education, and infrastructure.

// During the Public hearing a total of 29 individuals spoke concerning the following programs:

- 7 spoke in favor of City Manager Payne's proposal on School Funding
- 1 spoke asking not to support increasing the school fund and not reducing the Fire, Police or EMS funding support
- 4 spoke supporting repairs to Heritage High School and track field
- 11 spoke in favor of keeping the Downtown Branch Library, including a petition that has been signed by approximately 230 individuals. Individual spoke for the Friends of the Library stating that they would make a one-time donation to the City supporting the Branch Library funding, however, if the Branch was to close, the funding would become null and void.
- 2 spoke in favor of keeping the School Crossing Guards
- 1 spoke in favor of supporting the Central Virginia Community Services Board

April 6, 2010

169

- 1 spoke in support of CASA of Central Virginia
- 1 spoke in support of the Lynchburg Humane Society
- 1 spoke in favor of continued funding for the GLTC

There was no one else present who wished to speak, and the public hearing was closed.

// The meeting was adjourned at 9:14 P.M.

Interim Clerk of Council

LYNCHBURG CITY COUNCIL

Agenda Item Summary

MEETING DATE: **April 13, 2010**

AGENDA ITEM NO.: **9**

CONSENT: **X**

REGULAR:

WORK SESSION:

CLOSED SESSION:

(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: **Police Bulletproof Vest Partnership 2009 Grant Funding**

RECOMMENDATION:

Adopt a resolution to amend the FY 2010 City/Federal/State Aid Fund budget and appropriate \$38,700 with resources of \$19,350 from the Bulletproof Vest Partnership 2009 Grant Program and \$19,350 of in-kind match from the General Fund Police Department budget to purchase 60 replacement bulletproof vests for law enforcement officers.

SUMMARY:

The Police Department has been awarded a grant under the Bulletproof Vest Partnership. Funding will be used to purchase 60 replacement bullet proof vests for law enforcement officers.

Total vest replacement costs are \$38,700, which the grant reimburses half of the expenses and the other half is budgeted in the Police Department's FY 2010 Operating Budget.

PRIOR ACTION(S):

Finance Committee, March 23, 2010

FISCAL IMPACT:

None, the required local match was budgeted in the FY 2010 General Fund Police Department Operating Budget.

CONTACT(S):

Chief Parks Snead, 455-6104

Captain Al Thomas, 455-6052

ATTACHMENT(S):

Resolution

REVIEWED BY: lkp

RESOLUTION:

BE IT RESOLVED That the FY 2010 City/Federal/State Aid Fund budget is amended and \$38,700 is appropriated with resources of \$19,350 from the Bulletproof Vest Partnership 2009 Grant Program and \$19,350 of in-kind match from the General Fund Police Department budget to purchase 60 replacement bulletproof vests for law enforcement officers.

Introduced:

Adopted:

Certified:

Clerk of Council

034L

LYNCHBURG CITY COUNCIL

Agenda Item Summary

MEETING DATE: **April 13, 2010**

AGENDA ITEM NO.: 10

CONSENT: REGULAR: **X**

WORK SESSION:

CLOSED SESSION:

(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: Future Land Use Map [FLUM] Amendment: Low Density Residential to Office at 623 Leesville Road

Rezoning: R-1, Low-Density Single-Family Residential District to B-2C, Neighborhood Business District (Conditional) at 623 Leesville Road

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

SUMMARY: SFB, LLC, is petitioning to amend the *FLUM* from Low Density Residential to Office and to rezone two and eighty-one hundredths (2.81) acres at 623 Leesville Road from R-1, Low-Density Single-Family Residential District to B-2(C), Neighborhood Business District (Conditional) to allow the use of the property as a business park, including offices and similar uses allowed in a B-2, Neighborhood Business District.

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

- Adjacent land uses are designated for Institutional and Community Commercial by the *FLUM*.
- The *Comprehensive Plan 2002-2020* (**page 5.4**) states that "Office uses are generally located in lower density areas of the City, often adjacent to low density residential areas, and therefore are intended to be more compatible in scale with single-family homes than the urban office uses of downtown or the office parks of employment areas".

PRIOR ACTION(S):

February 24, 2010: The Planning Division recommended approval of the proposed *FLUM* amendment and the rezoning petition.

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

Planning Commission recommended approval of the proposed *FLUM* amendment and rezoning petition (4-0, with 3 members absent, Hamilton, Hannon, Oglesby).

February 25, 2010: Following the Planning Commission meeting, the petitioner submitted a request to amend the proffers to also exclude churches as a use allowed on the property.

FISCAL IMPACT: None

CONTACT(S): Tom Martin, City Planner - 455-3900; Bonnie Svrcek, Deputy City Manager/Acting Director of Community Development - 455-3900

ATTACHMENT(S):

- Ordinance(s)
- Planning Commission Report
- Planning Commission Minutes
- Vicinity Map
- Future Land Use Map
- Watershed Location Map

- Concept Plan
- Agreement to negotiate future stormwater easement – Victory Christian Fellowship
- Original Proffers – February 18, 2010
- Revised Proffer Request to add “Churches” to Proffered Exclusions – February 25, 2010
- Photos representing proposed architecture
- Speaker Sign Up Sheet

REVIEWED BY: lkp

ORDINANCE:

AN ORDINANCE AMENDING THE FUTURE LAND USE MAP FOR THE PROPERTY LOCATED AT 623 LEESVILLE ROAD, FROM LOW DENSITY RESIDENTIAL TO OFFICE.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LYNCHBURG, that in order to promote the public necessity, convenience, 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 623 Leesville Road from Low Density Residential to Office.

The area embraced within the following boundaries . . .

PARCEL A

1.301 Ac.

BEGINNING. AT EXISTING JOINT ACCESS ENTRANCE ON R/W OF LEESVILLE ROAD, THENCE ALONG R/W OF LEESVILLE ROAD N 01 54' 55" E 162.50' TO IRON PIN FD.; THENCE LEAVING LEESVILLE ROAD S 71 38' 21" E 87.98' TO POINT; THENCE S 87 28' 28" E 85.58' TO POINT; N 65 10' 32" E 117.36' TO POINT; THENCE S 38 17' 28" E 248.19' TO POINT COR. TO PARCELS "A" & "B"; THENCE N 88 04' 34" W 434.98' TO POINT OF BEGINNING.

PARCEL B

1.504 Ac.

BEGINNING. AT IRON PIN FD. ON R/W OF LEESVILLE ROAD; THENCE ALONG R/W OF LEESVILLE ROAD N 01 54'55" E 135.00' TO EXISTING JOINT ACCESS ENTRANCE; THENCE LEAVING LEESVILLE ROAD S 88 04' 34" E 434.98' TO POINT COR. TO PARCELS "A" & "B", THENCE S 38 17' 28" E 34.32' TO ANGLE POINT; THENCE S 32 39' 02" E 132.13' TO IRON PIN FD. THENCE N 88 04' 34" W 532.10' BACK TO BEGINNING.

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

Adopted:

Certified:

Interim Clerk of Council

035L1

ORDINANCE:

AN ORDINANCE CHANGING A CERTAIN AREA LOCATED AT 623 LEESVILLE ROAD FROM R-1, LOW DENSITY SINGLE-FAMILY RESIDENTIAL DISTRICT TO B-2C, NEIGHBORHOOD BUSINESS DISTRICT (CONDITIONAL).

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

Section 35.1-76.____. Change of a certain area located at 623 Leesville Road from R-1, Low Density Single-Family Residential District to B-2C, Neighborhood Business District (Conditional).

The area embraced within the following boundaries...

PARCEL A

1.301 Ac.

BEGINNING AT EXISTING JOINT ACCESS ENTRANCE ON R/W OF LEESVILLE ROAD, THENCE ALONG R/W OF LEESVILLE ROAD N 01 54' 55" E 162.50' TO IRON PIN FD.; THENCE LEAVING LEESVILLE ROAD S 71 38' 21" E 87.98' TO POINT; THENCE S 87 28' 28" E 85.58' TO POINT; N 65 10' 32" E 117.36' TO POINT; THENCE S 38 17' 28" E 248.19' TO POINT COR. TO PARCELS "A" & "B"; THENCE N 88 04' 34" W 434.98' TO POINT OF BEGINNING.

PARCEL B

1.504 Ac.

BEGINNING. AT IRON PIN FD. ON R/W OF LEESVILLE ROAD; THENCE ALONG R/W OF LEESVILLE ROAD N 01 54'55" E 135.00' TO EXISTING JOINT ACCESS ENTRANCE; THENCE LEAVING LEESVILLE ROAD S 88 04' 34" E 434.98' TO POINT COR. TO PARCELS "A" & "B", THENCE S 38 17' 28" E 34.32' TO ANGLE POINT; THENCE S 32 39' 02" E 132.13' TO IRON PIN FD. THENCE N 88 04' 34" W 532.10' BACK TO BEGINNING.

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

- a. Upon rezoning said property to B-2C status, the following will not be allowed:
 - Clubs or other Fraternal Organizations
 - Convents or Monasteries
- b. Substantial compliance with conceptual site plan.
- c. Outside architecture of building will be consistent with those businesses in the area of Leesville Road – see photos of sample building structures and look.

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

Adopted:

Certified:

Interim Clerk of Council

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

To: Planning Commission
From: Planning Division
Date: February 24, 2010
Re: **FUTURE LAND USE MAP [FLUM] AMENDMENT: Low Density Residential to Office at 623 Leesville Road**
REZONING: R-1, Low Density Single-Family Residential District to B-2C, Neighborhood Business District (Conditional) at 623 Leesville Road

I. PETITIONER

SFB, LLC, P.O. Box 4612, Lynchburg, VA 24502

Representative: Ian Thorton, 148 Graves Mill Road, Lynchburg, VA 24502

II. LOCATION

The subject property includes one (1) tract totaling two and eighty one hundredths (2.81) acres at 623 Leesville Road.

Property Owner: SFB, LLC, P.O. Box 4612, Lynchburg, VA 24502

III. PURPOSE

The purpose of this petition is to allow the use of the property as a business park, including offices and similar uses allowed in a B-2, Local Neighborhood Business District.

IV. SUMMARY

- The petition would amend the *Comprehensive Plan 2002-2020*'s *FLUM* designation for the subject properties from a Low Density Residential use to an Office use.
- Petition agrees with the *Zoning Ordinance* in that professional office, select retail and service facilities (without outside displays) and similar uses are permitted in a B-2, Local Neighborhood Business District.

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

V. FINDINGS OF FACT

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

are intended to be more compatible in scale with single-family homes than the urban office uses of downtown or the office parks of employment areas.” (page 5.4)

The proposed FLUM amendment and B-2, Local Neighborhood Business District zoning would permit the development of the property as an office park. Adjacent land uses are designated for Low Density Residential, Institutional and Community Commercial by the FLUM. The property is also located just outside the Commercial Corridor Overlay District with R-1, Low Density Single-Family Residential zoning on either side of the property and B-2, Local Neighborhood Business and R-3, Medium Density Two-Family Residential zoning directly across the street.

2. **Zoning.** The subject property was annexed into the City in 1976. The existing B-2, Local Neighborhood Business District was established in 1978 with the adoption of the current *Zoning Ordinance*.
3. **Proffers.** The petitioner voluntarily submitted the following proffers with the rezoning application:
 - a. Upon rezoning said property to B-2C status, the following will not be allowed:
 - Clubs or other Fraternal Organizations
 - Convents or Monasteries
 - b. Substantial compliance with conceptual site plan
 - c. Outside architecture of building will be consistent with those businesses in the area of Leesville Road – see photos of sample building structures and look.
4. **Board of Zoning Appeals (BZA).** The Zoning Official has determined that no variances will be needed for the development of the property as proposed.
5. **Surrounding Area.** There have been several items requiring City Council approval in the immediate area:
 - On October 12, 2004, City Council approved Victory Christian Fellowship’s petition for a conditional use permit (CUP) to amend the master development plan to allow the construction of a single-family home, relocation of a pavilion and the addition of parking in an R-1, Low Density Single-Family Residential District at 615 Leesville Road.
 - On July 13, 2004, City Council denied Thomas Brooks, Sr.’s petition for a CUP for the creation of an eighteen (18)-lot planned unit development in an R-1, Low Density Single-Family Residential District at 101 Palmer Drive.
 - On January 8, 2001, City Council approved Heritage United Methodist Church’s petition for a CUP to allow the construction of a multi-purpose building in an R-1, Low Density Single-Family Residential District and an R-3, Medium Density Two-Family Residential District at 582 Leesville Road.
 - On November 11, 1997, City Council approved Victory Christian Fellowship’s petition for a CUP for a master development plan that would permit the construction of a church and associated uses on approximately thirty-one (31) acres in an R-1, Low Density Single Family Residential District within the 600 block of Leesville Road.
 - On December 13, 1994, City Council approved Heritage United Methodist Church’s petition for a CUP petition to increase the number of children permitted within an existing day care center to one hundred twenty-five (125) at 582 Leesville Road.
 - On April 9, 1991, City Council approved Heritage United Methodist Church’s petition for a CUP to allow the construction of a pre-school center in an R-1, Low Density Single Family Residential District and an R-3, Medium Density Two-Family Residential District at 582 Leesville Road.
 - On May 13, 1986, City Council approved Heritage United Methodist Church’s petition for a CUP for a master plan that would allow the construction of a new church complex in an R-1, Low Density Single-

Family Residential District and an R-3, Medium Density Two-Family Residential District at 582 Leesville Road.

- On February 12, 1985, City Council approved Heritage United Methodist Church's petition for a CUP to allow the construction of a new sanctuary, education building and parking lot in an R-3, Two-Family Residential District at 594 Leesville Road.
- On May 22, 1979, City Council amended the Official Zoning Map as defined by the "Timberlake Road Study, Proposed Zoning, Recommended by the Lynchburg Planning Commission, and further revised by City Council May 22, 1979."

6. **Site Description.** The subject property includes two (2) one-story single-family homes and a barn; the balance of the property is undeveloped. The site is bound to the north by Victory Christian Fellowship and single-family homes; to the east by vacant forestal land and single-family homes; to the south by single-family homes; and to the west by commercial businesses and single-family homes.
7. **Proposed Use of Property.** The petitioner proposes to develop the property into two (2) commercial lots that would include two (2), twelve-thousand five hundred (12,500) square foot office buildings and associated parking. The proposed development would be limited to the proposed offices or select uses permitted within a B-2, Local Neighborhood Business District; these uses could include light retail and service uses that do not require outdoor displays such as bakeries, delicatessens, florists, hardware stores, barber or beauty salons and banks. The project would be served by City water through the existing service line in Leesville Road. Public sewer would be extended to the site either from Farley Branch Drive or through an easement and connection to the public line that runs along the Burton Creek tributary on the adjacent property.

The concept plan indicates that a shared access drive would be used to access both of the buildings and public sidewalk would be provided along the frontage of the property. The development would also include a consistent architectural style and the petitioner has proffered photographic renderings to depict the appearance of the proposed structures. Parking areas would be located in the rear yard of the development, minimizing the need for parking area screening and accentuating the buildings as a focal point of the development.

Landscaping would comply with the requirements of the City's *Zoning Ordinance* and include street trees, parking area landscaping, foundation plantings, a vegetative buffer bordering all residentially zoned property and utility area screening.

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

Parking requirements for the proposed development are defined based on use within the City's *Zoning Ordinance* and the Technical Review Committee would confirm each lot's compliance with City Code. The proposed twelve thousand five hundred (12,500) square foot offices would each require two (2) parking spaces per one thousand (1,000) square feet or twenty-five (25) parking spaces per lot. The concept plan provides for twenty-six (26) parking spaces on each lot (even without taking into account the exclusion for utility areas within the building) thus meeting the requirement of City Code. In addition a public transit stop is located within one thousand (1,000) feet from the development which would allow for a twenty percent (20%) reduction in the required parking.

The Greater Lynchburg Transit Company's Route 6 would serve the development. A bus stop is located at the northern corner of the property along Leesville Road approximately two hundred (200) feet from the proposed buildings.

9. **Stormwater Management.** The construction of the proposed buildings and parking facilities would exceed the one thousand (1,000) square foot threshold for stormwater management; as such, a plan to address water quantity and quality of the surface water run-off would be required for the construction. Although specifics of the stormwater plan would not be determined until actual site design, a regional detention basin that would

serve both buildings is proposed as the preferred method of managing stormwater from the site. If regional detention is not possible, underground detention and manufactured best management practices may be used in lieu of above ground features. Preliminary review of the site indicates that Burton Creek is adequate to receive stormwater outfalls from quantity and/or quality measures; however a stormwater conveyance easement will likely be required to adequately convey the drainage to that channel. The petitioner has discussed the potential need for a stormwater easement with representatives of Victory Christian Fellowship and they are open to future negotiations for the easement.

10. **Emergency Services.** The City's Fire Marshal had no concerns about the proposed rezoning.

The City Police Department had no concerns about the proposed rezoning.

11. **Impact.** The proposed development of a business park on the subject property would have limited impact on the surrounding area. The development would incorporate a consistent architectural style, shared driveway access, parking areas at the rear of the lot, pedestrian features and public transit options to help incorporate the development into the neighborhood. The City's Transportation Engineer and emergency services representatives had no concerns about the proposed rezoning; parking and stormwater management requirements would be addressed during the site plan review process. The result is a project that would provide for additional office and small business options for the Leesville Road corridor.
12. **Technical Review Committee.** The Technical Review Committee (TRC) reviewed the preliminary site plan on January 19, 2010. 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.

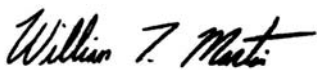
VI. PLANNING DIVISION RECOMMENDATION

Based on the preceding Findings of Fact, the Planning Commission recommends to City Council approval of SFB, LLC's petition to amend the Future Land Use Map for two and eighty-one hundredths (2.81) acres located at 623 Leesville Road from Low Density Residential use to Office use.

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

Based on the preceding Findings of Fact, the Planning Commission recommends to City Council approval of SFB, LLC's petition to rezone two and eighty-one hundredths (2.81) acres located at 623 Leesville Road from R-1, Low Density Single-Family Residential District to B-2(C), Local Neighborhood Business District (Conditional) with the voluntarily submitted proffers.

This matter is respectfully offered for your consideration.



William T. Martin, AICP
City Planner

pc: Mr. L. Kimball Payne, III, City Manager
Ms. Bonnie M. Svrcek, Deputy City Manager/Acting Director of Community Development

Mr. Walter C. Erwin, City Attorney
Mr. J. Lee Newland, City Engineer
Ms. Cynthia Kozerow, Lynchburg Police Department
Battalion Chief Greg Wormser, Fire Marshal
Mr. Gerry Harter, Transportation Engineer
Mr. Robert Drane, Building Commissioner
Mr. Keith Wright, Zoning Official
Mr. Kent White, Senior Planner
Ms. Jake Dorman, Environmental Reviewer
Mr. Ian Thorton, Representative, SFB, LLC
Mr. Bert Neighbors, Representative, Neighbors Land Surveying

VII. ATTACHMENTS

- 1. Vicinity Zoning Pattern**
- 2. Vicinity Proposed Land Use**
- 3. Watershed Location Map**
- 4. Concept Plan**
- 5. Proffers**
- 6. Photo Renderings**
- 7. Agreement to Negotiate Future Stormwater Easement – Victory Christian Fellowship**

MINUTES FROM THE FEBRUARY 24, 2010 PLANNING COMMISSION MEETING (MINUTES HAVE BEEN APPROVED):

- a. Petition of Ian Thornton to amend the Future Land Use Map from Low Density Residential to Office use and to rezone 2.81 acres from R-1, Low Density Single-Family Residential District to B-2C, Local Neighborhood Business District (Conditional) to allow the construction of two office buildings with associated parking and other uses permitted in a B-2, Local Neighborhood Business District at 623 Leesville Road.**

Mr. Martin summarized the petition and Planning Commission report. The site is currently recommended for Low-Density Residential use, however, it is adjacent to Victory Christian Fellowship which is recommended for an institutional use and to the east by property zoned commercial and recommended for commercial uses. The proposal is to divide the property into two separate commercial lots with shared access. There were no concerns from the Transportation Engineer, Fire Marshal or police department. Stormwater management will be handled through the use of a detention pond at the southeast corner of the property. The receiving channel is Burton Creek. In order to get the drainage to Burton Creek, the developer will need to get an easement from Victory Christian Fellowship and the church is willing to negotiate this easement if the rezoning is approved. The proffers are adequate to address the development, if the rezoning is approved. The Planning Division recommends approval of both the *Future Land Use Map (FLUM)* amendment and the rezoning petition.

Mr. Ian Thornton and Mr. Bert Neighbors were present to represent the petition. The objective of this proposal is to put the property up for sale, if the rezoning is approved. The petitioner's desire was to put together a conceptual plan for what could go on the property that could be shown to prospective buyers. Mr. Thornton feels that this rezoning would benefit the City, as new businesses and construction are opening on Leesville Road. The intent is that the offices would be occupied by doctors or other types of services that would benefit the neighboring community.

Vice-Chair Sale asked for anyone else who wished to speak in favor of the petition. No one came forward. He asked if there was anyone who wished to speak in opposition to the petition. No one came forward. He closed the public hearing portion of the petition.

In response to a question from Commissioner Swienton about where the businesses were opening and construction was occurring on Leesville Road, Mr. Thornton said he was referring to where Leesville Road meets Timberlake Road.

Commissioner Swienton asked Mr. Martin why the request was for B-2C. Mr. Martin said it is up to the petitioner to choose which zoning is requested. The property across the street is zoned B-2 and this zoning allows a few more uses, such as some limited retail, than B-1 does. Commissioner Swienton clarified that light retail would be allowed but the purpose is that it be an office park.

In response to a question from Commissioner Swienton about the limits of clearing and grading, Mr. Thornton clarified that the clearing will stop at the point right before the property drops down and there are no plans to do any clear cutting of the slope. However, that is more a question for the person who buys the property. Commissioner Swienton asked Mr. Martin about the existing mature hardwoods mentioned on the site plan and what the chances were for preserving those if this rezoning is approved. Mr. Martin said that it would be his opinion that the limits of clearing and grading are being shown at the silt fence. Commissioner Swienton asked what the penalty would be if a developer were to clear cut beyond this line. Mr. Martin said replanting would be required.

Commissioner Swienton asked the petitioner if he had initiated any contact with the neighbors. Mr. Thornton said that other than the property notifications that were sent out by the Planning Division, he did not initiate any contact with the neighbors.

Commissioner Barnes asked Mr. Martin what they would potentially be approving today since the site plan submitted is only a concept plan. Mr. Martin stated that the petitioner proffered substantial compliance with this site plan. Developers would be limited to having parking in the rear, one driveway, the limits of clearing and other items such as the bus stop.

Commissioner Hooper asked if SFB, LLC is a group of builders or developers. Mr. Thornton said they are not.

Commissioner Hooper asked if the intent of rezoning is to make the property more valuable from a development standpoint; Mr. Thornton said that was correct. Mr. Thornton said it was his understanding from planning staff that the concept plan was intended to give some type of structure to the City that would also be a marketing benefit for SFB, LLC.

In response to a question from Commissioner Swienton about the hours of operation of businesses in a B-2 zone, Mr. Martin said that the hours could be longer than those in a B-1 zone. Commissioner Swienton asked if the light retail could include a grocery store or gas station. Mr. Martin said he did not think those would be allowed uses; a delicatessen or a bakery would be more the type of light retail that would be permitted.

Commissioner Swienton brought up the issue of office sprawl for discussion. He is not sure when he sees a plan for 12,000 square feet of office space on a large footprint that it wouldn't be better to go up a story or two and put the same amount of office space on a smaller footprint. Are there only certain areas of the City where this would be appropriate? Commissioner Barnes thought the context of the surrounding properties has to be taken into account and the buildings in the surrounding area of this property are not built to that level of density. If this property were in a denser part of town, greater density would certainly be encouraged. Mr. Martin said he would agree with Commissioner Barnes' comments.

Commissioner Swienton commented that he is normally opposed to rezoning R-1 property but in this case he feels that this goes along with what is intended for an R-1 district. These districts are intended to provide for residential development at low densities together with other compatible uses in areas where streets and other services cannot support higher densities. Leesville Road can certainly handle business. He also did not think that anyone from this area was involved with the *Comprehensive Plan* or *Future Land Use Map* in terms of providing strong input with local knowledge. Commissioner Swienton also took into consideration that the parcel immediately in back of this property is owned by the church and is rather large.

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

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

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

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

"That the Planning Commission recommends to City Council approval of SFB, LLC's petition to rezone two and eighty-one hundredths (2.81) acres located at 623 Leesville Road from R-1, Low Density Single-Family Residential District to B-2(C), Local Neighborhood Business District (Conditional) with the voluntarily submitted proffers."

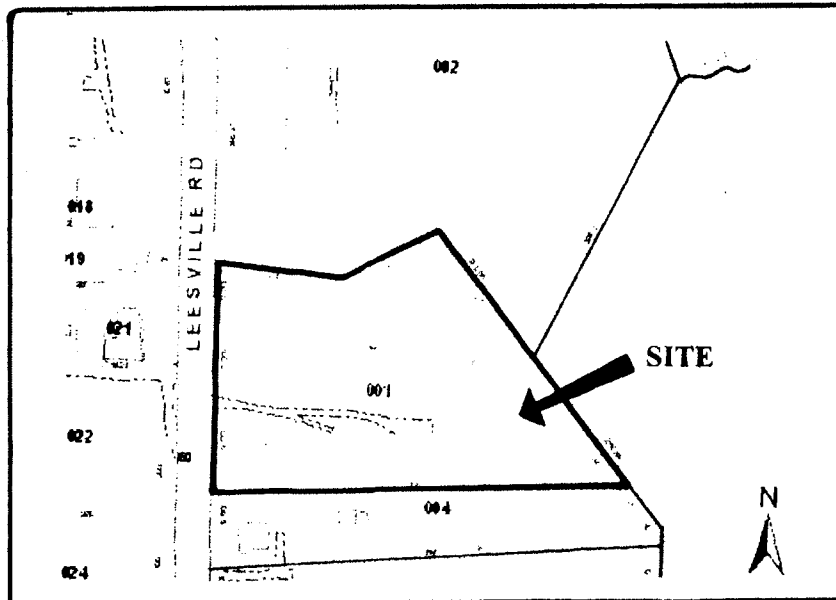
AYES:	Barnes, Hooper, Sale and Swienton	4
NOES:		0
ABSTENTIONS:		0
ABSENT:	Hamilton, Hannon and Oglesby	3

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

"That the Planning Commission recommends to City Council approval of SFB, LLC's petition to amend the Future Land Use Map for two and eighty-one hundredths (2.81) acres located at 623 Leesville Road from Low Density Residential use to Office use."

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

Commissioner Barnes commented that in terms of criteria for judging this petition, he had very few problems with it. He was looking at the context of the development and the surrounding properties. Since there are institutional and business properties around, it fits in with the surrounding neighborhood. He is also satisfied with the project in terms of environmental issues. There are adequate buffers and the property is gently sloped. It also meets the desire to have transit-oriented development as there is a bus stop nearby. Commissioner Hooper concurred with Commissioner Swienton and Commissioner Barnes' comments.



VICINITY MAP
(NOT TO SCALE)

OWNER'S STATEMENT:

The platting of the land shown hereon is with free consent and in accordance with the desire of the undersigned owners, proprietors and trustees if any.

I, _____
A Notary Public in and for _____
In the State of _____
do hereby certify that the owners whose names are signed hereon, have acknowledged the same before me this _____ day of _____
My commission expires _____

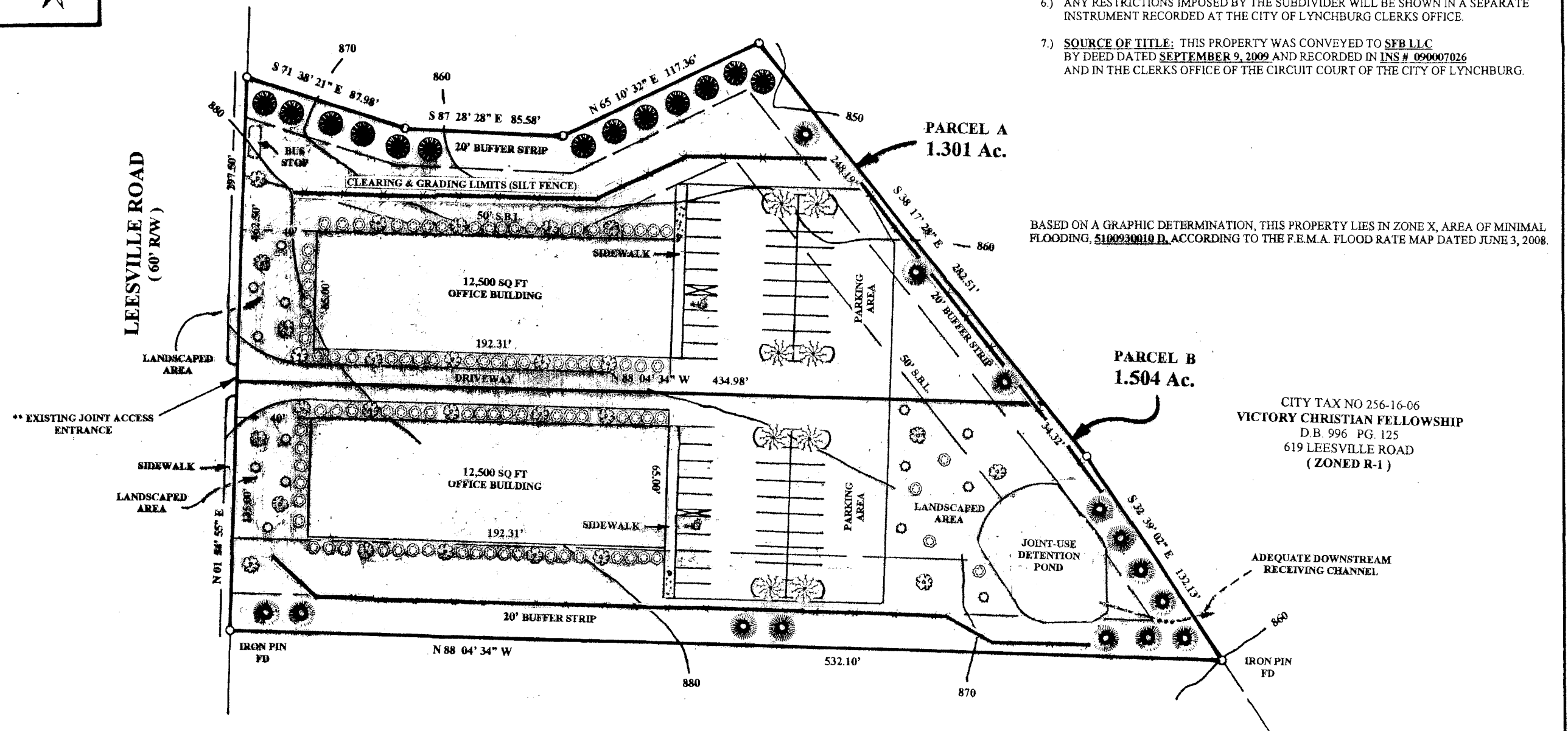
Notary Public

NOTES:

- 1) NO DETERMINATION OF WETLANDS WAS MADE NOR DOES THIS PLAT ADDRESS THE EXISTENCE OR DELINEATION OF ANY ENVIRONMENTALLY SENSITIVE AREAS IN OR AROUND THE BOUNDARIES OF THIS PROPERTY.
- 2) THIS SURVEYOR HAS MADE NO INVESTIGATION OR INDEPENDENT SEARCH FOR EASEMENTS OF RECORD, ENCUMBRANCES, RESTRICTIVE COVENANTS, OWNERSHIP TITLE EVIDENCE, OR ANY OTHER FACTS THAT AN ACCURATE AND CURRENT TITLE SEARCH MAY DISCLOSE. THIS PLAT WAS PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT AND DOES NOT THEREFORE NECESSARILY INDICATE ALL ENCUMBRANCES OR IMPROVEMENTS ON THIS PROPERTY. ALL ADJOINING OWNERS ARE NOW OR FORMERLY.
- 3) **PARCELS A & B** HAVE BEEN PREPARED FROM AN ACTUAL FIELD SURVEY AS PER DATE OF THIS PLAT AND THERE ARE NO VISIBLE ENCROACHMENTS OR EASEMENTS EXCEPT AS SHOWN.
- 4) OVERHEAD AND UNDERGROUND UTILITIES SERVE **PARCELS A & B**.
- 5) **PARCELS A & B** ARE SERVED BY MUNICIPAL WATER AND WILL BE SERVED BY MUNICIPAL SEWER, ONCE A SEWER EXTENSION IS APPROVED AND COMPLETED.
- 6) ANY RESTRICTIONS IMPOSED BY THE SUBDIVIDER WILL BE SHOWN IN A SEPARATE INSTRUMENT RECORDED AT THE CITY OF LYNCHBURG CLERKS OFFICE.
- 7) **SOURCE OF TITLE:** THIS PROPERTY WAS CONVEYED TO **SFB LLC** BY DEED DATED **SEPTEMBER 9, 2009** AND RECORDED IN **INS # 090007026** AND IN THE CLERKS OFFICE OF THE CIRCUIT COURT OF THE CITY OF LYNCHBURG.

CITY TAX NO 256-16-02
VICTORY CHRISTIAN FELLOWSHIP
D.B. 996 PG. 125
615 LEESVILLE ROAD
(ZONED R-1)

** IRON PIN SET @ ALL LOT CORNERS, WHERE POSSIBLE, UNLESS OTHERWISE NOTED.



BASED ON A GRAPHIC DETERMINATION, THIS PROPERTY LIES IN ZONE X, AREA OF MINIMAL FLOODING, **5100930019 D**, ACCORDING TO THE F.E.M.A. FLOOD RATE MAP DATED JUNE 3, 2008.

CITY TAX NO 256-16-06
VICTORY CHRISTIAN FELLOWSHIP
D.B. 996 PG. 125
619 LEESVILLE ROAD
(ZONED R-1)

** PRESENT ZONING R-1, PROPOSED B-2

PLAT SHOWING
PARCEL A & B
PROPERTY OF

SFB LLC

LYNCHBURG, VIRGINIA
SURVEYED FOR:
SFB LLC

SCALE ~ 1" = 60'
COMM. NO. 09046
CITY TAX NO. 255-04-01
623 LEESVILLE ROAD
REVISED: FEBRUARY 12, 2010

DATE: NOV. 29, 2009
F.B. 143

CITY TAX NO 255-04-04
GAVIN D. & SHARON S. WHITE
D.B. 962 PG. 806
627 LEESVILLE ROAD
(ZONED R-1)

- WHITE PINE - 6' HIGH
- EXISTING MATURE HARDWOODS
- SUGAR MAPLE - 6' HIGH
- AZALEA - 3 GAL
- JUNIPER - 2 GAL
- BRADFORD PEAR - 6' HIGH

PARKING CALCULATIONS:

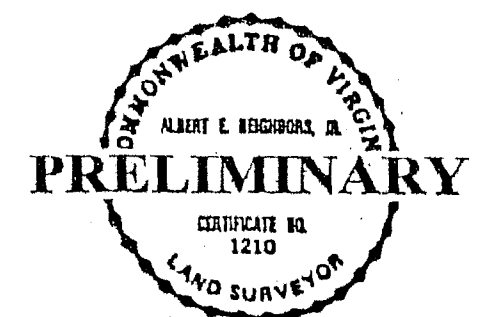
REQUIRED: TOTAL SQUARE FOOTAGE = 2 SPACES x 1,000 SQ/FT = _____ SPACES
PROPOSED: TWO BUILDINGS (25,000 SQ/FT) = 2 SPACES x 1,000 SQ/FT = 50 SPACES

CITY PLANNER

DATE

CITY ENGINEER

DATE



ALBERT E. NEIGHBORS, JR.
SURVEYOR AND PLANNER
222 GREENDALE DRIVE
RUSTBURG, VIRGINIA 24588
(434)-821-3446



SFB LLC

623 Leesville Road

PIN# 25504001

Rezoning from R-1 to B-2C

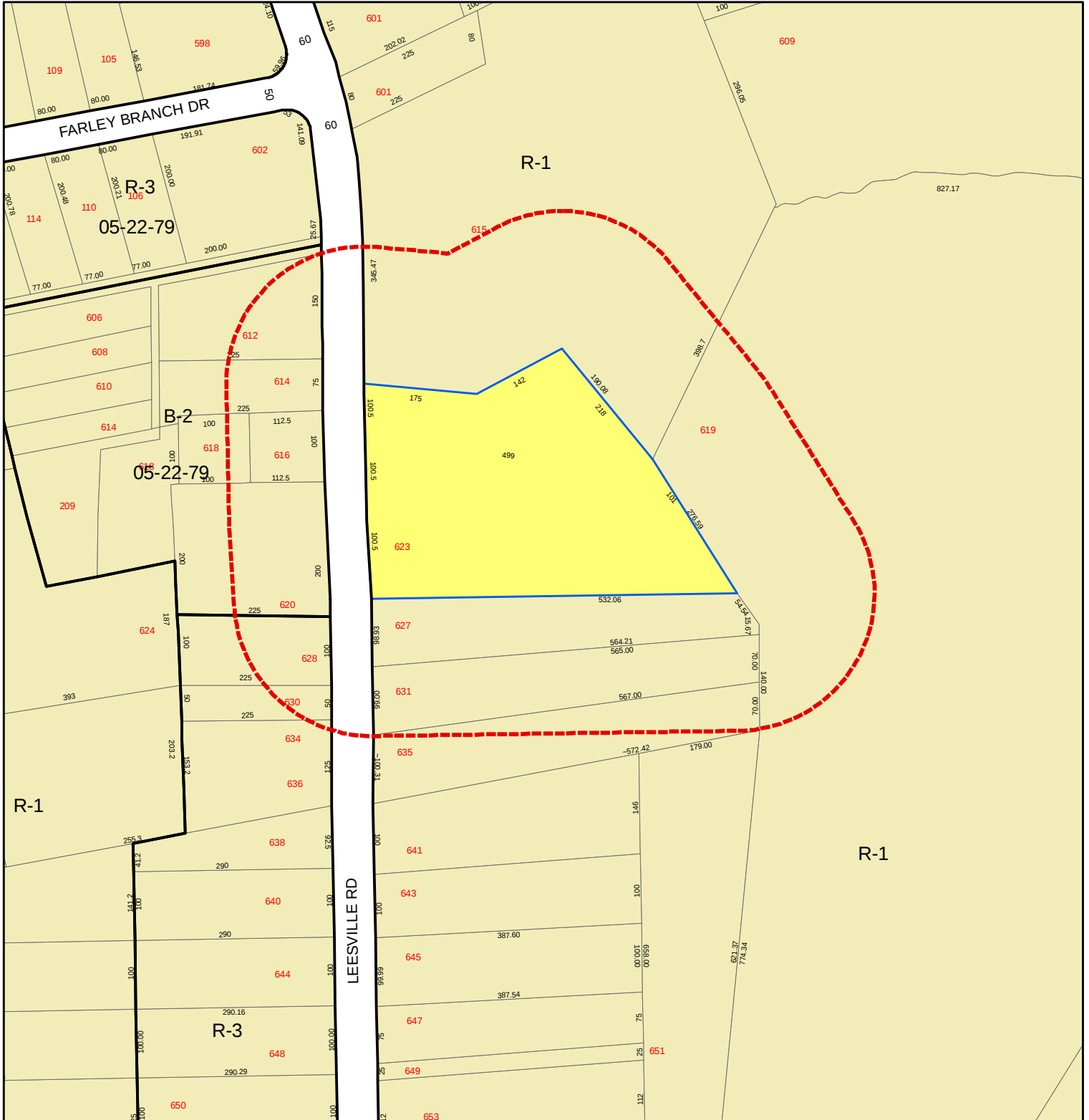
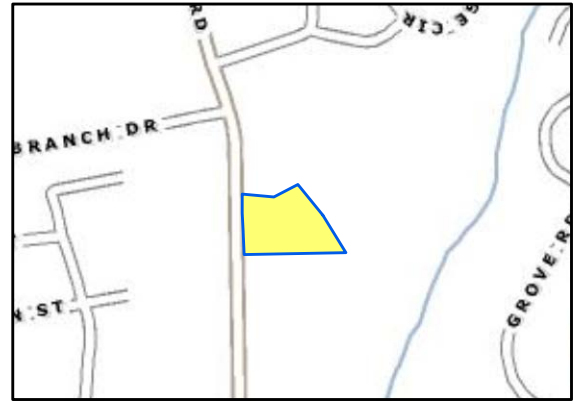
Petitioner-Ian Thornton



Subject Property

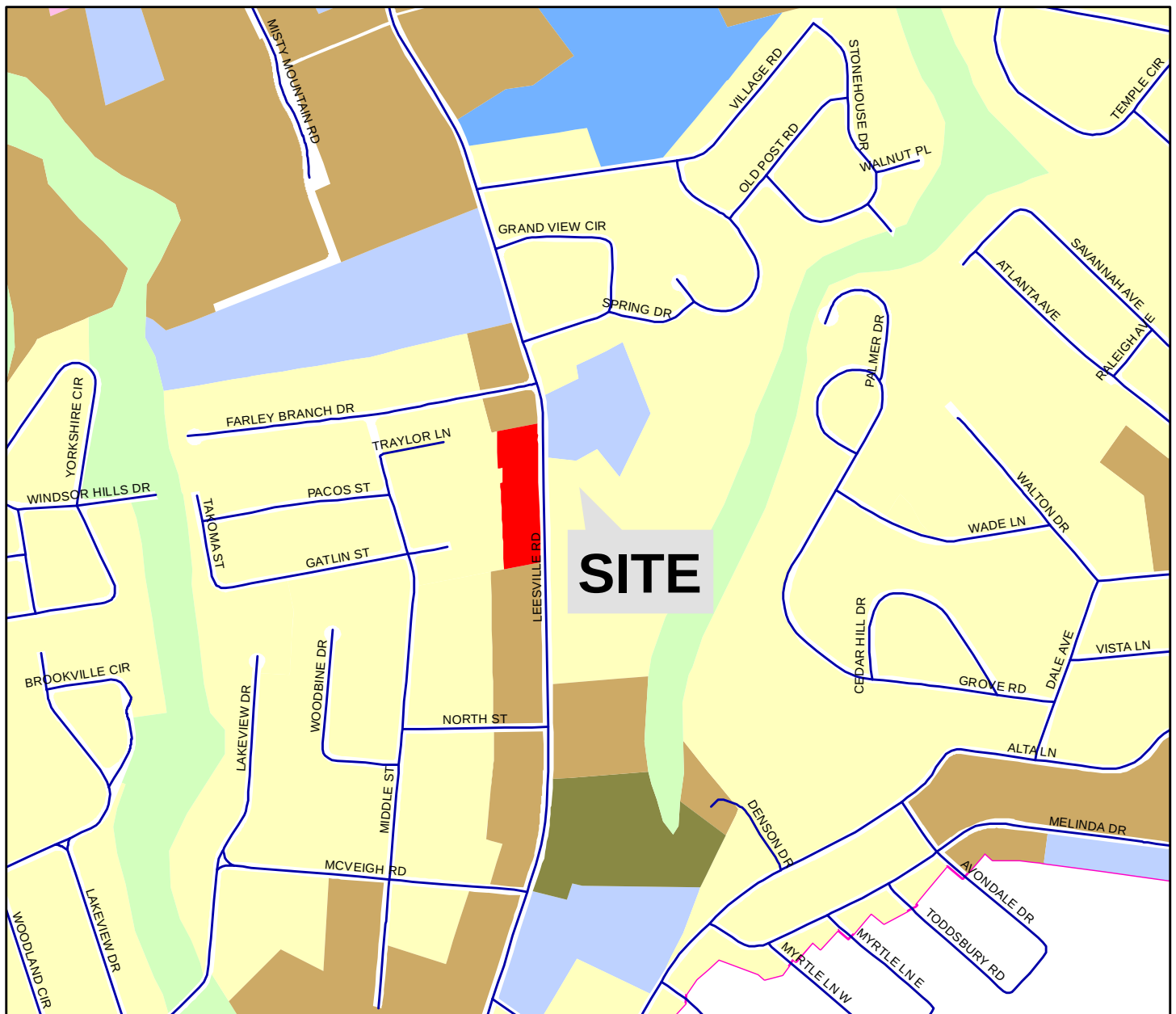


200 FT Buffer



SFB LLC ADJOINING OWNERS

PIN	Owner	LocAddr
25504005	JACKSON LOUIS A	631 LEESVILLE RD
25505024	JOHNSTON DAVID F	628 LEESVILLE RD
25505022	JOHNSTON DAVID F	620 LEESVILLE RD
25505018	JOHNSTON VERNON CLAY JOHNSTON DAVID F & JOHNSTON SANDR	612 LEESVILLE RD
25505026	NAPIER STANLEY L	636 LEESVILLE RD
25505025	NAPIER STANLEY L	630 LEESVILLE RD
25504001	SFB LLC	623 LEESVILLE RD
25505020	SHAMIC LLC	618 LEESVILLE RD A
25505021	SHAMIC LLC	616 LEESVILLE RD
25505019	SHAMIC LLC	614 LEESVILLE RD
25616002	VICTORY CHRISTIAN FELLOWSHIP	615 LEESVILLE RD
25616006	VICTORY CHRISTIAN FELLOWSHIP	619 LEESVILLE RD
25504004	WHITE GAVIN D & SHARON S	627 LEESVILLE RD
25504006	WILKERSON SHIRLEY N & RAYMOND L TRS	635 LEESVILLE RD
Owner	SFB LLC	
Petitioner	IAN THORNTON	
Representative	IAN THORNTON	



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

SFB LLC

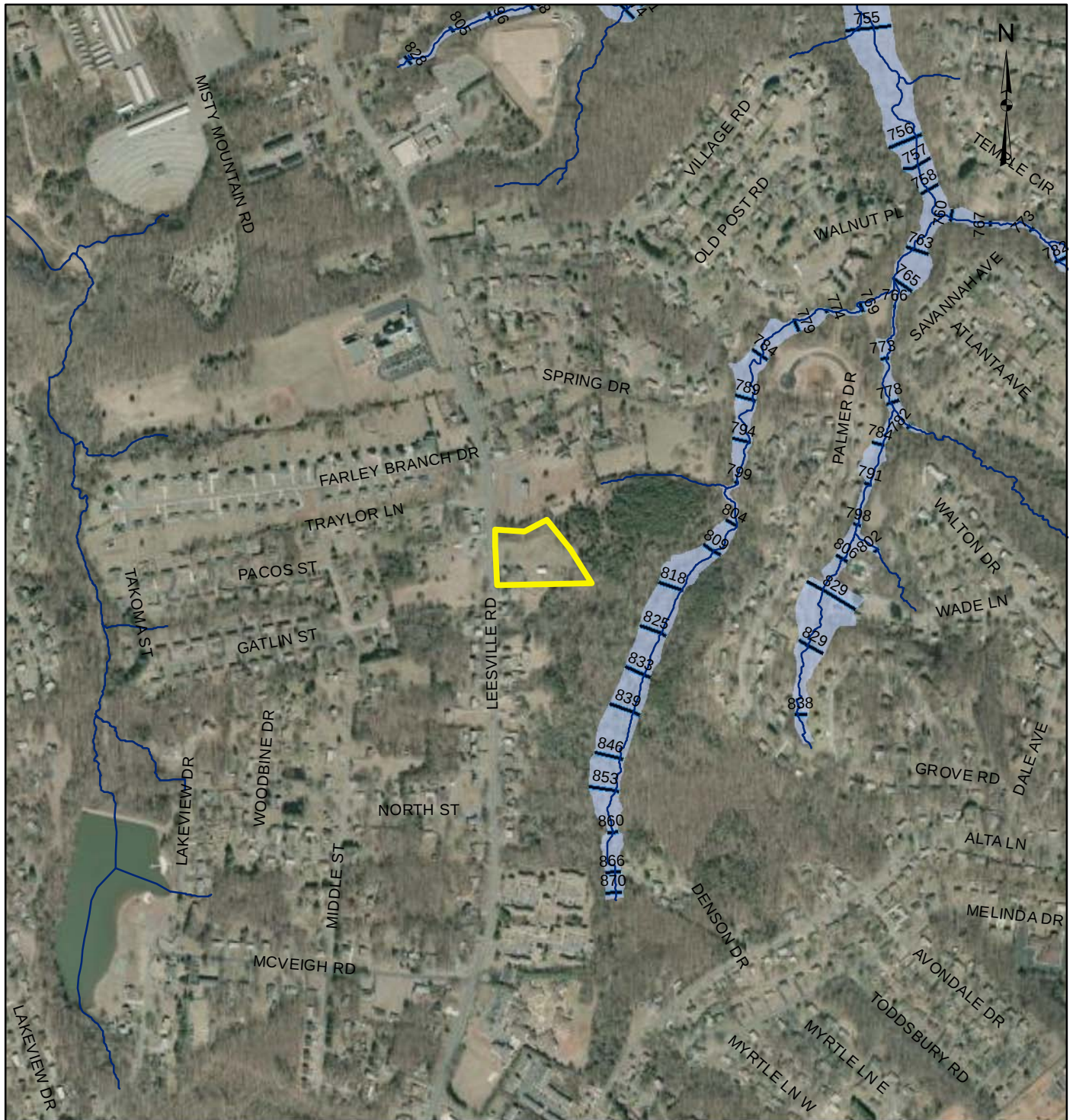
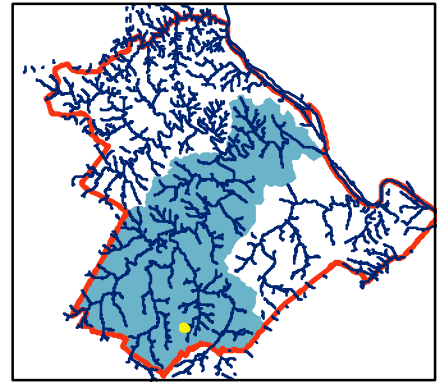
623 LEESVILLE ROAD

LAND USE PLAN



SFB, LLC
Watershed Location Map

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



February 24, 2010

[illegible]

From: "jim" <jim@thenewlife.com>
To: <kent.white@lynchburgva.gov>
Cc: <vcf@aol.com>
Date: 02/18/2010 08:12 PM
Subject: Proposed rezoning on Leesville Road

Kent,

I have recently talked with Burt Neighbors and Ian Thornton about the proposed rezoning of 2.8 Acres at 623 Leesville Rd and particularly the location of the retention pond as shown on the proposed site plan. As a Trustee and representative of Victory Christian Fellowship who owns one of the adjacent properties, I wanted to advise you and the Planning Commission that we do not have a problem with the location of the retention pond as shown on the site plan. As long as the pond is built to the required specifications as set forth by local and state ordinance, and the water runoff is properly filtered and is not allowed to flow onto our Church property at a rate or amount that exceeds the existing natural runoff, we will be satisfied. It is our understanding that this site plan may need to be revised or amended in the future depending on the actual build out by a developer, and a water easement may be requested. We are open to future negotiations that may be needed concerning

an easement and would like to be kept fully informed about any and all future revisions, alterations or amendments requested to be made to this site plan before they are approved.

Sincerely,

James S. Whitaker
Trustee
Victory Christian Fellowship
615 Leesville Road
Lynchburg, VA 24502

SFB, LLC
PO Box 4612
Lynchburg, VA 24502

February 18, 2009

Proffers for the Rezoning of 623 Leesville Rd., Lynchburg, VA.

1. Upon rezoning said property to B-2C status, the following will not be allowed:
 - Clubs or other Fraternal Organizations
 - Convents or Monasteries
2. Substantial compliance with conceptual site plan
3. Outside architecture of building will be consistent with those businesses in the area of Leesville Road – see photos of sample building structures and look.

RECEIVED

MAR 10 2010

COMMUNITY
DEVELOPMENT

SFB, LLC

*PO Box 4612
Lynchburg, VA 24502*

February 25, 2010

To: City of Lynchburg – Kent White, Sr. Planner

From: SFB, LLC

RE: Additional Proffer to Petition of 623 Leesville Rd.

As representative for SFB, LLC, I would request an addition to the proffers already written in the petition. SFB, LLC would like to add “Churches” to the petition so that point “a.” under proffers would read as follows:

- Clubs or other Fraternal Organizations
- Convents or Monasteries
- Churches

Thank you for your time, willingness and assistance throughout this process.

Ian Thornton



Representative, SFB, LLC

LYNCHBURG CITY COUNCIL

Agenda Item Summary

MEETING DATE: **April 13, 2010**

AGENDA ITEM NO.: 11

CONSENT: REGULAR: **X**

WORK SESSION:

CLOSED SESSION:

(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: Future Land Use Map [FLUM] Amendment: Neighborhood Commercial to Mixed Use at 2734 Fort Avenue

Rezoning: I-2, Light Industrial District to B-3C, Community Business District (Conditional) at 2734 Fort Avenue

Conditional Use Permit [CUP]: Cluster Commercial Development (CCD) – Lynchburg Midtown Lofts, LLC, 2734 Fort Avenue

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

SUMMARY: Lynchburg Midtown Lofts, LLC, is petitioning to amend the *FLUM* from Neighborhood Commercial to Mixed Use, to rezone three and fifty-four hundredths (3.54) acres and for a CUP to allow the use of the existing buildings and parking area as a mixed use development. Seventy-five percent (75%) of the redevelopment would be comprised of one thousand (1,000) square foot, two (2)-bedroom apartments, to serve middle to moderate-income residents. The balance of the buildings would include approximately ten percent (10%) retail space, ten percent (10%) office space and five percent (5%) private recreational gym (weight room). The proposed CCD would also allow all uses permitted “by right” within R-1, R-2, R-3, R-4 and R-5 residential zoning districts, as well as B-1, B-2, B-3, B-4 and B-5 business districts; however, the petitioner has voluntarily proffered to exclude many of the more intensive uses permitted within these districts to ensure future commercial uses would be compatible with the adjacent residential neighborhood.

During the Design Review Board meeting on March 2, 2010, the Board indicated it was supportive of the project concept, as well as the potential renovation of the buildings. However, the Board also noted that the applicant did not provide the required renderings and that it would be difficult to determine the relationship of the buildings to the surrounding community (as required by Section 35.1-42.5 of the *Zoning Ordinance*) without some visual of what renovations are proposed. Therefore, the Design Review Board recommended denial (4-0) of the petition based on lack of information. Prior to the Planning Commission public hearing, the petitioner submitted photo renderings that include sample door and window treatments, a depiction of the brick facade with selective repainting of previously painted portions of the structure and indicated the applicant's intent to apply for Historic Tax Credits, which would require review of the project by the Historic Preservation Commission.

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

- The petition would amend the *Comprehensive Plan 2002-2020's FLUM* designation for the subject property from a Neighborhood Commercial use to a Mixed Use. The proposed mixed use development could provide a number of residences to support the businesses within the area, as well as provide a land use transition between the existing single-family residential uses and the adjacent commercial businesses.
- The petition would meet several objectives of both the Fort Avenue Corridor Study Area and Fort Avenue Neighborhood designated by the *Comprehensive Plan 2002-2020 Plan Frame Work Map*.
- The development would incorporate significant landscaping, shared driveway access, pedestrian features and public transit options to help incorporate the development into the neighborhood.

PRIOR ACTION(S):

March 10, 2010: The Planning Division recommended approval of the *FLUM* Amendment, rezoning and CUP petitions.

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

Planning Commission recommended approval of the *FLUM* Amendment, rezoning and CUP petitions (5-0, with two members absent, Barnes, Oglesby) with the voluntarily submitted proffers and subject to the following conditions:

1. The project will be developed in substantial compliance with the concept plan for Lynchburg Midtown Lofts, LLC, prepared by Nixon Land Surveying, LLC, and received by Community Development on March 4, 2010.
2. The project will be developed in substantial compliance with the photographic renderings prepared by prepared by Nixon Land Surveying, LLC, and received by Community Development on March 4, 2010.

FISCAL IMPACT: None

CONTACT(S): Tom Martin, City Planner - 455-3900; Bonnie Svrcek, Deputy City Manager/Acting Director of Community Development - 455-3900

ATTACHMENT(S):

- Ordinance(s)
- Resolution
- Planning Commission Report
- Planning Commission Minutes
- Vicinity Map
- Future Land Use Map
- Watershed Location Map
- Concept Plan
- Project Narrative
- Proffers
- Photographic Renderings
- Speaker Sign Up Sheet

REVIEWED BY: lkp

ORDINANCE:

AN ORDINANCE AMENDING THE FUTURE LAND USE MAP FOR THE PROPERTY LOCATED AT 2734 FORT AVENUE, FROM NEIGHBORHOOD COMMERCIAL TO MIXED USE.

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

Section 35.1-76._____. Amend the Future Land Use Map for the subject property at 2734 Fort Avenue from Low Density Residential to Office.

The area embraced within the following boundaries . . .

Beginning at a point located at the intersection of Lancaster Street and Fort Avenue, thence along the right of way of Fort Avenue North 40 Degrees 26 Minutes 25 Seconds East 571.60' to a point; thence leaving said right of way along the common property line of Alan R. Sale and Sherry Sale, South 49 Degrees 48 Minutes 29 Seconds East 77.68' to a point; thence North 48 Degrees 01 Minutes 00 Seconds East 193.58' to a point; thence North 12 Degrees 11 Minutes 30 Seconds East 54.56' to a point; thence North 35 Degrees 41 Minutes 36 seconds East 85.31' to a point; thence along the common property line of Campbell-Payne, Inc. South 49 Degrees 48 Minutes 28 Seconds East, 59.67' to a point; thence along a common property line with Lloyd W. Ayers, South 40 Degrees 11 Minutes 31 Seconds West 25.00 to a point; thence South 49 Degrees 48 Minutes 29 Seconds East 130.00' to an IPF on the right of way of Reed Street; thence along the right of way of Reed Street South 40 Degrees 26 minutes 25 Seconds West 301.15' to an IPF; thence South 57 Degrees 51 Minutes 35 Seconds West 440.80' to an IPF; thence South 41 Degrees 39 minutes 07 seconds West 148.57' to a point at the intersection of Reed Street and Lancaster Street; thence along the right of way of Lancaster Street North 50 Degrees 40 Minutes 59 Seconds West 125.02' to the point of beginning, Property here by described is 2734 Fort Avenue, Containing 3.537 Acres.

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

Adopted:

Certified:

Interim Clerk of Council

037L1

ORDINANCE:

AN ORDINANCE CHANGING A CERTAIN AREA LOCATED AT 2734 FORT AVENUE FROM I-2, LIGHT INDUSTRIAL DISTRICT TO B-3C, COMMUNITY BUSINESS DISTRICT (CONDITIONAL).

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

Section 35.1-76.____. Change of a certain area located at 2734 Fort Avenue from I-2, Light Industrial District to B-3C, Community Business District (Conditional).

The area embraced within the following boundaries...

Beginning at a point located at the intersection of Lancaster Street and Fort Avenue, thence along the right of way of Fort Avenue North 40 Degrees 26 Minutes 25 Seconds East 571.60' to a point; thence leaving said right of way along the common property line of Alan R. Sale and Sherry Sale, South 49 Degrees 48 Minutes 29 Seconds East 77.68' to a point; thence North 48 Degrees 01 Minutes 00 Seconds East 193.58' to a point; thence North 12 Degrees 11 Minutes 30 Seconds East 54.56' to a point; thence North 35 Degrees 41 Minutes 36 seconds East 85.31' to a point; thence along the common property line of Campbell-Payne, Inc. South 49 Degrees 48 Minutes 28 Seconds East, 59.67' to a point; thence along a common property line with Lloyd W. Ayers, South 40 Degrees 11 Minutes 31 Seconds West 25.00 to a point; thence South 49 Degrees 48 Minutes 29 Seconds East 130.00' to an IPF on the right of way of Reed Street; thence along the right of way of Reed Street South 40 Degrees 26 minutes 25 Seconds West 301.15' to an IPF; thence South 57 Degrees 51 Minutes 35 Seconds West 440.80' to an IPF; thence South 41 Degrees 39 minutes 07 seconds West 148.57' to a point at the intersection of Reed Street and Lancaster Street; thence along the right of way of Lancaster Street North 50 Degrees 40 Minutes 59 Seconds West 125.02' to the point of beginning, Property here by described is 2734 Fort Avenue, Containing 3.537 Acres.

... is hereby changed from I-2, Light Industrial District to B-3C, Community Business District (Conditional) subject to the conditions set out herein below which were voluntarily proffered in writing by the owner, namely Lynchburg Neighborhood Lofts, LLC, to wit:

- He will not allow Night Clubs in this development.
- He will not allow Armories in this development.
- He will not allow Automobile, Truck and Trailer sales with Outside Sales and Storage.
- He will not allow Automobile Service Stations in this development.
- He will not allow Automobile Storage Yards in this development.
- He will not allow Battery sales in this development.
- He will not allow Bottling plants in this development.
- He will not allow Bookbinding business's in this development.
- He will not allow Building material sales in this development.
- He will not allow Dance halls in this development.
- He will not allow Drive in theaters in this development.

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

Adopted:

Certified:

Interim Clerk of Council

037L2

RESOLUTION:

A RESOLUTION GRANTING A CONDITIONAL USE PERMIT TO LYNCHBURG MIDTOWN LOFTS, LLC TO ALLOW FOR THE USE OF THE EXISTING BUILDINGS AND PARKING AREA AS A CLUSTER COMMERCIAL DEVELOPMENT AT 2734 FORT AVENUE.

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF LYNCHBURG that the petition of the Lynchburg Midtown Lofts, LLC to allow the use of the existing buildings and parking area as a cluster commercial development at 2734 Fort Avenue be, and the same is hereby approved subject to the following conditions:

1. The project will be developed in substantial compliance with the concept plan for Lynchburg Midtown Lofts, LLC, prepared by Nixon Land Surveying, LLC, and received by Community Development on March 4, 2010.
2. The project will be developed in substantial compliance with the photographic renderings prepared by prepared by Nixon Land Surveying, LLC, and received by Community Development on March 4, 2010.

Adopted:

Certified:

Interim Clerk of Council

037L3

The Department of Community Development

City Hall, Lynchburg, VA 24504

434-455-3900

To: Planning Commission

From: Planning Division

Date: March 10, 2010

Re: ***FUTURE LAND USE MAP (FLUM) AMENDMENT: Neighborhood Commercial to Mixed Use at 2734 Fort Avenue***

REZONING: I-2, Light Industrial District to B-3C, Community Business District (Conditional) at 2734 Fort Avenue

CONDITIONAL USE PERMIT (CUP): Cluster Commercial Development - Lynchburg Midtown Lofts, LLC

I. PETITIONER

Tony West, Lynchburg Midtown Lofts, LLC, 2600 Memorial Avenue, Suite LL1, Lynchburg, VA 24502

Representative: Russell Nixon, Nixon & Associates, 1063 Airport Road, Suite C, Lynchburg, VA 24502

II. LOCATION

The subject property includes one (1) tract totaling three and fifty-four hundredths (3.54) acres at 2734 Fort Avenue.

Property Owner: Lynchburg Midtown Lofts, LLC, 2600 Memorial Avenue, Suite LL1, Lynchburg, VA 24502

III. PURPOSE

The purpose of this petition is to allow the use of the existing buildings and parking area as a mixed use development, including residential apartments, offices, retail shops and other select uses permitted within a Cluster Commercial Development (CCD) in accordance with the standards of the R-1, R-2, R-3, R-4, R-5, B-1, B-2, B-3, B-4 and B-5 Zoning Districts.

IV. SUMMARY

- The petition would amend the *Comprehensive Plan 2002-2020*'s *FLUM* designation for the subject property from a Neighborhood Commercial use to a Mixed Use.
- The petition agrees with the *Zoning Ordinance* in that a CCD, which provides for flexibility in the planning of certain tracts of land through the modification of certain lot, setback and use restrictions, are permitted in a B-3, Community Business District with approval of a CUP from City Council.
- The Design Review Board recommended denial of the petition (4-0) due to limited information provided for their review.

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

V. FINDINGS OF FACT

1. **Comprehensive Plan.** The *Comprehensive Plan 2002-2020* recommends Neighborhood Commercial uses in this area. “Neighborhood Commercial areas include retail, personal service, and restaurant areas sized and designed to serve their immediate neighborhood. Patrons can walk, bike or take a short drive to reach them. They are comprised of individual businesses, clusters of businesses, or small shopping centers. Neighborhood shopping centers meet the day-to-day needs of a limited residential trade area of 2,500 to 10,000 people and average about 50,000 square feet of space. A grocery store or drug store is often the anchor for a neighborhood shopping center.” (page 5.4) The petitioner is requesting an amendment of the *FLUM* to provide for a Mixed Use designation for the property. “Mixed Uses ... do not fit into any single use category as they are planned for a mix of uses carefully designed so as to mitigate any potential land use conflicts. Where existing uses are present, redevelopment to a more fine-grained mix of uses is recommended.” (page 5.6)

The property is located within the Fort Avenue Corridor Study Area, as designated by the *Comprehensive Plan 2002-2020 Plan Frame Work Map*. The study area “begins at the intersection of Fort and Campbell Avenues and extends west along Fort Avenue, ending at the Lynchburg Expressway. The section of Fort Avenue between the Lynchburg Expressway and the intersection of Wards Road is classified as an arterial [highway]; the remainder of Fort Avenue ... serves as a major collector [road]. Over the past 20 years, the character of this corridor has changed substantially. As traffic has increased, uses have shifted from single-family to a mix of single-family, retail, office and medium density residential. While residential remains the predominant use between Campbell Avenue and Johnson Road, a mix of commercial and office uses, much of it located in converted single family homes, exists further south. The shift in use along the southern segment of the corridor has occurred in [an] ad hoc manner, resulting in multiple curb-cuts, limited parking, and little or no direct vehicular or pedestrian connections between uses.” The *Comprehensive Plan 2002-2020* notes that planning for the future of the corridor should consider “retrofitting existing development to provide for safe pedestrian connections, transit access and cross-parcel vehicular circulation” as well as the encouragement of “design improvements to existing commercial buildings and signs.” (page 4.15) The project would include pedestrian connections, as well as access to public transit. The proposed parking area layout would maximize available parking and a single existing shared driveway will be maintained along Fort Avenue. Additional driveway connections are available from Reed Street and Lancaster Street, respectively, and the petitioner does not propose any additional access to the site.

The property is also located within the Fort Avenue Neighborhood Conservation Area which is also designated by the *Comprehensive Plan 2002-2020 Plan Frame Work Map*. The Fort Avenue Area extends “southwest from the intersection of Fort and Campbell Avenues to New Hampshire Avenue and north from the Western Railway tracks to College Street. This area includes portions of the Miller Park, West End, and Fort Hill neighborhoods. These neighborhoods are an extension of the Downtown with mostly traditional street layouts and excellent direct access to Downtown amenities. Citizens in public meetings have expressed concerns about the negative effects of poorly maintained, deteriorating, vacant and abandoned homes within their neighborhoods. Others discussed inappropriate infill development and teardowns, where the style and size of new construction does not blend well with the architectural character of existing homes on the block. Maintaining the existing housing stock and encouraging public and private investment that supports neighborhood character is critical to neighborhood stabilization.” Although a Neighborhood Conservation Area plan has not yet been created for the Fort Avenue Area, the *Comprehensive Plan 2002-2020* identifies several important issues for these areas, relative to new development. These include “land use conflicts, including conflicts between residential areas and adjacent commercial or industrial areas and conflicts created by the expansion of public and civic uses within neighborhoods; traffic impacts, such as commuter traffic on major through roads and industrial truck traffic; and infrastructure improvements, including street and sidewalk repairs, traffic calming measures, new sidewalks and trails, CSO improvements, upgraded water and sewer lines.” (page 4.18) The project would incorporate significant landscaping to blend it into the existing neighborhood and Fort Avenue corridor. The proposed uses would lessen the potential for industrial truck traffic, provide pedestrian and transit amenities to

relieve commuter traffic pressure and ultimately upgrade infrastructure based on sewer and water service demands of the development.

The proposed *FLUM* amendment would alter the focus of the development site from a traditional shopping center to allow for the reuse of existing buildings for residential, neighborhood offices and retail businesses. Adjacent land uses are primarily designated for Medium Density Residential and Community Commercial by the *FLUM* with R-3, Medium Density Two-Family Residential zoning on the opposite sides of Reed and Lancaster Streets, B-5, General Business District zoning across Fort Avenue and I-2, Light Industrial District zoning across Thurman Avenue. The proposed mixed use development could 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 commercial businesses.

2. **Zoning.** The subject property was annexed into the City in 1906. The existing I-2, Light Industrial District zoning was established on December 12, 1978 with the adoption of the current *Zoning Ordinance*.

Section 35.1-43 of the *Zoning Ordinance* allows for the implementation of CCDs within certain zoning districts. These developments permit flexibility in their planning “through the modification of certain lot, setback, and use restrictions; however, the ordinance provides that developments under these regulations should provide for increased amenity, safety, and other public and private benefits, as well as reduced public and private costs. These districts are generally characterized by a unified or planned clustering of development served by a common parking area with a common means of ingress and egress.” In addition to a sketch (i.e. concept) plan and detailed narrative, the application process for a CCD includes review by the City’s Design Review Board. The Design Review Board’s is charged with reviewing the project based solely on the (a) Aesthetic and architectural relationships with the surrounding communities; (b) Conclusions regarding on-site amenities and improvements; (c) On-site arrangement of improvements and structures; and (d) Consistency with the Housing Assistance Plan for Federal and/or State funded projects.

The Design Review Board held a meeting on March 2, 2010 regarding the two (2) existing buildings at 2734 Fort Avenue. Although the Board was supportive of the project concept, as well as the potential renovation of the buildings, the applicant did not provide the required renderings identifying the proposed improvements to the building. The Board noted during its deliberation, given the limited scope of their review it would be difficult to offer a decision based on the relationship of the buildings to the surrounding community without some visual of what renovations are proposed. Following their discussion, the Board offered the representative a choice of the Design Review Board tabling their decision until a visual could be provided or moving forward with their recommendation so the petitioner could continue to Planning Commission. The petitioner requested the recommendation of the Design Review Board, noting that they would try to prepare visuals for review by the Planning Commission and City Council. The Design Review Board recommended denial (4-0) of the petition based on lack of information.

On March 4, 2010, the representative submitted photo renderings that include sample door and window treatments. The renderings also provide for the maintenance of the brick façade with selective repainting and touch up on the previously painted portions of the structure. The representative included a revised narrative that indicates the applicant’s intent to apply for Historic Tax Credits. Since the proposed mixed-use project would utilize rehabilitation tax credits, any exterior modifications would be subject to the review of the Historic Preservation Commission.

3. **Proffers.** The petitioner voluntarily submitted the following proffers as part of the revised plan submittal:
- He will not allow Night Clubs in this development.
 - He will not allow Armories in this development.
 - He will not allow Automobile, Truck and Trailer sales with Outside Sales and Storage.
 - He will not allow Automobile Service Stations in this development.
 - He will not allow Automobile Storage Yards in this development.

- He will not allow Battery sales in this development.
 - He will not allow Bottling plants in this development.
 - He will not allow Bookbinding business's in this development.
 - He will not allow Building material sales in this development.
 - He will not allow Dance halls in this development.
 - He will not allow Drive in theaters in this development.
4. **Board of Zoning Appeals (BZA).** The Zoning Official has determined that no variances will be needed for the development of the property as proposed.
5. **Surrounding Area.** There have been several items requiring City Council approval in the immediate area:
- On May 9, 2000, City Council approved the Greater Lynchburg Habitat for Humanity's petition for a CUP to allow the construction of a single-family home in a B-5, General Business District at 1209 Campbell Avenue.
 - On December 9, 1997, City Council approved Greenstone Original Church of God's petition for a CUP to allow the operation of a day care center within an existing church for up to seventy-five (75) children at 2210 Fourteenth Street.
 - On March 10, 1992, City Council approved Tarkington Realty Company's petition to rezone one and four tenths (1.4) acres from B-3C, Community Business District (Conditional) to B-3C, Community Business District (Conditional) to amend a previously approved proffer and allow the expansion of a parking area at 2600 Memorial Avenue.
 - On September 11, 1990, City Council approved Tarkington Realty Company's petition to rezone one and four tenths (1.4) acres from B-1, Limited Business District and R-3, Medium Density Two-Family Residential District to B-3C, Community Business District (Conditional) and for a CUP to allow the operation of a vocational school at 2600 Memorial Avenue and 407 Euclid Avenue.
 - On November 14, 1989, City Council approved Shekijah Preparation Assembly's petition for a CUP to allow the operation of JMS Child Care Center in an existing church for up to twenty (20) children in an R-3, Medium Density Two-Family Residential District at 725 Mansfield Avenue.
 - On April 23, 1986, Randall Mitchell withdrew his petition for a CUP to allow for the expansion of a parking area in an R-3, Medium Density Two-Family Residential District at 309 and 311 Euclid Avenue.
 - On October 13, 1981, City Council approved Nelson Wilson's petition to rezone one and fifty-six hundredths (1.56) from R-3, Two-Family Residential District to B-5, General Business District to allow offices and auto parts warehousing at 908 and 911 Centerdale Street.
6. **Site Description.** The subject property includes two (2) multi-story buildings, an existing detached garage and associated parking. The site is bound to the north by commercial businesses along Fort Avenue (with single-family homes located behind them); to the east by single-family homes and commercial businesses along Thurman Avenue; to the south by Spring Hill Cemetery; and to the west by commercial businesses (with single-family homes located behind them).
7. **Proposed Use of Property.** The applicant proposes to construct loft apartments, retail spaces and office spaces within the (2) existing vacant buildings. Seventy-five percent (75%) of the redevelopment would be comprised of one thousand (1,000) square foot, two (2)-bedroom apartments, to serve middle to moderate-income residents. The balance of the buildings would include approximately ten percent (10%) retail space, ten percent (10%) office space and five percent (5%) private recreational gym (weight room). The proposed CCD would also allow all uses permitted "by right" within R-1, R-2, R-3, R-4 and R-5 residential zoning districts, as well as B-1, B-2, B-3, B-4 and B-5 business districts; however, the petitioner has voluntarily proffered to exclude

many of the more intensive uses permitted within these districts to ensure future commercial uses would be compatible with the adjacent residential neighborhood.

The project is served by public water and sewer, although upgrades to the private service lines will be necessary. The asphalt areas would be reconfigured to maximize available off-street parking and incorporate private sidewalk, grass pavers and painted crosswalks to connect the buildings to the public sidewalk along Fort Avenue. Landscaping would comply with the requirements of the City's *Zoning Ordinance* and will include street trees, parking area landscaping, parking area screening, foundation plantings and utility area screening.

8. **Traffic, Parking and Public Transit.** The City's Transportation Engineer completed a trip generation analysis for this project and determined that the trip threshold for the buildings falls below that required for a traffic study. There were no additional traffic comments regarding the proposed development.

Parking requirements for the proposed development are defined based on use within the City's *Zoning Ordinance* and the Technical Review Committee would confirm each lot's compliance with City Code. The proposed thirty-one (31) residential apartments would each require one (1) parking space per unit for a total of thirty-one (31) spaces. In addition, the four thousand two hundred (4,200) square foot retail uses with twelve (12) employees would require two (2) spaces per one thousand (1000) square feet of gross floor area plus one (1) for each three (3) employees on duty at any one time or thirteen (13) spaces; the four thousand two hundred (4,200) square foot office area would require two (2) per one thousand (1,000) square feet of gross floor area (exclusive of utility area) for a total of nine (9) spaces; and the private recreational facility would provide capacity of forty (40) individuals and require one (1) space per each four (4) persons of the rated capacity of the building or ten (10) spaces.

A total of sixty-three (63) parking spaces would be required based on the proposed uses. The concept plan provides for one hundred forty (140) parking spaces (even without taking into account the exclusion for utility areas within the building), thus meeting the requirement of City Code.

The Greater Lynchburg Transit Company's Route 9 would serve the development. A bus stop is located along the front of the property, approximately two hundred (200) feet from the intersection of Fort Avenue and Lancaster Street. The location of the public transit stop is located within one thousand (1,000) feet of the development and has pedestrian connections which would allow for a twenty percent (20%) reduction in the required parking if needed.

9. **Stormwater Management.** The proposed renovation of the buildings and parking facilities would not exceed the one thousand (1,000) square foot new impervious area threshold for stormwater management; as such, a plan to address water quantity and quality of the surface water run-off would not be required for the construction. Stormwater from the site currently discharges into the existing City storm sewer system and the proposal would not increase the volume of stormwater nor change the location of the discharge points. Preliminary review of the site indicates that the existing system is adequate. However if, during the final project design the location of inlets or adequacy of the storm sewer system would require on-site stormwater management, the petitioner's narrative indicates that there is sufficient space to provide detention and water quality features within the existing wooded area and the proposed landscape islands.

10. **Emergency Services.** The City's Fire Marshal had no concerns about the proposed *FLUM* Amendment, rezoning or CUP.

The City Police Department had no concerns about the proposed *FLUM* Amendment, rezoning or CUP.

11. **Impact.** The proposed redevelopment of the site to provide for a mixed-use development on the subject property would have limited impact on the surrounding area. The development would incorporate significant landscaping, shared driveway access, pedestrian features and public transit options to help incorporate the development into the neighborhood. The City's Transportation Engineer, Environmental Reviewer and emergency services representatives had no concerns about the proposed project. Adequate parking to serve the development is available on site.

During the Design Review Board meeting on March 2, 2010, the Board indicated it was supportive of the project concept, as well as the potential renovation of the buildings. However, the Board also noted that the applicant did not provide the required renderings and that it would be difficult to determine the relationship of the buildings to the surrounding community (as required by Section 35.1-42.5 of the *Zoning Ordinance*) without some visual of what renovations are proposed. Therefore, the Design Review Board recommended denial (4-0) of the petition based on lack of information. The representative has since submitted photo renderings that include sample door and window treatments, a depiction of the brick façade with selective repainting of previously painted portions of the structure and indicated the applicant's intent to apply for Historic Tax Credits which would require review of the project by the Historic Preservation Commission.

Given that the Planning Commission has not received a recommendation on the status of the project based on the (a) Aesthetic and architectural relationships with the surrounding communities; (b) Conclusions regarding on-site amenities and improvements; and (c) On-site arrangement of improvements and structures, the Commission may refer the project back to the Design Review Board to review the renderings submitted by the representative on March 4, 2010. However, if Planning Commission determines that they have sufficient information to make a recommendation to City Council, staff recommends that conditions be added to the CUP that would require the project to be developed in substantial compliance with the conceptual site plan and the renderings.

12. **Technical Review Committee.** The Technical Review Committee (TRC) reviewed the preliminary site plan on February 2, 2010. 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 Lynchburg Midtown Lofts, LLC's petition to amend the Future Land Use Map for three and fifty-four hundredths (3.54) acres located at 2734 Fort Avenue from Neighborhood Commercial use to Mixed Use.

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

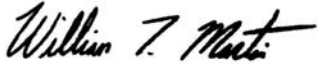
Based on the preceding Findings of Fact, the Planning Commission recommends to City Council approval of Lynchburg Midtown Lofts, LLC's petition to rezone three and fifty-four hundredths (3.54) acres located at 2734 Fort Avenue from I-2, Light Industrial District to B-3(C), Community Business District (Conditional) with the voluntarily submitted proffers.

Based on the preceding Findings of Fact, the Planning Commission recommends to City Council approval of Lynchburg Midtown Lofts, LLC's petition for a CUP for a Cluster Commercial Development at 2734 Fort Avenue, subject to the following conditions:

1. **The project will be developed in substantial compliance with the concept plan for Lynchburg Midtown Lofts, LLC, prepared by Nixon Land Surveying, LLC, and received by Community Development on March 4, 2010.**

- 2. The project will be developed in substantial compliance with the photographic renderings prepared by prepared by Nixon Land Surveying, LLC, and received by Community Development on March 4, 2010.**

This matter is respectfully offered for your consideration.



William T. Martin, AICP
City Planner

pc: Mr. L. Kimball Payne, III, City Manager
Ms. Bonnie M. Svrcek, Deputy City Manager/Acting Director of Community Development
Mr. Walter C. Erwin, City Attorney
Mr. J. Lee Newland, City Engineer
Ms. Cynthia Kozerow, Lynchburg Police Department
Battalion Chief Greg Wormser, Fire Marshal
Mr. Gerry Harter, Transportation Engineer
Mr. Robert Drane, Building Commissioner
Mr. Robert Fowler, Zoning Administrator
Mr. Keith Wright, Zoning Official
Mr. Kent White, Senior Planner
Mr. Jacob Dorman, Environmental Reviewer
Mr. Tony West, Applicant, Lynchburg Midtown Lofts, LLC
Mr. Russell Nixon, Representative, Nixon Land Surveying, LLC

VII. ATTACHMENTS

- 1. Vicinity Zoning Pattern**
- 2. Vicinity Proposed Land Use**
- 3. Watershed Location Map**
- 4. Concept Plan**
- 5. Project Narrative**
- 6. Proffers**
- 7. Photographic Renderings**

MINUTES FROM THE MARCH 10, 2010 PLANNING COMMISSION MEETING (MINUTES HAVE BEEN APPROVED):

b. Petition of Lynchburg Midtown Lofts, LLC to amend the Future Land Use Map from Neighborhood Commercial to Mixed Use, to rezone 3.54 acres from I-2, Light Industrial District to B-3C, Community Business District (Conditional) and for a conditional use permit for a Cluster Commercial Development to allow the use of the existing buildings for residential, retail, office and recreational uses at 2734 Fort Avenue.

Mr. Martin summarized the petition and Planning Commission report. The petition proposes adaptive reuse of the existing buildings and parking areas. The area is recommended for a Neighborhood Commercial use on the *Future Land Use Map (FLUM)*. These areas would include such businesses as restaurants, personal service and retail that are intended to serve the immediate neighborhood.

The City's Design Review Board (DRB) reviewed this proposal on March 2, 2010. Generally, the DRB was supportive of the reuse of the buildings. However, the DRB did recommend denial of the project due to the lack of information submitted. The Board did not feel it could render a decision without some architectural renderings. After the DRB meeting, the petitioner submitted photo renderings that show the exterior modifications, mainly windows and doors. The petitioner is also proposing to use historic tax credits to rehabilitate the building. If the petitioner plans on using the tax credits, he will have to get the property on either the State or National Registry of Historic Places. The Historic Preservation Committee would have some overview of the exterior modifications.

The Planning Division is supportive of the adaptive reuse of the property as proposed and recommends the Planning Commission approve the *FLUM* amendment, waive the 21-day submittal requirement for proffers and approve the rezoning and the conditional use permit.

Mr. Russ Nixon of Nixon & Associates came forward to represent the petitioner. The petitioner, Mr. West, has a vision for the property to convert it from an industrial use to a residential, retail, office space area. The petitioner has decided to apply for the historic tax credits but was not sure he was going to do that at the time of the Design Review Board meeting. Mr. West would like to have a low- impact development. The site will be cleaned up and landscaped and become a nice amenity to the City.

Chair Hamilton asked for anyone else who wished to speak in favor of the petition. Ms. Penny Gibson of 129 Reed Street came forward. She spoke in support of the buildings being rehabilitated. They are presently an eyesore and attracting unsavory activities to the property. The neighbors appreciate that Mr. West is willing to take on such a large project. It is going to improve their property values and the whole area. It will be safer with people living in the buildings rather than them being abandoned. Ms. Gibson wondered if there was going to be a back entrance into the property off Reed Street. The neighbors are concerned about the traffic impact if there is an entrance planned there. Chair Hamilton said they would get that question answered.

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

Mr. Nixon pointed out the three entrances into the site on the site plan. There is one on Fort Avenue, one at Lancaster and Reed Streets and another on Reed Street. The Traffic Engineer did not oppose this project or deem a traffic study necessary. There will be no new entrances added and the present ones will be brought up to City code. Ms. Gibson was agreeable to those entrances.

Commissioner Hannon asked for some history of the buildings. Mr. Nixon said it was formerly a hosiery mill. Cotton Hill was developed in order to provide housing for its employees. Mr. Martin said the buildings were constructed in 1928. The hosiery mill was in operation until the 1980's.

Chair Hamilton asked about the plans for the historic tax credits and getting on the State and National Registry of Historic Places. Mr. Nixon said that as far as modifications to the historic buildings, the main ones would be replacing the garage doors with double doors or french doors and replacing the windows with nice glass-paned windows. Mr. West

came forward and commented that he is beginning the process of getting on the registries. He has hired an architect from Richmond and the architect is working on getting the history of the site. It will probably take six months to a year to get the property on the registries. In the meantime, Mr. West will start doing some demolition and cleanup of the property. Chair Hamilton asked Mr. West if he would move forward even if he is not able to get the historic tax credits. He said he would but that the site definitely qualifies.

Chair Hamilton asked him to talk about some of the mixed uses he has planned. Mr. West did not know for certain what type of businesses would be there. As far as residential, there will be around 40 to 50 two-bedroom units with rent around \$700 - \$750. Mr. West thought that the commercial uses might be a restaurant, an art studio or something like that. There will not be any type of automotive businesses or involve alcohol. The idea is to have the businesses be useful to the residents of the apartments as well as the surrounding area.

Commissioner Sale indicated that he was happy to see that Mr. West was going to try for the historic tax credits. Although it may take longer, in the long run it will be a good thing for Lynchburg. Mr. West noted that it allows one to have a much nicer project.

Chair Hamilton asked if he planned to use one building for residential and one for commercial or have mixed uses in both buildings. Mr. West thought the uses would be mixed in both buildings.

Commissioner Swienton complimented Mr. Nixon on the detailed site plan. Commissioner Swienton thought that one of the roads within the development was very narrow. He used the stairway on the site plan as a reference point (near a proposed crosswalk). Mr. West said that he is going to cut that access off so that traffic cannot go through except for pedestrian traffic. He will cut it off at the top and bottom of the slope. Commissioner Swienton said that the arrow flow on the site plan made it look like it was a flow for vehicular traffic, but if that was for pedestrian traffic only, it would definitely enhance the safety of the site.

Commissioner Swienton commented that this project really does take great vision and hopes that it turns out to be a successful reality.

Commissioner Hooper commended Mr. West for taking on a challenge like this and wished him success as well. He also felt that Mr. Nixon and Mr. West have presented a good plan.

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

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

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

Commissioner Hannon made the following motions, which were seconded by Commissioner Sale:

“That the Planning Commission recommends to City Council approval of Lynchburg Midtown Lofts, LLC’s petition to amend the Future Land Use Map for three and fifty-four hundredths (3.54) acres located at 2734 Fort Avenue from Neighborhood Commercial use to Mixed Use.

That the Planning Commission recommends to City Council approval of Lynchburg Midtown Lofts, LLC’s petition to rezone three and fifty-four hundredths (3.54) acres located at 2734 Fort Avenue from I-2, Light Industrial District to B-3(C), Community Business District (Conditional) with the voluntarily submitted proffers.

That the Planning Commission recommends to City Council approval of Lynchburg Midtown Lofts, LLC’s petition for a CUP for a Cluster Commercial Development at 2734 Fort Avenue, subject to the following conditions:

1. The project will be developed in substantial compliance with the concept plan for Lynchburg Midtown Lofts, LLC, prepared by Nixon Land Surveying, LLC, and received by Community Development on March 4, 2010.
2. The project will be developed in substantial compliance with the photographic renderings prepared by prepared by Nixon Land Surveying, LLC, and received by Community Development on March 4, 2010.

Commissioner Sale commented that this project is a wonderful vision at the right place. The Midtown Connector will be happening in the next year or so. He thinks Mr. West has not only a vision but a practical business sense as well. Commissioner Sale thinks the project will work.

Commissioner Swienton commented that this type of adaptive reuse is what the commissioners encourage and is strongly voiced in the *Comprehensive Plan*.

Commissioner Hannon agreed with all the comments. He noted that this location desperately needs something like this. He highly commends Mr. West for taking on this project and hopes he is successful.

Chair Hamilton commented that she hopes that the commercial entities that go in will be complimentary to the neighborhood and are the essential services that the neighborhood really needs.

The motions passed by the following vote:

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

LYNCHBURG MIDTOWN LOFTS

2734 Fort Avenue

PIN# 02733019

Rezoning from I-2 to B-3C

Conditional Use Permit Request

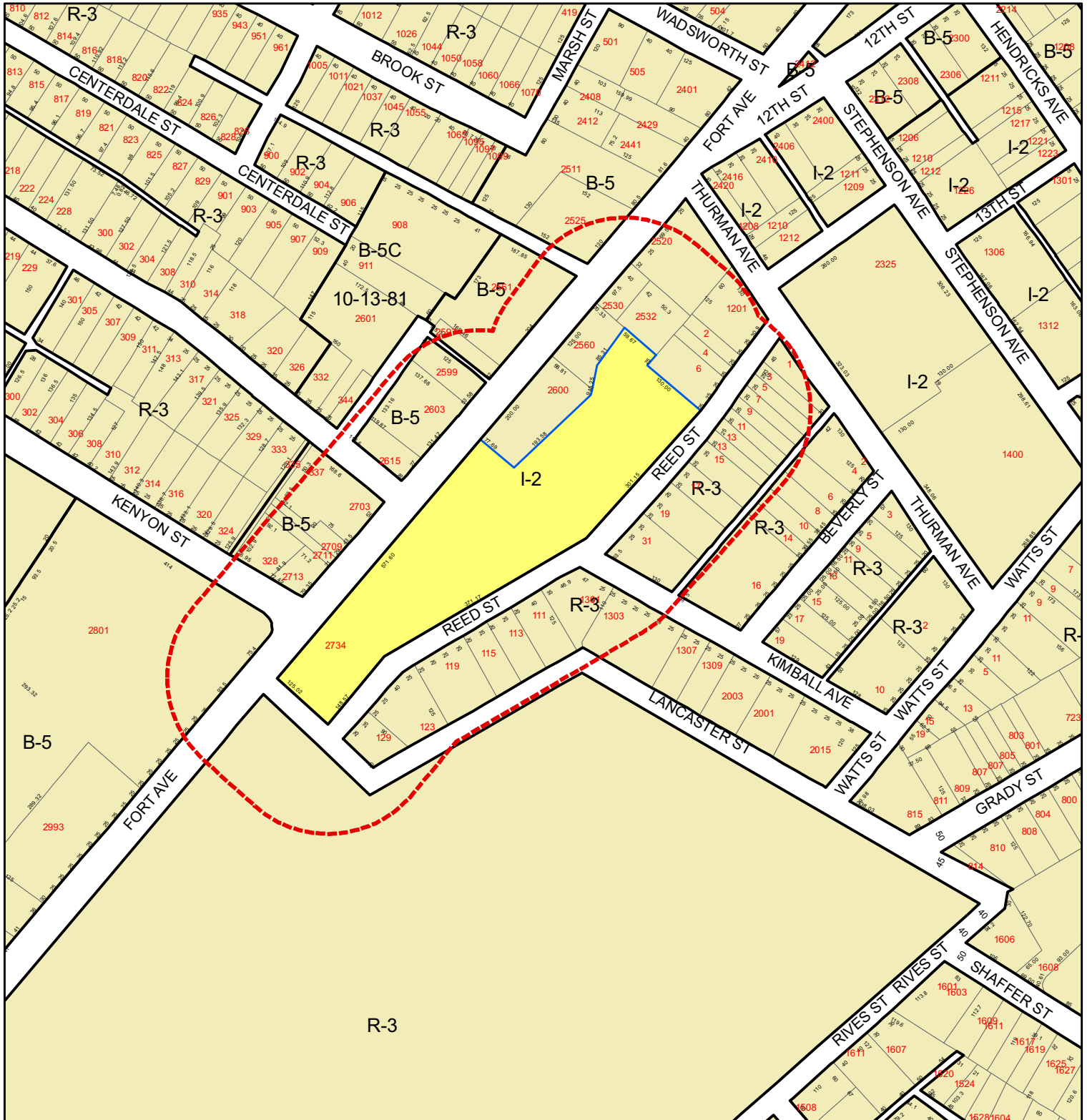
Petitioner-Lynchburg Midtown Lofts, LLC



Subject Property

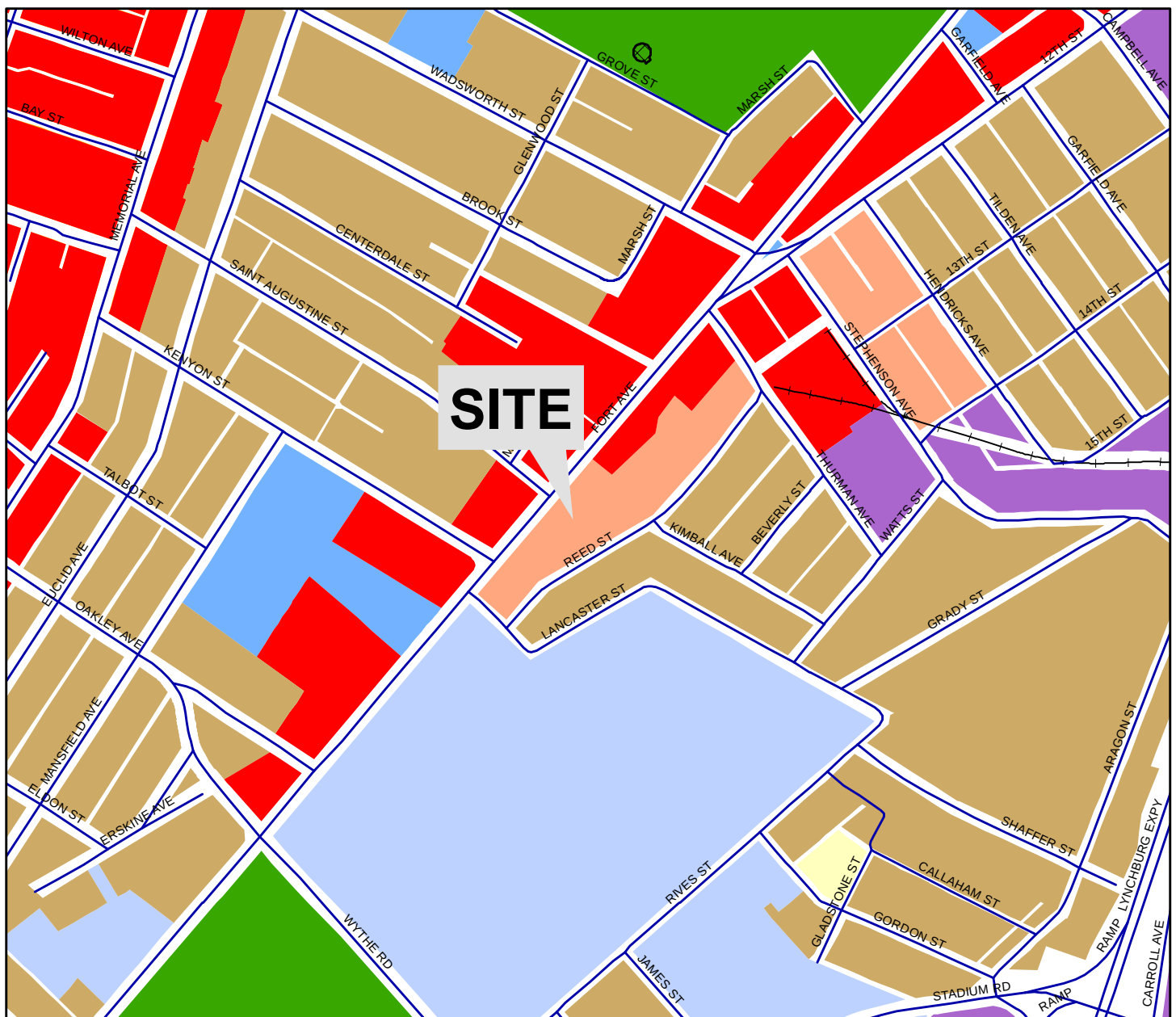


200 FT Buffer



LYBG MIDTOWN LOFTS ADJOINING OWNERS

PIN	Owner	LocAddr
02732007	ADAMS JAMES C JR & SUSAN E	8 BEVERLY ST
01116017	ADIE JOHN W & REBECCA	2615 FORT AVE
01109022	AUTOZONE #946	2525 FORT AVE
02733007	AYERS LLOYD W	6 REED ST
02732033	BOWLING RICHARD	5 REED ST
02732026	BOWLING RICHARD	15 REED ST
02732031	BOWLING RICHARD	9 REED ST
02732032	BOWLING RICHARD	7 REED ST
02733006	CAMPBELL-PAYNE INC	4 REED ST
02733005	CAMPBELL-PAYNE INC	2 REED ST
02733063	CAMPBELL-PAYNE INC	2532 FORT AVE
02733002	CAMPBELL-PAYNE INC	1201 THURMAN AVE
02733065	CAMPBELL-PAYNE INC	2530 FORT AVE
02733001	CAMPBELL-PAYNE INC	2520 FORT AVE
02732009	DUNCAN CLYDE L & CHARLOTTE I	10 BEVERLY ST
01116011	GUTHRIE H T JR	2599 FORT AVE
01116010	GUTHRIE H T JR	2597 FORT AVE
02734022	HENSON DENNIS L	1301 KIMBALL AVE
02734029	HENSON DENNIS L	115 REED ST
02734025	HENSON DENNIS L	111 REED ST
02732029	HENSON DENNIS L	13 REED ST
02734016	JACKSON MICAH D	1303 KIMBALL AVE
01206001	KROGER CO	2801 FORT AVE
02734039	LAYNE LEWIS J	129 REED ST
02734035	LAYNE LEWIS J	123 REED ST
02734031	LAYNE LEWIS J	119 REED ST
02733019	LYNCHBURG MIDTOWN LOFTS LLC	2734 FORT AVE
01116009	LYNCHBURG TIRE & APPLIANCE CORP	2561 FORT AVE
02732028	MARSTELLAR DUDLEY L	13 A REED ST
02732030	MARSTELLAR DUDLEY L	11 REED ST
02732005	MCELVEEN THOMAS L & PATRICIA T	6 BEVERLY ST
02732024	POORE MARTIE E & CONNIE M	17 REED ST
02732034	POORE PHILLIP R	3 REED ST
02732001	POORE PHILLIP R	1 REED ST
01120049	QUANTUM INVESTMENTS INC	2703 FORT AVE
02733052	SALE ALAN R & SHERRY M	2600 FORT AVE
02733061	SALE ALAN R & SHERRY M	2560 FORT AVE
01201001	SPRING HILL CEMETERY	3000 FORT AVE
02732011	THOMAS GORDON P	16 BEVERLY ST
02732018	THOMAS GORDON P	31 REED ST
02732010	THOMAS GORDON P	14 BEVERLY ST
02732021	THOMAS GORDON P	19 REED ST
02734027	TURNPIKE PROPERTIES LLC	113 REED ST
01120052	TURNPIKE PROPERTIES LLC	2713 FORT AVE
01120065	TURNPIKE PROPERTIES LLC	328 KENYON ST
01120064	TURNPIKE PROPERTIES LLC	2711 FORT AVE
01120051	TURNPIKE PROPERTIES LLC	2709 FORT AVE
01116012	WILSON STEPHEN S & THERESA T	2603 FORT AVE
02732002	WOOD SHAMEKA	2 BEVERLY ST
Owner	LYNCHBURG MIDTOWN LOFTS LLC	
Petitioner	LYNCHBURG MIDTOWN LOFTS LLC	
Representative	RUSSELL NIXON/NIXON LAND SURVEYING	



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

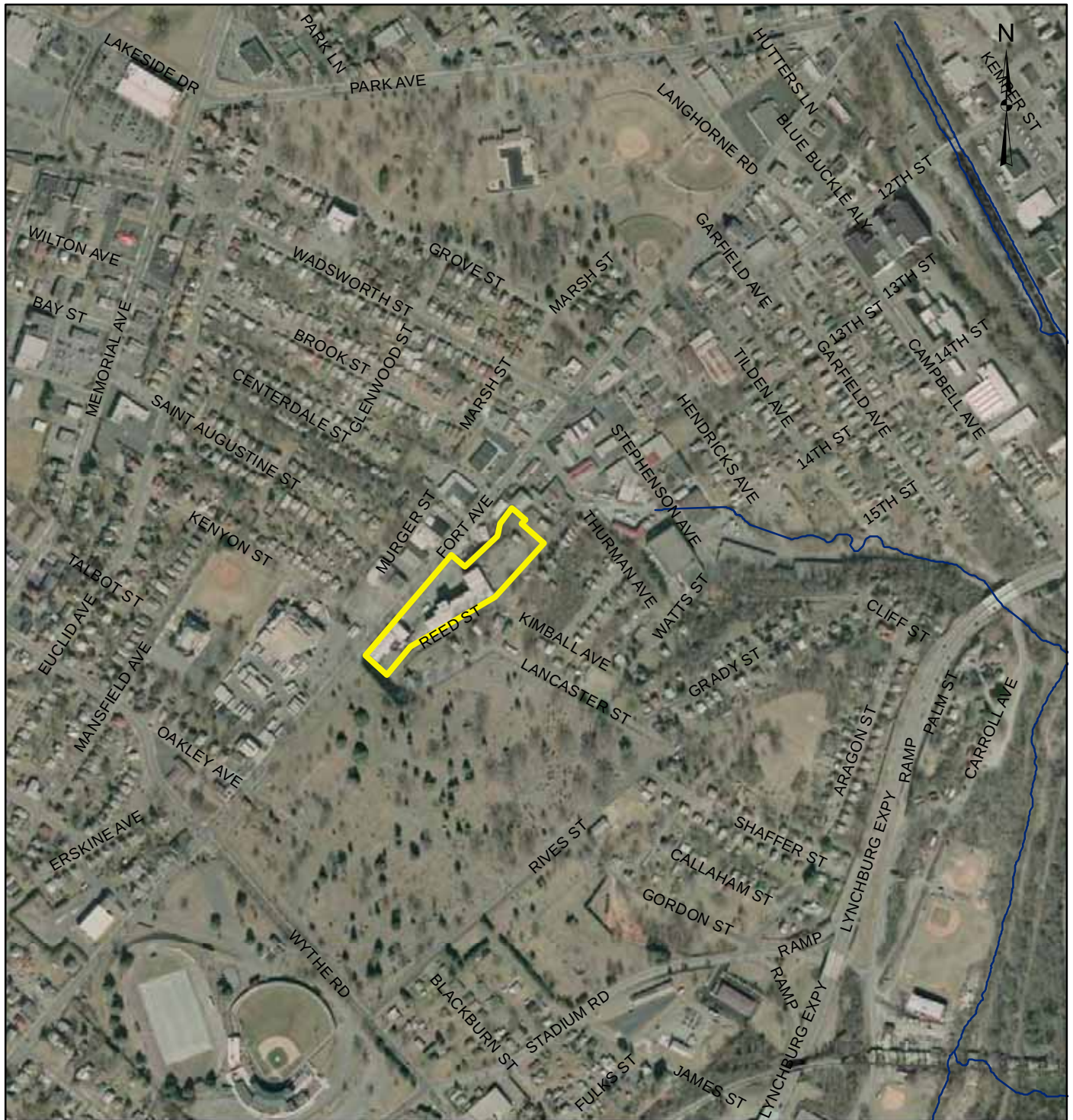
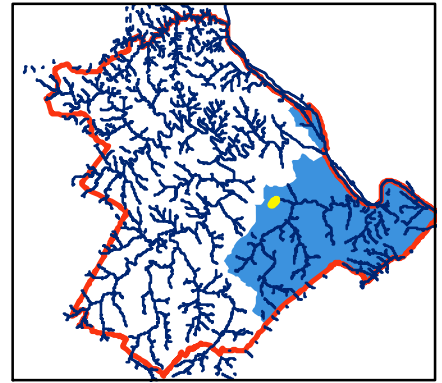
LYNCHBURG MIDTOWN LOFTS 2734 FORT AVENUE LAND USE PLAN



Lynchburg Midtown Lofts

Watershed Location Map

-  Project Site
-  Fishing Creek
-  Corporate Limit





Boundary Surveys + Environmental Consulting + Site Plans + Civil Engineering + Land Planning & Design

2/24/10

REF: 2734 FORT AVENUE NARRATIVE REZ1001-0002/CUP1002-0001

RECEIVED

Mr. White,

MAR 04 2010

Here is the narrative you requested for this project.

COMMUNITY
DEVELOPMENT

Mr. West the owner/developer of 2734 Fort Avenue has a vision for this property. In order for this vision to become a reality he needs this property to be rezoned for a mixed use type application. Mr. West proposes to construct loft apartments, retail spaces and office spaces within the existing industrial buildings.

This construction will not conflict with any of the city's ordinances but will require due diligence on his part to see that the construction of the new amenities meet the City's building codes. New waterlines and sewer lines will be constructed to supply the proper infrastructures for this development.

Mr. West is currently checking all of the existing water pressures within the unoccupied existing buildings on site. His findings will dictate to him if any improvements will need to be made to the water system in the buildings. A back flow pressure test will be performed to assure that fire prevention can be maintained with in the facility.

Mr. West is prepared to meet all of the necessary ordinances pertaining to storm water quantity and quality; however this development will not be creating any new impervious areas. The proposed landscaping as required by the City ordinance will reduce the amount of impervious area and also be used as a water quality feature to assure that this site will be in compliance with the current storm water quality codes.

The overall drainage system consists of on street storm sewer, open ditches and yard drains; based on preliminary review this storm sewer does appear to be adequate. However Mr. West is prepared to construct additional onsite storm sewer, if during the final site plan design it is deemed necessary for storm water quality. Currently Mr. West is prepared to utilize the proposed landscape islands as water quality features. He is also prepared to construct a new detention basin between the larger building and the Alan Sale property to provide storm water control for this development. Currently this development is down gradient of the existing residential neighbor hood and storm water from this site will not affect that section of Cotton Hill.

Mr. West currently does want to apply the following proffers to this site.

1. He will not allow Night Clubs in this development
2. He will not allow Armories in this development
3. He will not allow Automobile, Truck and Trailer sales with Outside Sales and Storage
4. He will not allow Automobile Service Stations in this development.
5. He will not allow Battery sales in this development.
6. He will not allow Bottling plants in this development.
7. He will not allow Bookbinding business's in this development.
8. He will not allow Building material sales in this development.

9. He will not allow Dance halls in this development.
10. He will not allow Drive in theaters in this development.

Mr. West believes that he should not restrict this proposed development beyond what he has proffered; he does not want to restrict the future interest of potential tenants. However, Mr. West does want to proffer for the rights of the R-3 through the B-5 districts to apply to this site. He believes this will allow growth beyond what he can forecast for this development. He does not want to limit anyone to their right to have residence in his development if there usage type meets the City's codes.

Mr. West does not intend at this time to seek Federal or State funding for this development. However he will be seeking grants to support the reconstruction of these buildings. By rezoning this property as requested this property will meet the necessary requirements set forth by these agencies.

Mr. West will be applying for Historical Tax credits and funding for the buildings in this site. The current industrial buildings will need to meet the Standards of Interiors requirements for the exterior facade of the existing buildings.

Mr. West does not intend to complete this development in stages, once rezoning is granted he intends to begin renovating the buildings depending on the type of tenants he has interested in taking up residence.

Mr. West intends to build this development into 75% residential dwelling units, creating 1000 square foot 2 bedroom apartments, to serve the middle to moderate income range. He does not intend to allow family unit style housing on this site.

Mr. West intends for 10% of this development will be used for retail space. He also intends for 10% of the development to be used for office spaces. He also has had interest for a private recreational gym (weight room) to use approximately 5% of the development space.

Mr. West intends to construct new pedestrian access throughout this development. This pedestrian access will either be new sidewalks or painted cross walks between the building and the existing GLTC bus stop currently located on Fort Avenue. The site plan shows the currently proposed cross walks for this development and it also shows a new sidewalk to be constructed if this rezoning is granted.

This development will not have any common area or interior open spaces that will require maintenance.

This site does not have any areas that are susceptible to erosion or flooding, the site has dense vegetation separating the site from the existing Sale property fronting on Fort Avenue. This site is not located within a one hundred year flood plain.

Sewer is currently available; however Mr. West intends to construct new sewer lines from the public sewer located on Fort Avenue to the new buildings to assure that the infrastructures will meet the needs of his tenants.

The designation of this property as Neighborhood Commercial does not recommend some of the uses Mr. West will allow in this development. Mixed Use will open many

doors for this site; this new designation gives this development the opportunity to allow many different types of businesses the close location to down town, and the 29 expressway. Furthermore this site has the benefit of being centrally located between the Plaza, Downtown and the Memorial Avenue Corridor. The exposure to these locations will aid him in marketing his property to small and medium sized businesses and residential users alike.

Mr. West will complete this development in substantial compliance with the site plan if approved for rezoning.

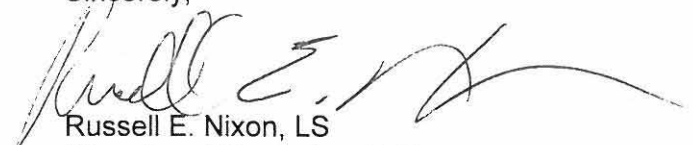
If you have any questions for Mr. West or myself please feel free to give us a call.

Sincerely,



Tony West
Lynchburg Midtown Lofts, LLC

Sincerely,



Russell E. Nixon, LS
Nixon Land Surveying, LLC



Boundary Surveys + Environmental Consulting + Site Plans + Civil Engineering + Land Planning & Design

3/02/10

REF: 2734 FORT AVENUE Proffers1001-0002/CUP1002-0001

Mr. White,

Here are the proffered items per Mr. West.

Mr. West currently does want to apply the following proffers to this site.

1. He will not allow Night Clubs in this development
2. He will not allow Armories in this development
3. He will not allow Automobile, Truck and Trailer sales with Outside Sales
4. He will not allow Automobile Service stations in this development.
5. He will not allow Automobile Storage Yards in this development.
6. He will not allow Battery sales in this development.
7. He will not allow Bottling plants in this development.
8. He will not allow Bookbinding business's in this development.
9. He will not allow Building material sales in this development.
10. He will not allow Dance Halls in this development.
11. He will not allow Drive in Theaters in this development.

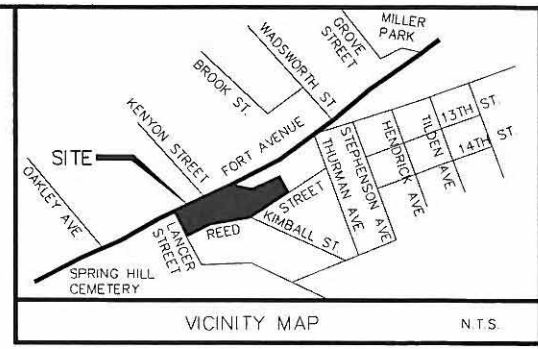
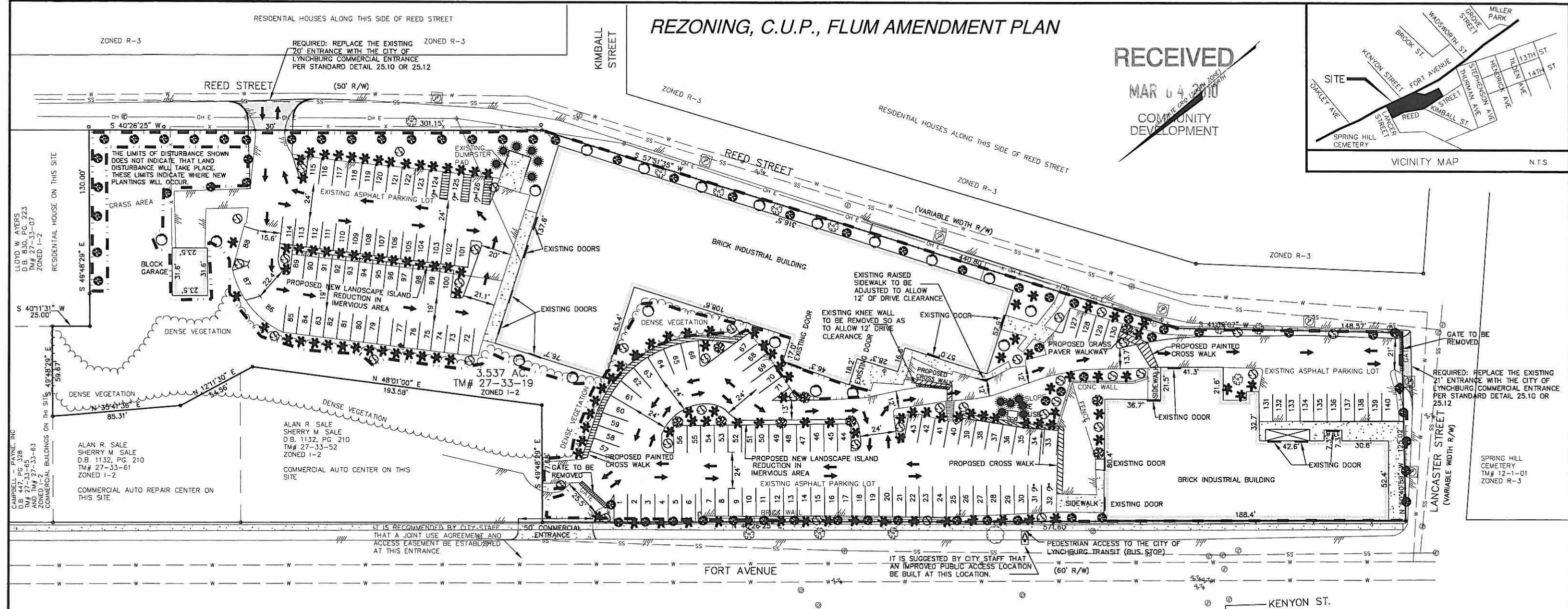
Sincerely,

Tony west
Lynchburg Midtown Loft, LLC

RECEIVED

MAR 03 2010

COMMUNITY
DEVELOPMENT



NARRATIVE FROM DEVELOPER

Mr. West the owner/developer of 2734 Fort Avenue has a vision for this property. In order for this vision to become a reality he needs this property to be rezoned for a mixed use type application. Mr. West proposes to construct loft apartments, retail spaces and office spaces within the existing industrial buildings.

This construction will not conflict with any of the city's ordinances but will require due diligence on his part to see that the construction of the new amenities meet the City's building codes. New waterlines and sewer lines will be constructed to supply the proper infrastructures for this development.

Mr. West is currently checking all of the existing water pressures within the unoccupied existing buildings on site. His findings will dictate to him if any improvements will need to be made to the water system in the buildings. A back flow pressure test will be performed to assure that fire prevention can be maintained with in the facility.

Mr. West is prepared to meet all of the necessary ordinances pertaining to storm water quantity and quality; however this development will not be creating any new impervious areas. The proposed landscaping as required by the City ordinance will reduce the amount of impervious area and also be used as a water quality feature to assure that this site will be in compliance with the current storm water quality codes.

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GENERAL NOTES:

THIS PLAT HAS BEEN PREPARED FROM AN ACTUAL FIELD SURVEY REPORT AND DOES NOT, THEREFORE, NECESSARILY INDICATE ALL ENCUMBRANCES OR ENCROACHMENTS EXCEPT AS SHOWN HEREON.

THIS PLAT HAS BEEN PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT AND DOES NOT, THEREFORE, NECESSARILY INDICATE ALL ENCUMBRANCES OR ENCROACHMENTS EXCEPT AS SHOWN HEREON.

THE AREA SHOWN IS LOCATED IN ZONE 'X' AND DOES NOT FALL WITHIN FLOOD HAZARD ZONE 'A' FOR A 100 YEAR FLOOD AS SHOWN ON A MAP BY F.E.M.A.

TOTAL AREA REZONED FROM I-2 TO B-3C = 3.537AC

SUBJECT PROPERTY CURRENTLY ZONED I-2 INDUSTRIAL AND IS PROPOSED TO BE ZONED B-3C WITH A CUP FOR A CLUSTER COMMERCIAL DISTRICT UNDER SECTION 35.1-1-43.2 OF THE CITY OF LYNCHBURG ZONING ORDINANCE.

ALL LIGHTING WILL BE CLARESHIELDED AND NONDIRECTIONAL TO PREVENT ILLUMINATION ACROSS THE PROPERTY LINES

STORM WATER MANAGEMENT AND WATER QUALITY NOTES:

1. THIS SITE WILL NOT HAVE LAND DISTURBANCE THAT WILL REQUIRE FURTHER STORM WATER MANAGEMENT AT THIS TIME. THE PROPER EROSION AND SEDIMENT CONTROL PLAN MUST BE SUBMITTED TO THE PLANNING DEPARTMENT AND LAND DISTURBANCE PERMITS OBTAINED.

2. THE SITE IS CURRENTLY DRAINING TO EXISTING CITY OF LYNCHBURG STORM SEWERS.

3. THE EXISTING BUILDINGS AND EXISTING ASPHALT PARKING AREAS ARE THE LIMITS OF CONSTRUCTION. THIS DEVELOPMENT WHILE PROPOSING NEW PARKING SPACES AND LANDSCAPE FEATURES WILL NOT BE CREATING ANY FURTHER IMPACT ON THE EXISTING STORM DRAIN SYSTEM.

4. NO NEW IMPERVIOUS AREAS ARE PLANNED FOR THIS DEVELOPMENT

5. THE LANDSCAPING FOR THIS DEVELOPMENT WILL DECREASE THE AMOUNT OF IMPERVIOUS AREA

6. THIS DEVELOPMENT WILL NOT BE CHANGING ANY OF THE DRAINAGE FEATURES CURRENTLY IN PLACE.

7. THE LANDSCAPING WILL DECREASE THE IMPERVIOUS AREA FOR THIS SITE AND DECREASE THE STORM WATER QUALITY ISSUES.

8. THE LANDSCAPING WILL ACT AS A STORM WATER QUALITY FEATURE.

9. CURRENTLY ALL STORM WATER RUN OFF IS COLLECTED IN EXISTING CITY STORM SEWER DROP INLETS LOCATED ALONG THE PERIPHERY OF THE SITE.

FIRE AND RESCUE NOTE:

1. THE CURRENT WATER SPRINKLER SYSTEM IS BEING TESTED FOR COMPLIANCE WITH ALL NEW FIRE FLOW REGULATIONS.

2. A SPRINKLER ANALYSIS REPORT WILL BE GIVEN TO THE FIRE MARSHALLS OFFICE

WATER AND SEWER NOTES:

1. THE EXISTING BUILDINGS CURRENTLY ARE SERVED BY PUBLIC WATER AND SEWAGE SYSTEMS

2. OWNER/DEVELOPER WILL NEED TO FINALIZE WATER AND SEWAGE PLANS THAT MEET THE CITY OF LYNCHBURG'S ENGINEERING REQUIREMENTS IF INDIVIDUAL WATER AND SEWAGE SERVICES ARE GOING TO BE USED FOR ANY FUTURE NEW PARCELS

PROPOSED USES FOR PROPERTY:

1. OWNER/DEVELOPER INTENDS TO USE THIS PROPERTY AS RESIDENTIAL, RETAIL AND OFFICE SPACE.

2. PERSONS WANTING TO PURCHASE ANY PORTIONS OF THE BUILDINGS SEPERATED OFF AS INDIVIDUAL LOTS WILL HAVE THE OPTION TO DO SO

3. A SEPERATE SUBDIVISION PLAT SHOWING THE ANY NEW LOTS WILL HAVE TO BE PRESENTED TO THE PLANNING DEPARTMENT FOR REVIEW, AND A SUBDIVISION PLAT WILL HAVE TO BE RECORDED IN THE CITY OF LYNCHBURG CLERKS OFFICE.

4. CURRENTLY THIS PROPERTY IS MORE SUITED FOR COMMEROIAL USE HOWEVER RENOVATIONS ARE BEING PLANNED BY OTHERS FOR THE CONVERSION OF PORTIONS OF THESE BUILDINGS TO BE USED FOR RESIDENTIAL USE.

5. THE FUTURE LAND USE MAP CURRENTLY RECOMMENDS A NEIGHBORHOOD COMMERCIAL DESIGNATION FOR THIS PROPERTY. OWNER/DEVELOPER REQUESTS THAT THE F.L.U.M. BE AMENDED FOR THE SUBJECT PROPERTY TO MIXED USE

6. TRASH COLLECTION WILL BE DONE BY A TRASH COLLECTION COMPANY, THIS SITE HAS AN EXISTING DUMPSTER PAD

7. GREATER LYNCHBURG TRANSIT AUTHORITY HAS A BUS STOP LOCATED ON FORT AVENUE AS SHOWN HERE ON

8. DUE TO THE CONFIGURATION OF THE EXISTING INFRASTRUCTURE OF ALL BUILDINGS, PARKING LOTS AND SIDEWALKS CAN HAVE PEDESTRIAN CONNECTIONS TO ADJACENT PROPERTIES.

FROM THE TECHNICAL REVIEW MEETING:

THIS CHANGE IN ZONING WILL HELP FACILITATE MODERATE TO HIGH INCOME GROWTH IN THIS AREA. THIS DEVELOPER HAS SEVERAL SMALL BUSINESS OWNERS INTERESTED IN BECOMING TENANTS FOR THE PURPOSE OF SERVING THE PRIVATE RESIDENTIAL TENANTS. THIS DEVELOPER DOES NOT WANT TO PUT RESTRICTIONS ON THIS PROPERTY, HE WANTS ALL OF HIS TENANTS TO MEET THE PROPER USAGE CODE FOR THIS DEVELOPMENT PRIOR TO TAKING THEM IN.

THIS DEVELOPER HOPES TO HAVE A GOOD MIX OF BUSINESS PRIVATE AND PUBLIC IN THIS DEVELOPMENT.

THIS FACILITY CURRENTLY HAS PUBLIC WATER ACCESS AND SEWAGE ACCESS, THE INTENDED USAGE OF THESE INFRASTRUCTURES WILL INCREASE.

CURRENTLY THE PROPOSED MIXED USES WILL HELP INCREASE THE POSSIBILITY FOR SMALL BUSINESS OWNERS TO LOCATE IN THE CITY OF LYNCHBURG, AT A LOCATION THAT IS CONVENIENT TO ROUTE 29 EXPRESSWAY AND THE DOWN TOWN CORRIDOR

THIS DEVELOPER BELIEVES THAT THIS DEVELOPMENT MEETS AND POSSIBLY EXCEEDS THE CITIES COMPREHENSIVE PLAN, BY GIVING THE OPPORTUNITY TO SMALL BUSINESS TO RELOCATE TO THIS SITE. THE ACCESSIBILITY OF THIS SITE MAKES IT A WIN WIN FOR THE DEVELOPER, THE COMMUNITY AND THE CITY OF LYNCHBURG.

THIS USE WILL GENERATE HIGHER SEWER VOLUME, THE DEVELOPER IS REQUIRED TO HAVE THE SEWER LATERALS INSPECTED TO ASSURE THE SIZE AND ADEQUACY OF THE SEWER LINES.

PARKING CALCULATIONS FOR ASSUMED USES WITHIN THIS CLUSTER COMMERCIAL DEVELOPMENT:

42,000 TOTAL SQ FT.

75% RESIDENTIAL = 31,500 SQ FT. OR 31 UNITS X 1 SPACES PER UNIT = 31 SPACES REQUIRED

10% RETAIL = 4,200 SQ FT. OR 2 SPACES PER 1000 SQFT = 9 SPACES THUS WITH 1 PER 3 EMPLOYEES ADDITIONAL NEEDED ADD 4 SPACES. (9 + 4 = 13), 13 SPACES REQUIRED.

10% OFFICE = 4,200 SQ FT. OR 2 SPACES PER 1000 SQFT, THUS 9 SPACES ARE REQUIRED.

5% PRIVATE RECREATIONAL (GYM ROOM) = 2,100 SQ FT. THUS ASSUMED 40 PERSON CAPACITY, THUS 1 PER 4 PERSONS = 10 SPACES REQUIRED

TOTAL PARKING SPACES NEEDED FOR THIS ASSUMED USAGE = 63

TOTAL PARKING SPACES AS DESIGNED = 140 SPACES

SURVEYED FOR: LYNCHBURG MIDTOWN LOFTS, LLC

REZONING PLAN FOR PROPERTY OF LYNCHBURG MIDTOWN LOFTS, LLC 2734 FORT AVENUE CITY OF LYNCHBURG, VIRGINIA

COMM. NO.: 2010004 REVISED: 3/01/10 SCALE: 1"=30' DR. BY: REN DATE: 1/10/10 SHEET: 1 OF 1 CHK. BY: REN DRAW. NME.

30 15 0 30 60 GRAPHIC SCALE IN FEET

30 NOT MOVE AN ANCIENT BOUNDARY STONE OR ENCROACH ON THE FIELD OF THE FATHERLESS PROVIDES FOR DEVO

RECEIVED

MAR 14 2010

COMMUNITY
DEVELOPMENT



FILED

MAY 15 2010

COMMUNITY
DEVELOPMENT



RECEIVED

MAR 27 2010

COMMUNITY
DEVELOPMENT



RECEIVED

MAY 10 2010

COMMUNITY
DEVELOPMENT



RECEIVED

MAR 14 2010

COMMUNITY
DEVELOPMENT



RECEIVED

MAR 24 2010

COMMUNITY
DEVELOPMENT



LYNCHBURG CITY COUNCIL

Agenda Item Summary

MEETING DATE: **April 13, 2010**

AGENDA ITEM NO.: 12

CONSENT:

REGULAR: **X**

WORK SESSION:

CLOSED SESSION:

(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: **Conditional Use Permit (CUP): Cornerstone Community Pool, 1100 Greenview Drive**

RECOMMENDATION: Approval of the CUP petition.

SUMMARY: The Cornerstone Property Owners' Association is petitioning to allow the construction and operation of a community pool within the Cornerstone Traditional Neighborhood Development (TND). The facility would include a concrete patio and pool house and would be encompassed by a black aluminum fence, similar to the photographic rendering provided within the concept plan. Exterior lighting would be controlled such that no direct illumination will occur beyond the property line and landscaping would include foundation plantings along Capstone Drive, as well as utility screening and/or buffer plantings to limit visibility from adjacent residential areas.

The property is within close proximity to the Campbell County jurisdictional boundary. Mr. Paul Harvey, Director of Community Development for Campbell County, was notified by letter on March 1, 2010 and by follow-up phone call on March 3, 2010. Mr. Harvey indicated that the Department of Community Development had no concerns regarding the proposed petition.

The Planning Commission recommended approval of the CUP petition because:

- The petition agrees with the *Comprehensive Plan 2002-2020* which recommends a mixed use development for the area.
- Petition agrees with the *Zoning Ordinance* in that a community swimming pool is a permitted use within an approved TND upon approval of a CUP by City Council.
- The facility would be internal to the development and the proposed landscaping would screen the development from the adjacent residences located outside of the TND.

PRIOR ACTION(S):

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

Planning Commission recommended approval of the CUP petition (5-0, with two members absent, Barnes, Oglesby) subject to the following conditions:

1. The project shall be constructed in substantial compliance with the concept plan and photographic renderings submitted by the Cornerstone Property Owners' Association, received by the Department of Community Development on February 26, 2010.
2. The construction of the proposed pool house will comply with the Cornerstone Design Guidelines, adopted by City Council with their approval of the Cornerstone Traditional Neighborhood Development on June 27, 2006 and amended on February 12, 2008 and June 23, 2009, respectively.
3. A utility area screen shall be provided as shown on the concept plan in accordance with Section 35.1-25.1.10 of the City of Lynchburg *Zoning Ordinance*.

FISCAL IMPACT: None

CONTACT(S): Tom Martin, City Planner - 455-3900; Bonnie Svrcek, Deputy City Manager/Acting Director of Community Development - 455-3900

ATTACHMENT(S):

- Resolution
- Planning Commission Report
- Planning Commission Minutes
- Vicinity Map
- Vicinity Proposed Land Use Map
- Watershed Location Map
- Concept Plan with Narrative and Photographic Renderings
- Speaker Sign Up Sheet

REVIEWED BY: lkp

RESOLUTION:

A RESOLUTION GRANTING A CONDITIONAL USE PERMIT TO CORNERSTONE PROPERTY OWNERS' ASSOCIATION TO ALLOW FOR THE CONSTRUCTION AND OPERATION OF A COMMUNITY POOL WITHIN THE CORNERSTONE TRADITIONAL NEIGHBORHOOD DEVELOPMENT AT 1100 GREENVIEW DRIVE.

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF LYNCHBURG that the petition of the Cornerstone Property Owners' Association to allow the construction and operation of a community pool within the Cornerstone Traditional Neighborhood Development at 1100 Greenview Drive be, and the same is hereby approved subject to the following conditions:

1. The project shall be constructed in substantial compliance with the concept plan and photographic renderings submitted by the Cornerstone Property Owners' Association, received by the Department of Community Development on February 26, 2010.
2. The construction of the proposed pool house will comply with the Cornerstone Design Guidelines, adopted by City Council with their approval of the Cornerstone Traditional Neighborhood Development on June 27, 2006 and amended on February 12, 2008 and June 23, 2009, respectively.
3. A utility area screen shall be provided as shown on the concept plan in accordance with Section 35.1-25.1.10 of the City of Lynchburg *Zoning Ordinance*.

Adopted:

Certified:

Interim Clerk of Council

036L

The Department of Community Development

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

To: Planning Commission
From: Planning Division
Date: March 10, 2010
Re: Conditional Use Permit [CUP]: Cornerstone Community Pool, 1100 Greenview Drive

I. PETITIONER

Cornerstone Property Owners' Association, 104 Archway Court, Lynchburg, VA 24502
Representative: Mark Borel, 113 Goldenrod Place, Lynchburg, VA 24502

II. LOCATION

The subject property includes a tract of twenty-seven and thirty-six hundredths (27.36) acres located at 1100 Greenview Drive.

Property Owner: Cornerstone Property Owners' Association, 104 Archway Court, Lynchburg, VA 24502

III. PURPOSE

The purpose of the petition is to allow the construction and operation of a community pool within the Cornerstone Traditional Neighborhood Development (TND).

IV. SUMMARY

- Petition agrees with the *Comprehensive Plan* which recommends a mixed use development for the area.
- Petition agrees with the *Zoning Ordinance* in that a community swimming pool is a permitted use within an approved TND upon approval of a CUP by City Council.

The Planning Division recommends approval of the CUP petition.

V. FINDINGS OF FACT

1. **Comprehensive Plan.** The *Comprehensive Plan 2002-2020* recommends a "Mixed-Use" for the subject property. These areas do not fit into any single use category as they are planned for a mix of uses carefully designed so as to mitigate any potential land use conflicts. The plan provides that the Greenview Planned Development Area (PDA) "should offer a mix of housing types at a maximum residential density of twelve (12) dwelling units per acre. A commercial area should not be required for this PDA, but if requested, it should be small, at the neighborhood or convenience commercial scale, since there are ample commercial areas along Timberlake Road. TND principles will apply. Pedestrian/bicycle connections to Timberlake Road should be provided through medium and/or high density residential areas north of Greenview PDA and via the Resource Conservation Area shown on the *Future Land Use Map*. (page 4.21)
2. **Zoning.** The subject property was annexed into the City in 1976. The existing R-1, Low Density, Single-Family Residential and R-C, Conservation District zoning was established in 1978 with the adoption of the City's current *Zoning Ordinance*. City Council approved a TND for the subject property on June 27, 2006.
3. **Board of Zoning Appeals (BZA).** The Zoning Official has determined that no variances will be needed for the development of the property as proposed.

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

- On June 23, 2009, City Council approved a resolution to clarify a previous CUP to amend the Cornerstone TND Master Plan in an R-1, Low Density Single-Family Residential District at 401 Cornerstone Street and 100, 200 and 300 Capstone Street.
- On February 12, 2008, City Council approved JBO, LLC 's petition for a CUP to amend the Cornerstone TND Master Plan to includes the construction of one public street, one private street, changes in the location of open space in certain blocks and changes to the distribution of residential units in an R-1, Low Density Single-Family Residential District at 401 Cornerstone Street and 100, 200 and 300 Capstone Street.
- On June 27, 2006, City Council approved JBO, LLC's petition to allow the construction of a TND at 1207 and 1226 Greenview Drive.
- On February 13, 2001, City Council approved American Legion Post 16's petition for a CUP to allow the construction of a building addition at 1301 Greenview Drive.
- On August 10, 1999, City Council approved Gerald and Deborah Maxey's petition to rezone eight tenths (0.8) of an acre at 794 Leesville Road from B-3, Community Business District (Conditional) to B-1, Limited Business District (Conditional) to allow a counseling service.
- On April 13, 1999, City Council denied Calla Forlines Mounts and Jo Anne Carter's petition to rezone two and six tenths (2.6) acre from R-1, Low-Density, Single-Family Residential District and B-3, Community Business District (Conditional) to B-3, Community Business District (Conditional) to allow the construction of a convenience store at 794 Leesville Road and Greenview Drive.
- On January 12, 1993, City Council approved Lowes Home Centers, Inc.'s petition to rezone sixteen (16) acres from B-1, Limited Business District and B-3, Community Commercial District to B-5, General Business District (Conditional) to allow the construction of a home improvement center, restaurant and associated parking at 8208, 8216, 8300, 8308 and 8312 Timberlake Road and 1012 Greenview Drive.
- On September 12, 1989, City Council approved Hunter Associates, Inc.'s petition to rezone four tenths (0.4) acre from R-1, Low-Density, Single- Family Residential District to B-1, Limited Business District to allow the construction of an office building at 795 Leesville Road.
- On October 13, 1987, City Council approved Glenn and Jo Anne Carter's petition to rezone three and five tenths (3.5) acres from R-1, Low- Density, Single-Family Residential District to B-3, Community Business District (Conditional) to allow a nursery expansion at 794 Leesville Road.
- On August 12, 1986, City Council approved Berean Baptist Church's petition for a CUP a to allow the construction of a church building and parking area at 1400 Greenview Drive.
- On May 14, 1985, City Council approved CHA Construction Company's petition for a CUP to allow the construction of a recreation center and parking area within the 100 year floodplain off of Timberlake Road (Golden Pond).
- On November 8, 1983, City Council approved Andrew Ellett's petition to rezone one and two tenths (1.2) acres from R-1, Low Density, Single-Family Residential District to B-3, Community Business District (Conditional) to allow the installation of gasoline pumps and the sale of gasoline at 797 and 799 Leesville Road.
- On June 28, 1983, City Council approved Rainbow Church of God's petition for a CUP to allow the construction of a sanctuary at 1227 Greenview Drive.

5. **Site Description.** The proposed community pool would be located within the Cornerstone TND and would be immediately bordered by natural area, single-family homes and multi-story mixed-use buildings. The entire TND is bound to the northeast by a single-family neighborhood (Windsor Hills); to the east by an institutional use (Berean Baptist Church); to the south by a mixture of institutional uses (Tree of Life Ministries, Greenview Church of God and American Legion Post#16) townhouses and single-family residences; and to the west by commercial uses, townhouses and single-family residences.

The property is also within close proximity to the Campbell County jurisdictional boundary. Mr. Paul Harvey, Director of Community Development for Campbell County, was notified by letter on March 1, 2010 and by follow-up phone call on March 3, 2010. Mr. Harvey indicated that the Department of Community Development had no concerns regarding the proposed petition.

6. **Proposed Use of Property.** The petition would allow for the construction and operation of a community swimming pool that would serve the Cornerstone property owners'. The facility would include a concrete patio and be encompassed by a black aluminum fence, similar to the photographic rendering provided within the concept plan. A pool house with bathrooms and changing areas (including shower facilities), as well as a maintenance area would also be included with the construction. The exterior of the pool house would include vinyl siding with a "brick to grade" foundation; exterior lighting will be controlled such that no direct illumination will occur beyond the property line. Landscaping would be in accordance with the City's *Zoning Ordinance*, which would require foundation plantings along Capstone Drive, as well as utility screening and/or buffer plantings to limit visibility from adjacent residential areas.
7. **Traffic, Parking and Public Transit.** The City's Transportation Engineer recommended that the entrance sidewalk to the community pool be extended to the public sidewalk along Capstone Drive. The revised concept plan indicates the extension of the proposed sidewalk..

The City's *Zoning Ordinance* requires one (1) parking space per each four (4) persons of the rated capacity of the building. The three hundred sixty (360)-square foot building would not likely exceed a rated capacity of four (4) persons; however, six (6) on-street parking spaces are available along Capstone Drive in front of the proposed pool, thus meeting the requirement of City Code. In addition, parking is also available in the adjacent blocks if overflow parking is required.

Public Transit is accessible through the Greater Lynchburg Transit Company's Liberty University Route 15 with a stop approximately four hundred (400) feet from the site.

8. **Storm Water Management.** The construction of the proposed buildings and parking facilities would exceed the one thousand (1,000) square foot threshold for stormwater management; as such, a plan to address water quantity and quality of the surface water run-off would be required for the construction. The project will incorporate additional landscaped area into the design of the facility, a provision permitted within the City's *Stormwater Ordinance* for projects with less than five thousand (5,000) square feet of new impervious area. Preliminary review of the site indicates that the downstream receiving channel is adequate to receive stormwater from the facility.
9. **Emergency Services.** The City's Fire Marshal had no concerns about the proposed community pool
- The City Police Department recommended that lighting, signage, alarms or surveillance cameras, and perimeter fencing be incorporated into the site design of the pool. These items will be considered as part of the final site plan for the project.
10. **Impact.** The proposed community swimming pool would have a limited impact on the surrounding area. The facility would be internal to the development and the proposed landscaping would screen the development from the adjacent residences located outside of the TND. Traffic, parking, stormwater and public safety comments have been addressed to the satisfaction of City staff and the result is a project that would allow for a recreational facility for the Cornerstone community.

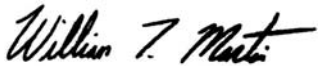
11. **Technical Review Committee.** The Technical Review Committee (TRC) reviewed the preliminary site plan on February 16, 2010. Comments related to the proposed use were minor in nature and have or will be addressed by the petitioner prior to plan approval.
-

VI. PLANNING DIVISION RECOMMENDATION

Based on the preceding Findings of Fact, the Planning Commission recommends to City Council approval of the conditional use permit petition of the Cornerstone Property Owners' Association for the construction and operation of a community pool and associated amenities in an R-1, Low Density Single-Family Residential District at 1100 Greenview Drive, subject to the following condition:

- 1. The project shall be constructed in substantial compliance with the concept plan and photographic renderings submitted by the Cornerstone Property Owners' Association, received by the Department of Community Development on February 26, 2010.**
- 2. The construction of the proposed pool house will comply with the Cornerstone Design Guidelines, adopted by City Council with their approval of the Cornerstone Traditional Neighborhood Development on June 27, 2006 and amended on February 12, 2008 and June 23, 2009, respectively.**
- 3. A utility area screen shall be provided as shown on the concept plan in accordance with Section 35.1-25.1.10 of the City of Lynchburg *Zoning Ordinance*.**

This matter is respectfully offered for your consideration.



William T. Martin, AICP
City Planner

Cc: Mr. L. Kimball Payne, III, City Manager
Ms. Bonnie M. Svrcek, Deputy City Manager/Acting Director of Community Development
Mr. Walter C. Erwin, City Attorney
Mr. J. Lee Newland, City Engineer
Ms. Cynthia Kozarow, Lynchburg Police Department
Battalion Chief Greg Wormser, Fire Marshal
Mr. Gerry Harter, Transportation Engineer
Mr. Robert Drane, Building Commissioner
Mr. Robert Fowler, Zoning Administrator
Mr. Keith Wright, Zoning Official
Mr. Kent White, Senior Planner
Mr. Jacob Dorman, Environmental Reviewer
Mr. Mark Borel, Representative, Cornerstone Property Owners Association

VII. ATTACHMENTS

- 1. Vicinity Zoning Pattern**
- 2. Vicinity Proposed Land Use**
- 3. Watershed Location Map**
- 4. Concept Plan with Narrative and Photographic Renderings**

MINUTES FROM THE MARCH 10, 2010 PLANNING COMMISSION MEETING (MINUTES HAVE BEEN APPROVED):

- a. Petition of the Cornerstone Property Owners' Association for a conditional use permit to allow the construction and operation of a community swimming pool within the Cornerstone Traditional Neighborhood Development in an R-1, Low Density Single-Family Residential District at 1100 Greenview Drive.**

Mr. Martin summarized the petition and Planning Commission report. The pool would be for the use of the Cornerstone residents. Section 35.1-43.7(d)(1)e of the *Zoning Ordinance* states that a community swimming pool is permitted in a TND if it is included in the original master plan. If it is not included in the original master plan, it requires a conditional use permit be granted by City Council.

Since the proposed construction is below 5,000 square feet, stormwater management and quality will be addressed through the use of additional landscaping, as permitted by the *Stormwater Ordinance*. The Fire Marshal had no concerns with the project. The police department recommended perimeter fencing, lighting and other security measures.

The proposed pool is entirely within the Cornerstone TND. Staff believes it will have little to no impact on the neighborhoods outside of Cornerstone and recommends approval of the petition with the conditions outlined in the report.

Mr. Mark Borel came forward to represent the petition. He asked if the conditional use permit approval was to build the pool and if all the intricacies are worked out during the building permit process. Chair Hamilton said that was her understanding and Mr. Martin said that was correct. Mr. Martin reminded Mr. Borel that they would still be subject to their own design guidelines. Mr. Borel said he had understood and had no other comments.

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

Commissioner Swienton asked Mr. Borel about the hours of operation. Mr. Borel said it would be open during daylight hours only. Commissioner Swienton asked if there would be lighting installed for the possibility of night functions. Mr. Borel said they would be installing lighting for security purposes so that people would be seen if they are in the pool after dark. There may be an occasional neighborhood activity held at night but general activities would be daylight hours only. The park on site is for daytime use only.

Commissioner Swienton asked if there were any plans for a lifeguard and Mr. Borel answered no. Commissioner Swienton asked if there would be signage to that effect and Mr. Borel answered yes.

Commissioner Swienton asked how the rules about the use of the pool during daylight only could be enforced. Mr. Borel said there is a master property owners' association for all of Cornerstone and it dictates and oversees all activities. One of its functions would be pool management and maintenance.

Commissioner Swienton noted that the report said that the pool was for the use of the property owners. Mr. Borel's narrative said that the pool would be for the use of the residents and their guests. Commissioner Swienton asked if those who are renting will be allowed to use the pool. Mr. Borel said the pool is for the use of residents whether or not they are the property owners.

Commissioner Swienton had a concern about the testing of soil compaction throughout the development and grading process of Cornerstone. He understands that this does not mean that the soil was not properly compacted; it is more of an observation on testing techniques. Commissioner Swienton wanted to make sure that there would be some type of soil bearing test or load bearing test done on the soil. Mr. Borel stated that the entire project was monitored by the engineers and soil scientists through the whole process. The soil testing has already been done, but there will be a compaction test when the pool is built.

Chair Hamilton asked how stormwater management would be handled through landscaping. She asked Mr. Borel what he had in mind. Mr. Borel gave the example of what has been done on Jefferson Street, which is like a small detention pond or rain garden.

Commissioner Hooper asked how close to the edge of the slope the pool will be. It seemed to him when he paced it off during his site visit that it was going to get very close. Mr. Borel said that the fencing will get very close. Mr. Borel commented that the park is a great amenity and they would like the pool to overlook the park.

Commissioner Sale commented that he thought it was a nice addition to the community.

Mr. Borel asked if he could ask the commissioners a question and Chair Hamilton commented that would not generally be allowed after the public hearing is closed.

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

“That the Planning Commission recommends to City Council approval of the conditional use permit petition of the Cornerstone Property Owners’ Association for the construction and operation of a community pool and associated amenities in an R-1, Low Density Single-Family Residential District at 1100 Greenview Drive, subject to the following condition:

- 1. The project shall be constructed in substantial compliance with the concept plan and photographic renderings submitted by the Cornerstone Property Owners’ Association, received by the Department of Community Development on February 26, 2010.**
- 2. The construction of the proposed pool house will comply with the Cornerstone Design Guidelines, adopted by City Council with their approval of the Cornerstone Traditional Neighborhood Development on June 27, 2006 and amended on February 12, 2008 and June 23, 2009, respectively.**
- 3. A utility area screen shall be provided as shown on the concept plan in accordance with Section 35.1-25.1.10 of the City of Lynchburg *Zoning Ordinance*.“**

Commissioner Swienton commented that a community swimming pool does fit the definition of a civic use. He had checked this because this area was originally designated as civic use.

The motion passed by the following vote:

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

Introduction

The Cornerstone Property Owners Association is requesting approval for the addition of a community swimming pool within the Cornerstone Development. The following documentation is enclosed:

- 1) Attachment A: Location of Pool
- 2) Attachment B: Site Plan of Pool
- 3) Attachment C: "Similar To" Pictures

RECEIVED

FEB 26 2010

COMMUNITY
DEVELOPMENT

Description of Pool Area

- 1) Fencing.
 - a. The tentative size of the fenced in area is 125' x 75'.
 - b. The fencing is to be 4' or 6' black aluminum and very close to the "Similar To" pictures.
 - c. The gate entrance to the pool is to be access controlled with an access punch code.
- 2) Patio.
 - a. The tentative size of the patio area is 110' x 60' (less the pool area).
 - b. The patio is to be of concrete construction.
- 3) Pool.
 - a. The tentative size of the pool area is 80' x 40'.
- 4) Pool house.
 - a. The tentative size of the pool house is 20' x 18'.
 - b. The exterior of the pool house is to be brick to grade, vinyl siding, and vinyl shake.
 - c. The pool house will feature two bathrooms/changing areas with showers, a water fountain, and a maintenance room where the pool equipment will be located.
- 5) Stormwater management.
 - a. Since this project will create new impervious area in excess of 1,000 square feet but less than 5,000 square feet, stormwater management will be achieved through landscaping as provided for in the City's Stormwater Management Ordinance.

6) Parking.

- a. Parking will be provided through the use of on-street parking along the front of the pool. If needed, overflow parking is provided in the parking lots of the adjacent blocks.

7) Lighting.

- a. Exterior lighting shall be controlled so that no direct illumination will occur beyond the property line.

8) Landscaping.

- a. Landscaping to be provided as needed by City requirements and to maintain a look and feel congruent to the other areas of the Development.
- b. Appropriate screening will be used as required, including any refuse areas, HVAC equipment, and water vaults.
- c. Existing vegetative buffer to be supplemented, subject to the approval of the City Planner and Urban Forester.

9) Signage.

- a. Signage indicating the pool rules and that it is for use by residents of the Cornerstone Development and/or their guests only will be provided.
- b. "No Trespassing" signage may also be provided if necessary.

10) Building permit and site plan.

- a. Any items requiring more description or reasonable adjustment will be worked out with City Staff during the building permit and site plan submittal process.

ASSOCIATION

PIN# 26315444

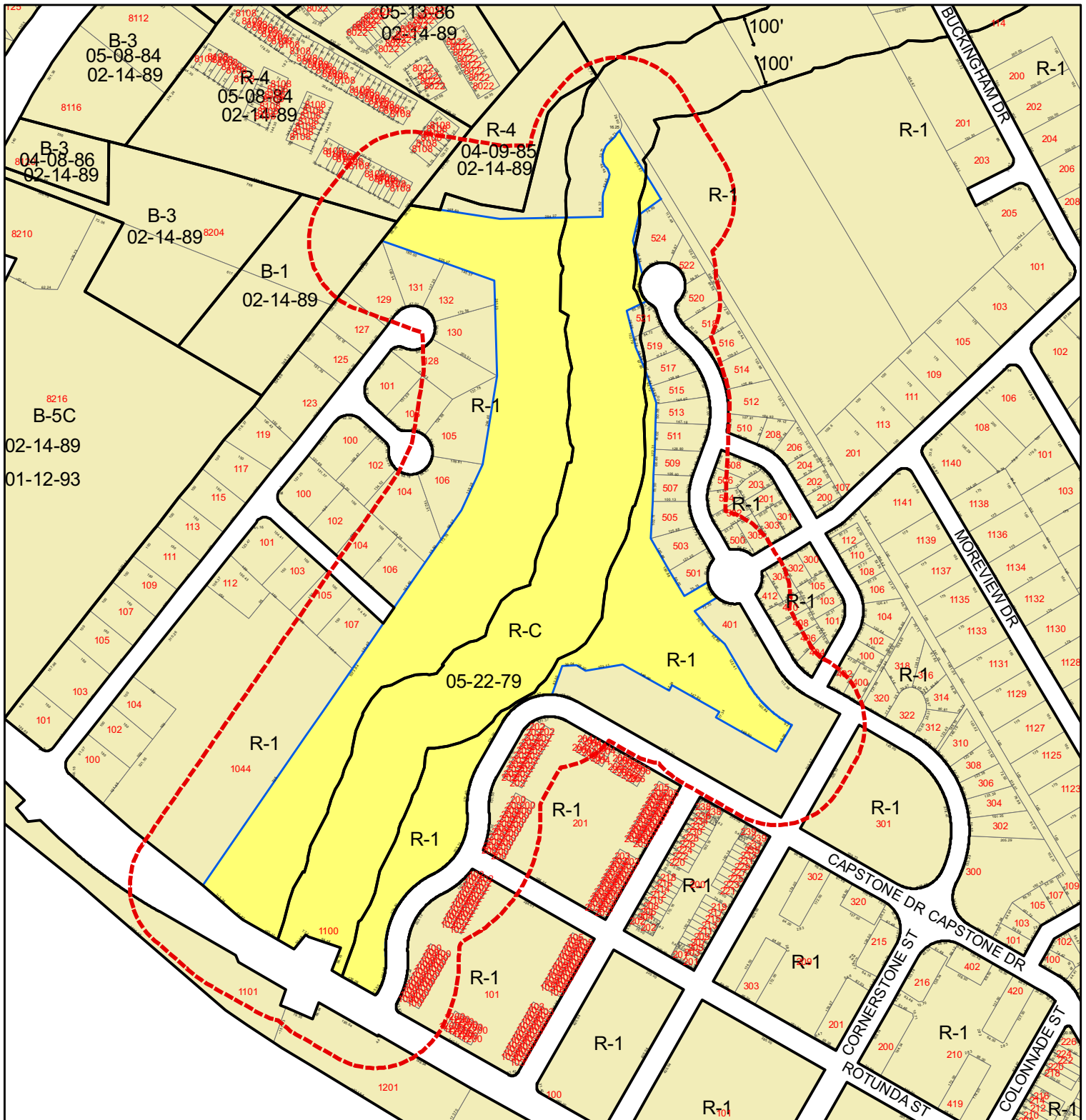
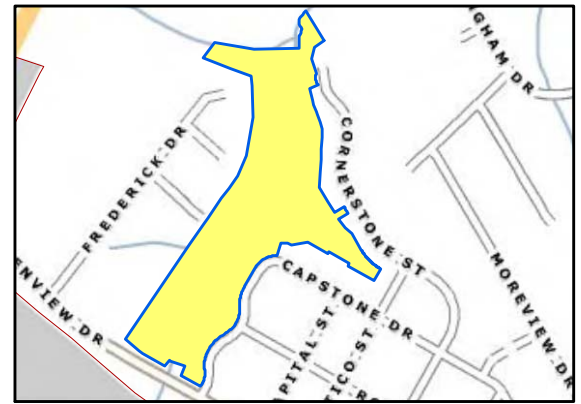
Petitioner-Cornerstone Property Owners Association



Subject Property



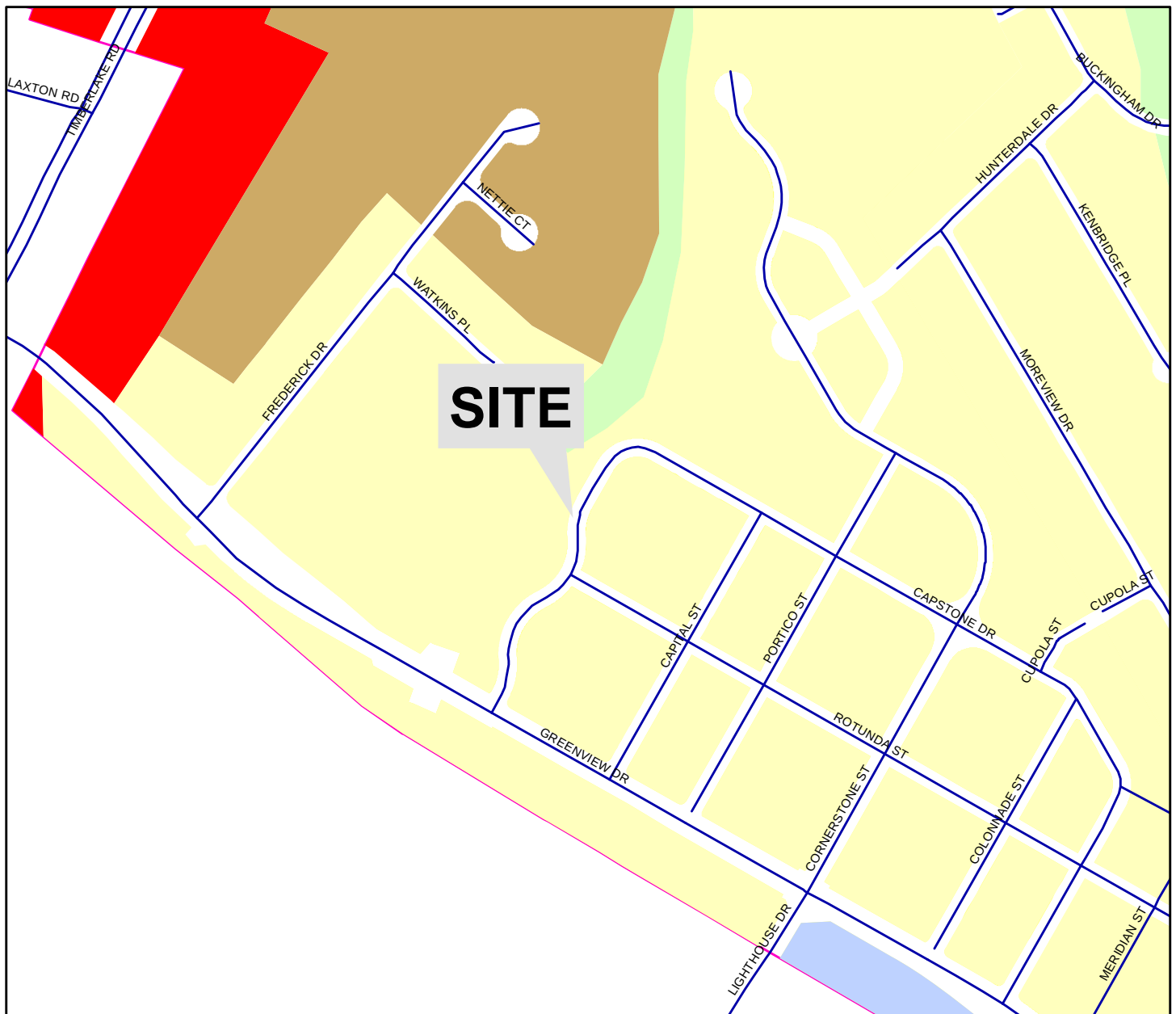
200 FT Buffer



CORNERSTONE CUP ADJOINING OWNERS

PIN	Owner	LocAddr
26315187	A & K BO LLC	102 CAPSTONE DR 203
26315188	A & K BO LLC	102 CAPSTONE DR 204
26315173	A & K BO LLC	102 CAPSTONE DR 1
26315189	A & K BO LLC	102 CAPSTONE DR 205
26315174	A & K BO LLC	102 CAPSTONE DR 2
26315190	A & K BO LLC	102 CAPSTONE DR 206
26315175	A & K BO LLC	102 CAPSTONE DR 3
26315191	A & K BO LLC	102 CAPSTONE DR 207
26315176	A & K BO LLC	102 CAPSTONE DR 4
26315192	A & K BO LLC	102 CAPSTONE DR 208
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26315193	A & K BO LLC	102 CAPSTONE DR 301
26315178	A & K BO LLC	102 CAPSTONE DR 102
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26315171	A & K BO LLC	100 CAPSTONE DR 307
26315156	A & K BO LLC	100 CAPSTONE DR 108
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26315009	A & K BO LLC	101 CAPITAL ST
26315052	B & A PROPERTIES OF VIRGINIA LLC	202 CAPSTONE DR 205
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26315040	B & A PROPERTIES OF VIRGINIA LLC	202 CAPSTONE DR 101
26315054	B & A PROPERTIES OF VIRGINIA LLC	202 CAPSTONE DR 207
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26314001	BLACKWELL DAVID C & BETTY M	106 WATKINS PL
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26315148	COLBIRD PENNY L & COLBIRD KATHY KIDD	100 CAPSTONE DR 4
26315444	CORNERSTONE PROPERTY OWNERS ASSO	1100 GREENVIEW DR
26315016	CORNERSTONE PROPERTY OWNERS ASSO	109 CUPOLA ST
26315547	CORNERSTONE PROPERTY OWNERS ASSO	107 HUNTERDALE DR
26315147	DILLEY BRYAN E	100 CAPSTONE DR 3
26315157	FOUR PLUS INVESTMENTS LLC	100 CAPSTONE DR 201
25417041	FRANKLIN EDGAR M III	8108 TIMBERLAKE RD 151
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25417030	G & J PROPERTIES INC	8108 TIMBERLAKE RD 158
25417067	GOLDEN POND HOMEOWNERS ASSOCIATION	8108 TIMBERLAKE RD
26315429	GREENVIEW ESTATES DEVELOPMENT LLC	106 NETTIE CT
26315427	GREENVIEW ESTATES DEVELOPMENT LLC	103 NETTIE CT
26315424	GREENVIEW ESTATES DEVELOPMENT LLC	130 FREDERICK DR
26315423	GREENVIEW ESTATES DEVELOPMENT LLC	132 FREDERICK DR
26315422	GREENVIEW ESTATES DEVELOPMENT LLC	131 FREDERICK DR
26315430	GREENVIEW ESTATES DEVELOPMENT LLC	104 NETTIE CT

26315425	GREENVIEW ESTATES DEVELOPMENT LLC	128 FREDERICK DR
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26315420	GUNN SCOTT C	127 FREDERICK DR
25413023	HAHN COURTNEY R	7906 TIMBERLAKE RD
26314002	HENSON TROY M & DAWN T	104 WATKINS PL
26315172	HOGGE ELISE A & JOHN H	100 CAPSTONE DR 308
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26315545	JBO LLC	522 CORNERSTONE ST
26314018	KEELING CECIL H & BARBARA T	1044 GREENVIEW DR
25418052	KNOLLWOOD TOWNHOMES PROPERTY OWNERS ASSOCIATION	8022 TIMBERLAKE RD
25417031	LAVILLA DA TOTO INC	8108 TIMBERLAKE RD 160
25417032	LEIGHTON ROBIN L	8108 TIMBERLAKE RD 162
26315153	LEWIS ROBERT J JR & MARY LISA	100 CAPSTONE DR 105
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25417029	MACK PHILLIP J JR	8108 TIMBERLAKE RD 156
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26315064	MADDOX PROPERTIES LLC	204 CAPSTONE DR 101
26314025	MARTIN JIMMY R & CAROLYN B	107 WATKINS PL
26319002	MICHAEL ROBERT L & PHYLLIS C TRS	1201 GREENVIEW DR
26315155	MILLER GILBERT & EARLEEN J	100 CAPSTONE DR 107
26313006	PADGETT CHARLIE A & CHERYL	8204 TIMBERLAKE RD
25417040	RUSSELL CLIFFORD D & EDITH W	8108 TIMBERLAKE RD 153
25417034	SORIANO JORGE & YOUNG KIMBERLY A	8108 TIMBERLAKE RD 165
26314024	TINSLEY GARY L	105 WATKINS PL
26318001	TREE OF LIFE PENTECOSTAL HOLINESS CHURCH TRUSTEES	1101 GREENVIEW DR
25417036	WHEATON DAVID P	8108 TIMBERLAKE RD 161
25417033	WOOD TERRELL D & RITA P	8108 TIMBERLAKE RD 164
Owner	CORNERSTONE PROPERTY OWNERS ASSO	
Petitioner	CORNERSTONE PROPERTY OWNERS ASSO	
Representative	MARK BOREL	



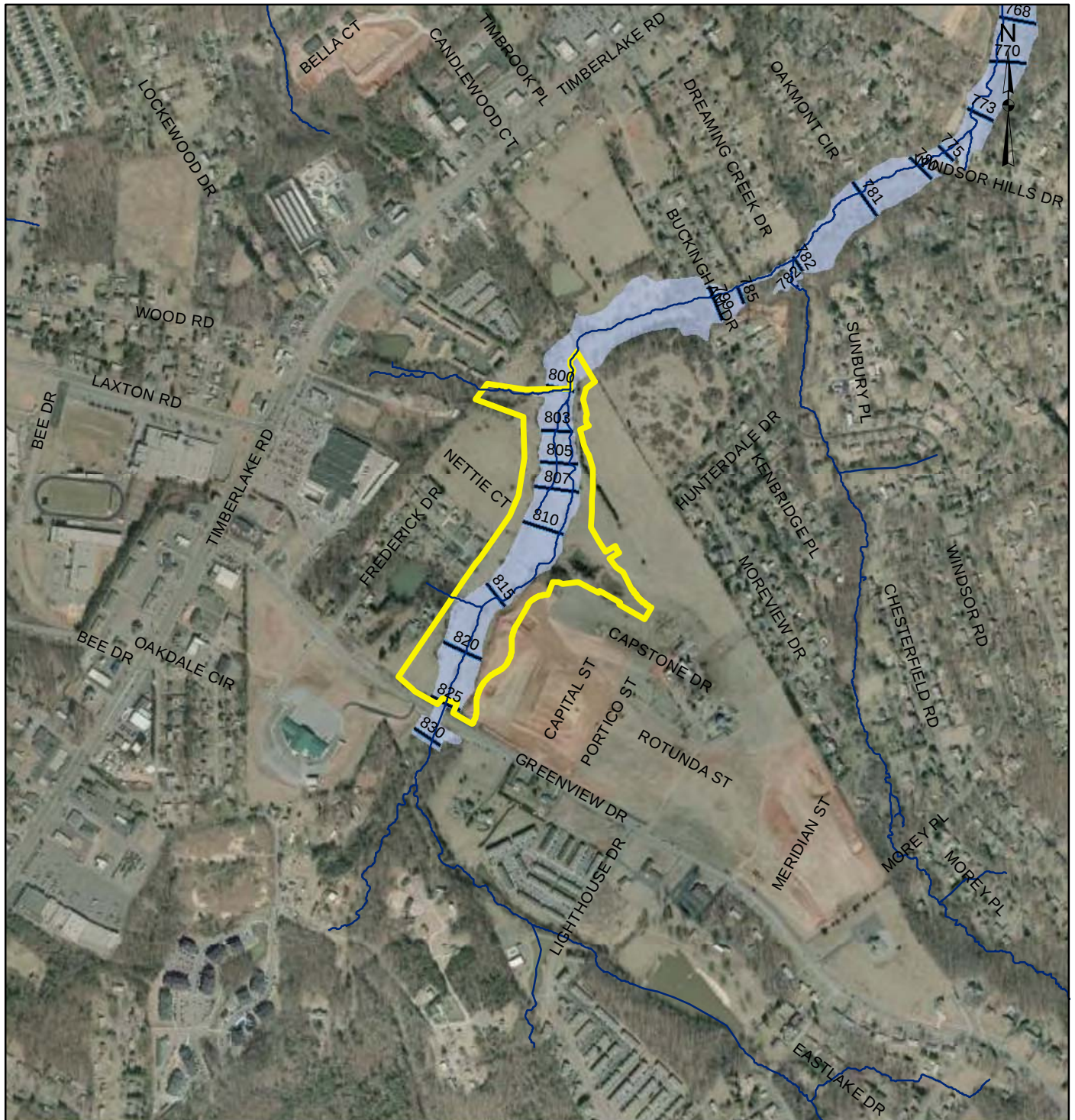
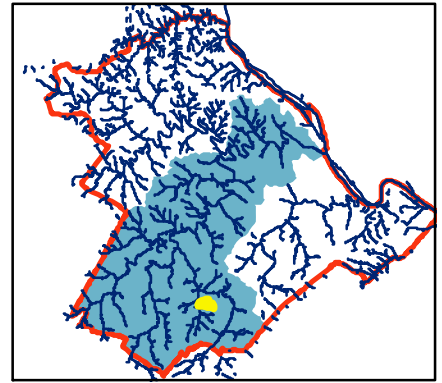
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-  Traditional Residential
-  Low Density Residential
-  Medium Density Residential
-  High Density Residential
-  Neighborhood Commercial
-  Community Commercial
-  Regional Commercial
-  Employment 1
-  Employment 2
-  Office
-  Institution
-  Downtown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

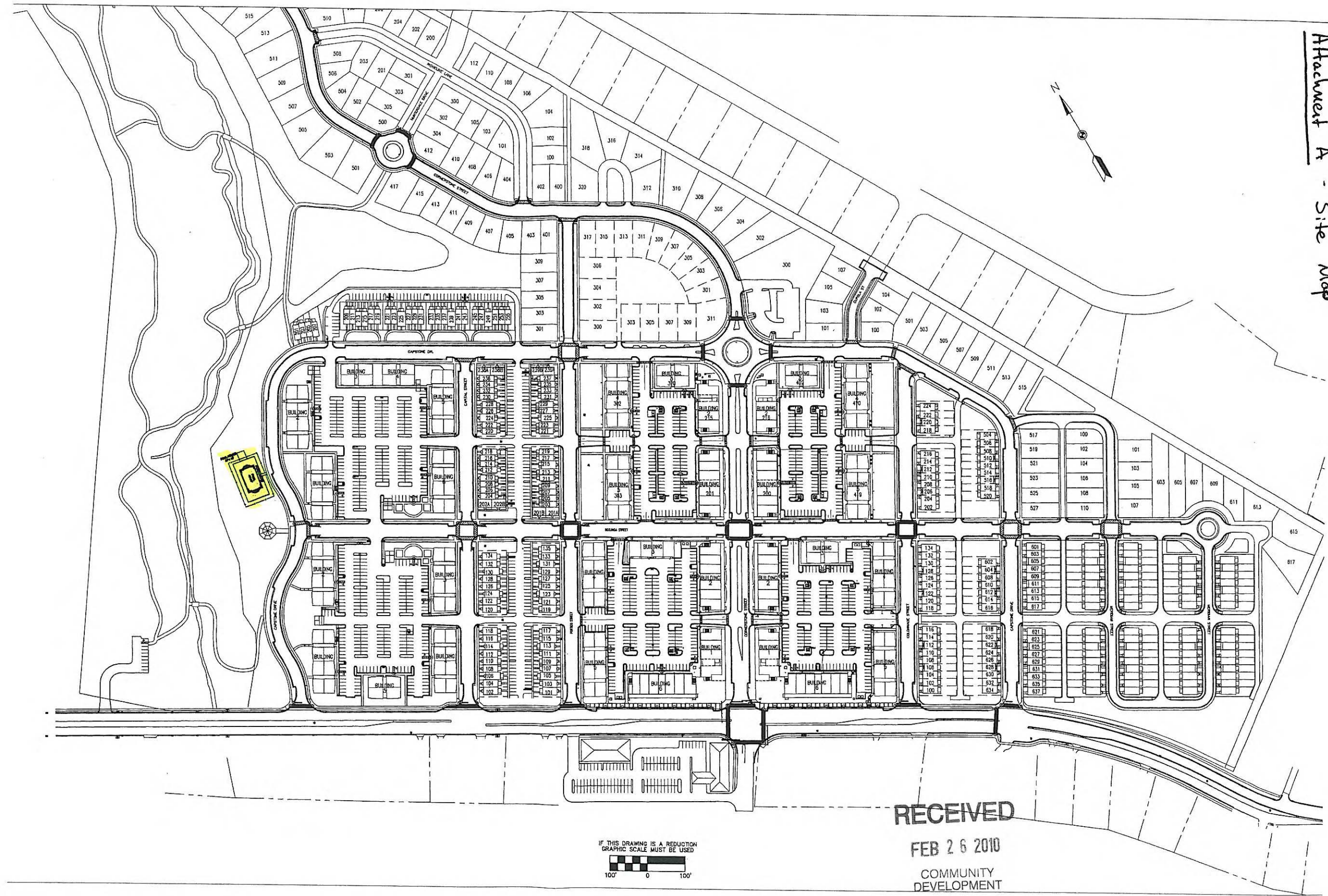
CORNERSTONE PROPERTY OWNERS ASSOCIATION 1100 GREENVIEW DRIVE LAND USE PLAN



Cornerstone Property Owners Association Watershed Location Map

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



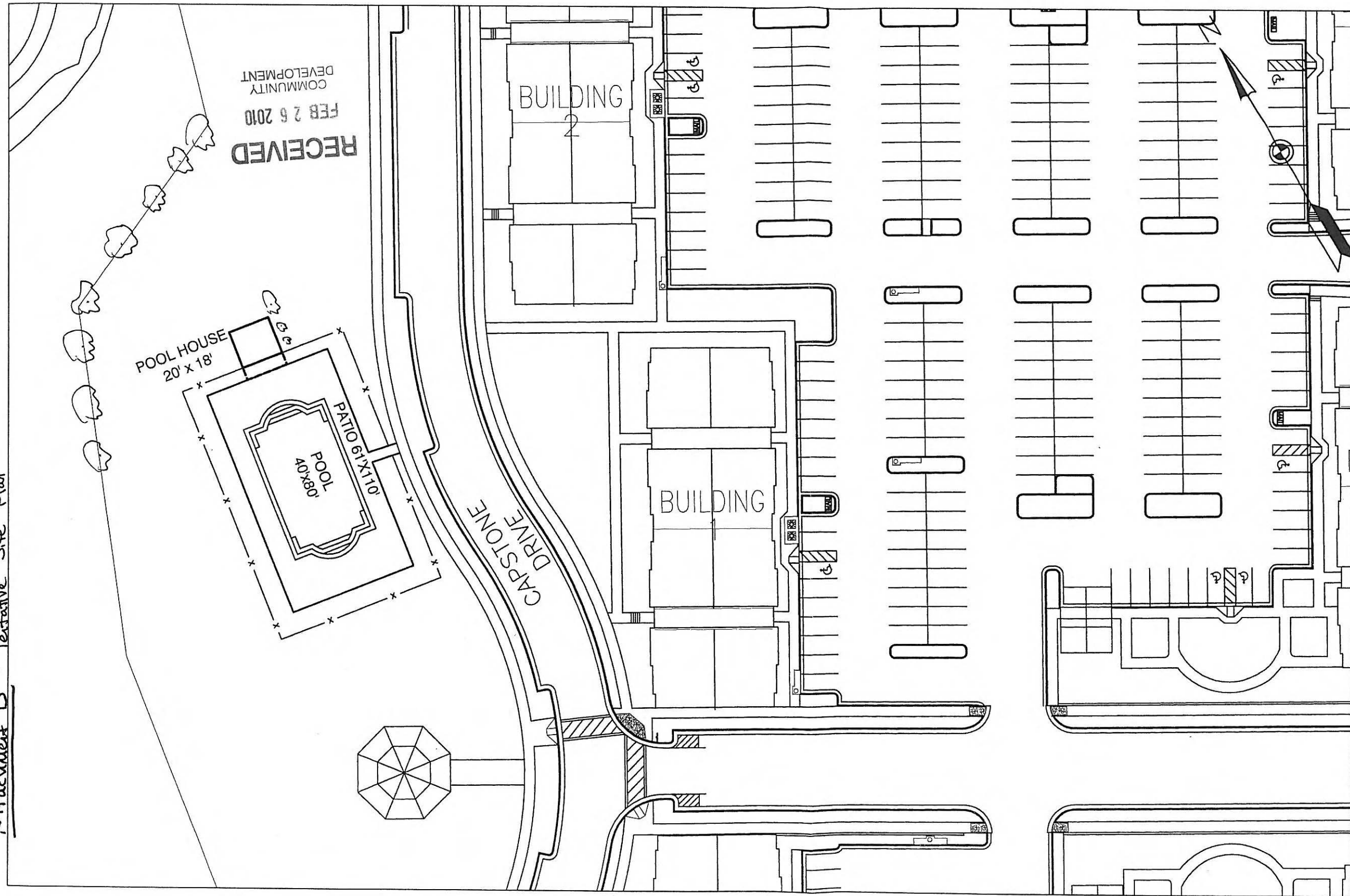


IF THIS DRAWING IS A REDUCTION
GRAPHIC SCALE MUST BE USED

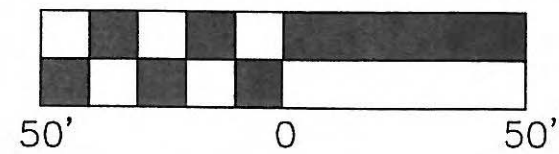
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DEVELOPMENT

Attachment B - Tentative Site Plan

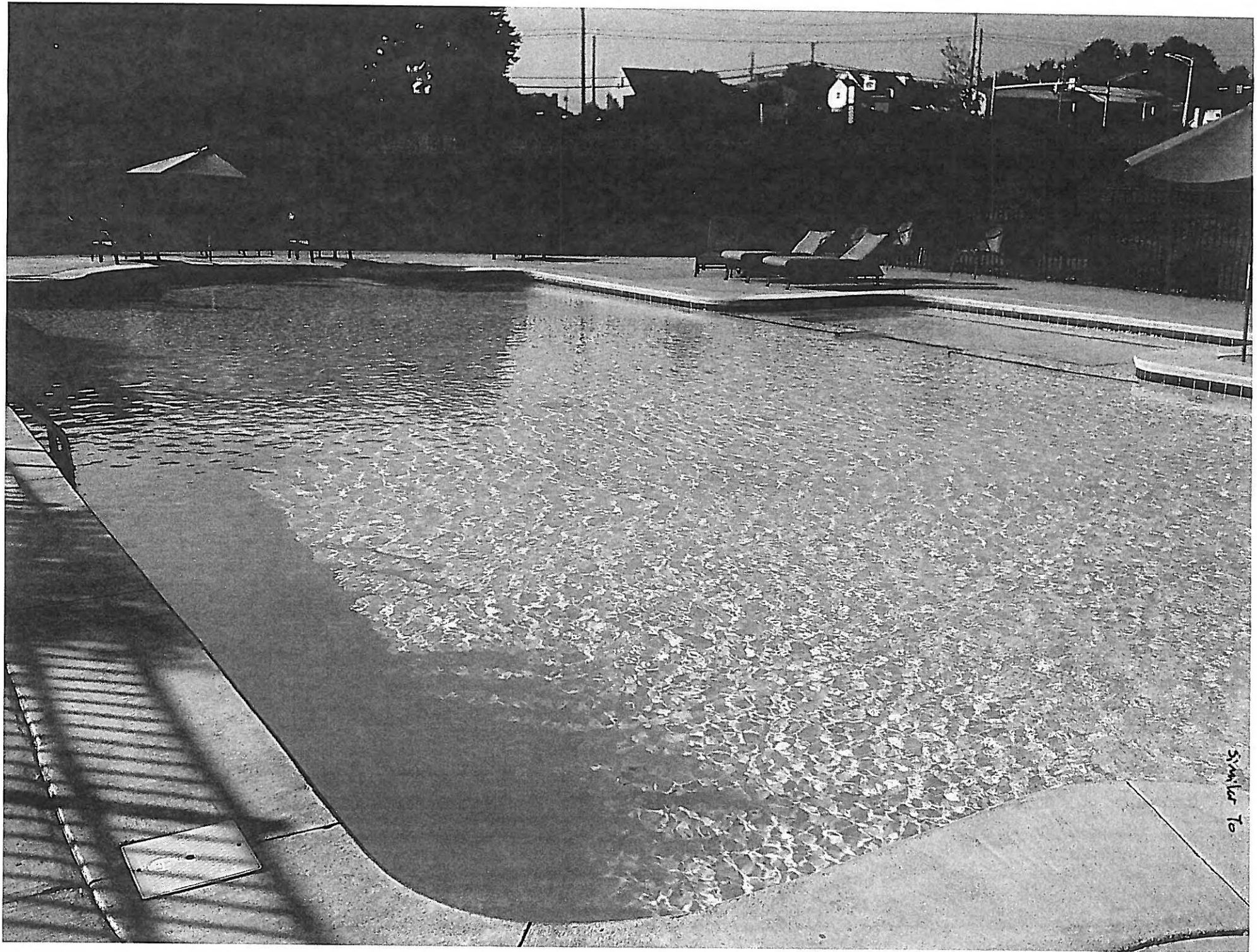


IF THIS DRAWING IS A REDUCTION
GRAPHIC SCALE MUST BE USED



Similar To





Similar To

LYNCHBURG CITY COUNCIL

Agenda Item Summary

MEETING DATE: **April 13, 2010**

AGENDA ITEM NO.: 13

CONSENT: REGULAR: **X**

WORK SESSION:

CLOSED SESSION:

(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: **FY 2011 Water and Sewer Rates**

RECOMMENDATION: Pending comments at the public hearing approve the adoption of the attached ordinance enacting changes in the City Code effective July 1, 2010.

SUMMARY: At the February 23, 2010 Work Session, City Council considered proposed revisions to the water rate and various water and sewer fees as recommended by the City's Utility staff. The rate strategy for this year continues with the goals to:

- a. Minimize the impact of rate adjustments on residential and other small customers.
- b. Ensure necessary funding is provided for increases in operating and debt service costs.
- c. Ensure compliance with the Special Order for Combined Sewer Overflow (CSO).
- d. Ensure compliance with adopted Fund Balance and Debt Management Financial Policies.
- e. Provide an equitable distribution of costs based on actual services provided.

The proposed increases include a 4% increase in the water volume rate to \$2.22 per hcf. No increase in the sewer volume rate is proposed. Also proposed are increases in the fire protection charges, various industrial charges, and truck hauled waste charges. A complete list of existing and proposed rates is included in Attachment 1.

The 4% increase in the water volume rate is driven primarily by the need to invest in the replacement of the aging water infrastructure.

Increases in various water and sewer fees are proposed to more closely recover the actual costs for service.

PRIOR ACTION(S): February 23, 2010: City Council Work Session, FY 2011 Rate Study and Annual Report presentation by Department of Utilities staff.

FISCAL IMPACT: An overall net increase in revenues in the water and sewer fund of approximately 3.7% and 1.6%, respectively.

CONTACT(S):

Tim Mitchell, Director of Utilities	455-4252
Greg Poff, Assistant Director of Utilities	455-4249
Tammi Turner, Financial Professional III	455-4445

ATTACHMENT(S): Ordinance enacting the FY 2011 Water and Sewer rates
Attachment 1 - Rate Comparison Summary

REVIEWED BY: lkp

AN ORDINANCE TO AMEND AND REENACT SECTIONS 34-12.1, 34-70, 34-71, 39-54.1 and 39-54.1.2 OF THE CODE OF THE CITY OF LYNCHBURG, 1981, AS AMENDED, THESE SECTIONS RELATING TO WATER AND SEWER RATES.

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

1. That Sections 34-12.1, 34-70, 34-71, 39-54.1 and 39-54.1.2 of the Code of the City of Lynchburg, 1981, are hereby amended and reenacted as follows:

Sec. 34-12.1. Schedule of sewer rates.

(a) The monthly sewer rates for all consumers within the city shall be \$5.54 per h.c.f. of water used provided, however, that the rate of any party discharging industrial waste or processed water into the city system pursuant to an individual contract shall be as provided in such contract.

(b) The monthly sewer rate for customer accounts deemed "sewer only" (customers within the city without a water service connection) shall be \$42.47. This rate is derived as follows: (monthly volume charge of \$5.54 per h.c.f. x 7 h.c.f. + account charge of \$3.69).

(c) In addition to the sewer rates provided in this section, a high strength waste surcharge is established for all customers with discharges in excess of twenty-five thousand (25,000) gallons per day and having biological oxygen demand and/or suspended solids concentrations in excess of normal wastewater.

The surcharge shall be as follows:

(1) For BOD concentrations in excess of three hundred (300) milligrams per liter (MG/l), ~~eighteen twenty~~ forty-six thirty-one cents (~~\$18.46~~ \$20.31) per one hundred (100) pounds.

(2) For suspended solids concentrations in excess of four hundred (400) milligrams per liter (MG/l), twenty two dollars and ~~eighty-eight~~ ninety-seven cents (~~\$20.88~~ \$22.97) per one hundred (100) pounds.

(3) Truck hauled wastes disposal charges for residential and restaurant wastes as defined in Section 34-13 will be assessed at the following rates: one hundred ~~seventy-seven~~ eighty-five dollars and eighty five cents (~~\$177.00~~ \$185.85) up to a limit of two thousand five hundred (2,500) gallons of capacity and thirty-one dollars and fifty cents (~~\$30.00~~ \$31.50) for each five hundred (500) gallons of capacity over two thousand five hundred (2,500) gallons. Truck hauled wastes for special contract holders shall be charged in accordance to the terms of the contracting agreement.

(d) Annually, the director of financial services shall compute the average of each residential customer's level of monthly water consumption in hundred cubic feet (h.c.f.) for the most recent period beginning with the first billing in November and ending with the second billing in April. By multiplying this monthly average by 1.25, a seasonal consumption limit for sewer billing shall be derived for each residential account. This limit will apply during the period for the first billing in May through the second billing in October. This adjustment shall apply only to residential bills and shall not apply to any customers using water for the purpose of manufacturing or for commercial or multifamily dwellings.

Sec. 34-70. Monitoring charges.

The purpose of this charge is to defray the cost to the city for the testing of wastewater discharges from industrial users and customers with high strength wastes (surcharge) who have been issued industrial wastewater discharge permits. The charges will be set to ensure recovery of the projected fiscal year monitoring costs.

The charges will be set to ensure recovery of the projected fiscal year monitoring costs. The charges shall be as follows:

Seven (7) day wastewater sampling for surcharge	\$800.00	<u>\$880.00</u>
Three (3) day wastewater sampling for surcharge	420.00	<u>462.00</u>
One (1) day wastewater sampling for pretreatment and surcharge	250.00	<u>275.00</u>
Three (3) day wastewater sampling of metal finishing for pretreatment and surcharge	1,300.00	<u>1,430.00</u>
Four (4) day wastewater sampling of electroplating for pretreatment and surcharge	1,450.00	<u>1,595.00</u>
<u>Three (3) day wastewater sampling of pharmaceuticals for pretreatment and surcharge</u>		<u>2,035.00</u>
Three (3) day wastewater sampling of other categories for pretreatment and surcharge	750.00	<u>825.00</u>

Sec. 34-71. Wastewater discharge permit charges.

The purpose of this charge is to defray the cost to the city for the generation and maintenance of wastewater discharge permits. The charges are set to ensure recovery of the projected fiscal year administrative cost.

All users requiring discharge permits shall pay a fee of two hundred twenty dollars (~~\$200.00~~ \$220.00) per year of permit term.

Users requesting a modification of an existing discharge permit shall pay a charge of fifty dollars (\$50.00) for the cost of modification.

Sec. 39-54.1. Schedule of water rates.

The monthly water rates for all consumers within the city shall be ~~\$2.13~~ 2.22 per h.c.f. of water used.

There shall be, in addition to any other charge, a monthly account (meter) charge of three dollars and sixty nine cents (\$3.69) per meter.

Sec. 39-54.1.2. Fire flow capacity charge.

The purpose of this charge is to recover the water system costs associated with providing fire protection and suppression capability from those customers with connections to the water system installed for the purpose of supplying water to on-site hydrants, standpipes, sprinkler systems or combinations thereof. The annual charges shall be as follows:

Hydrant or 8" or small fire line	\$215.88	<u>\$237.48</u>
10" fire line	\$387.60	<u>\$426.36</u>
12" fire line	\$615.00	<u>\$676.56</u>

2. That this ordinance shall become effective July 1, 2010.

Adopted:

Certified: _____
Interim Clerk of Council

038L

Attachment 1 - Rate Comparison Summary

Current Proposed % Change

Water

Volume charge / hcf	\$2.13	\$2.22	4%
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Sewer

BOD charge / 100 lbs	\$18.46	\$20.31	10%
TSS charge / 100 lbs	\$20.88	\$22.97	10%
Septic hauler charge up to 2500 gal	\$177.00	\$185.85	5%
Septic hauler charge each 500 gal over 2500	\$30.00	\$31.50	5%
Industrial permit fee per year of permit term	\$200.00	\$220.00	10%

Fire Protection

Hydrants & 8" or smaller fire lines per year	\$215.88	\$237.48	10%
10" fire lines per year	\$387.60	\$426.36	10%
12" fire lines per year	\$615.00	\$676.56	10%

Industrial Monitoring Charges

7 day Wastewater sampling - per event	\$800.00	\$880.00	10%
3 day Wastewater sampling - per event	\$420.00	\$462.00	10%
1 day Wastewater sampling - per event - with pretreatment	\$250.00	\$275.00	10%
3 day Wastewater sampling of metal finishing - with pretreatment	\$1,300.00	\$1,430.00	10%
4 day Wastewater sampling of electroplating - with pretreatment	\$1,450.00	\$1,595.00	10%
3 day Wastewater sampling of pharmaceuticals - with pretreatment		\$2,035.00	
3 day Wastewater sampling of other categories - with pretreatment	\$750.00	\$825.00	10%

LYNCHBURG CITY COUNCIL

Agenda Item Summary

MEETING DATE: **April 13, 2010**

AGENDA ITEM NO.: 15

CONSENT: REGULAR: **X**

WORK SESSION:

CLOSED SESSION:
(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: **Habitat for Humanity: Request for Reimbursement of Availability Fees**

RECOMMENDATION: Hear a request by Habitat for Humanity for the City to reimburse the availability fees for water and sewer for 1613 Monsview Place

SUMMARY: Habitat for Humanity acquired a parcel at 1613 Monsview Place to build a single-family dwelling. According to City records, this parcel has never had a structure on it; therefore, availability fees are required. In other recent builds by Habitat for Humanity, availability fees were not required as structures previously existed on each parcel.

These fees were not taken into account and are affecting the finances of the build. Habitat for Humanity asked staff if the fees could be waived in early January and were informed that they would have to go before PDC at the next meeting in February. (PDC did not meet until March due to scheduling/weather conflicts.) Since Habitat for Humanity discovered that availability fees were required late in the project, they asked if the fees could be reimbursed if they proceeded to pay them. Staff informed them that they would still have to go before PDC. Habitat decided to pay the fees in mid January in order to get started on the build. They are asking to have the availability fees reimbursed for the water and sewer services.

As Council requested at their March 23rd meeting, a timeline has been prepared and is attached to this report.

Staff has researched past records and Habitat for Humanity availability fees have been waived at least 8 times since 1992. This is referenced in City Code Sec. 34-5.1 for Sewer and Sec. 39-27.2 for Water.

Reimbursing the fees would be considered a gift and requires 5 votes to approve the reimbursement.

Availability fees for the new house being constructed on the undeveloped property are:
\$1,220 for water and \$1,950 for sewer for a total of \$3,170.

One of Council's goals in the HUD Consolidated Plan for CDBG and HOME is to increase the number of owner occupied housing units; Habitat for Humanity contributes significantly to this goal.

PRIOR ACTION(S): March 23, 2010 – Council requested a timeline and deferred action.
March 9, 2010 – Physical Development Committee meeting. Brought forward with no recommendation.

FISCAL IMPACT: \$3,170 combined loss to the water and sewer funds (reimbursed to Habitat).

CONTACT(S): Lee Newland, City Engineer - 455-3947; Bonnie Svrcek, Acting Director of Community Development and Deputy City Manager 455-3900

ATTACHMENT(S): Letter from Habitat for Humanity; Copy of City Code; Resolution; Timeline of events

REVIEWED BY: lkp

RESOLUTION

BE IT RESOLVED that City Council approves the request of Habitat for Humanity to waive the charges for Water and Sewer availability fees for 1613 Monsview Place, and to reimburse the monies already paid for such fees.

Adopted:

Certified:

Interim Clerk of Council

039L

Habitat for Humanity Request for Waiver/Reimbursement of Availability Fee Timeline

Habitat applied for W&S service, realized availability fees applied	November 23, 2009
Staff from Habitat called and left message	December 15, 2009
City Engineer returned call & left message to return call	December 17, 2009
City Engineer called Council member Johnson, PDC Chairman and he cancelled Jan. 12 th PDC because of only one item proposed (VA Logos – no urgency)	January 5, 2010
Staff from Habitat called back & left message with City Engineer requesting availability fees be waived	January 6, 2010
City Engineer returned call and discussed options of going to February PDC for waiving availability fees	January 8, 2010
Staff from Habitat called back and asked if the City could reimburse the availability fees as they needed to start construction; the City Engineer, not realizing that reimbursement would be considered a gift, stated that it would still have to go to PDC for a recommendation	January 8, 2010
Habitat for Humanity made the decision to pay the availability fees	January 11, 2010
Staff called and asked if Habitat could wait until March as the February agenda was long - Habitat agreed	January 29, 2010
February PDC cancelled due to snow	February 8, 2010
March PDC held, Habitat on Agenda, no recommendation from PDC Committee	March 9, 2010
Council meeting, decision deferred due to request for timeline	March 23, 2010

SEWER

Sec. 34-5.1. Waiver of availability charges for connection to the city sewer system in certain situations.

City council, upon request, may waive the availability charges required by Section 34-4(c)(2)a, of the City Code under the following conditions:

- (a) Construction is for single-family homes only.
- (b) Construction is within a designated redevelopment or conservation area or rehabilitation district.
- (c) Construction is for:
 - (1) An individual who agrees to occupy the home for a minimum of ten (10) years as his/her principle residence. If the home is sold or rented within that time, the availability fees would become due and payable; or
 - (2) A nonprofit corporation for resale to low-income persons with requirements for owner occupancy in the deed. (Ord. No. O-85-224, § 1, 9-10-85)

WATER

Sec. 39-27.2. Waiver of availability charges for connection to the city water main in certain situations.

City council, upon request, may waive the availability charges required by Section 39-27(c)(2)a, of the city code under the following conditions:

- (a) Construction is for single-family homes only.
- (b) Construction is within a designated redevelopment or conservation area or rehabilitation district.
- (c) Construction is for:
 - (1) An individual who agrees to occupy the home for a minimum of ten (10) years as his/her principle residence. If the home is sold or rented within that time, the availability fees would become due and payable; or
 - (2) A nonprofit corporation for resale to low-income persons with requirements for owner occupancy in the deed. (Ord. No. O-85-224, § 1, 9-10-85)



360 Alleghany Avenue, Lynchburg, Virginia 24501 • Phone 434-528-3774 • Fax 434-528-3776

March 2, 2010

Lee Newland
City Engineer
City of Lynchburg/Engineering Division
900 Church Street
Lynchburg, VA 24504

Ref: 1613 Monsview Pl.

Dear Mr. Newland:

I respectfully request that the City reimburse the availability fees paid for 1613 Monsview Place by Greater Lynchburg Habitat for Humanity.

Thank you for your consideration.

Sincerely yours,

A handwritten signature in black ink that reads "Rick Edwards". The signature is stylized and fluid.

Rick Edwards
Development Coordinator
Greater Lynchburg Habitat for Humanity

LYNCHBURG CITY COUNCIL
Agenda Summary Item

MEETING DATE: April 13, 2010

AGENDA ITEM NO.: 16

CONSENT:

REGULAR: X

CLOSED SESSION:
(Confidential)

ACTION:

INFORMATION:

ITEM TITLE: Resolution Commending Members of Virginia General Assembly for Supporting Enactment of Virginia Code §38.2-3430.1:1; Commending Members of the United States Congress from Virginia who did Not Support the Patient Protection and Affordable Care Act (PPACA); and Denouncing the PPACA for its Long Term Negative Financial Impact on the City of Lynchburg, its Citizens and Businesses.

SUMMARY: The enactment of Virginia Code §38.2-3430.1:1 providing that no resident of the Commonwealth of Virginia shall be required to obtain or maintain a policy of individual insurance coverage except under very limited circumstances and that no resident of this Commonwealth shall be liable for any penalty, assessment, fee or fine as a result of this failure to procure or obtain health insurance coverage as well as the enactment and implementation of the Patient Protection and Affordable Care Act (PPACA) which will require a majority of Virginians to purchase health insurance, a mandate to purchase a certain product which is unprecedented, creates a conflict between federal and state laws. Virginia Attorney General, Kenneth T. Cuccinelli, II, has filed suit in the United States District Court for the Eastern District of Virginia requesting the Court declare the PPACA as unconstitutional, that Virginia Code §38.2-3430.1:1 is a valid exercise of state power and requesting an injunction against the enforcement of the PPACA. This issue between the conflict of federal and state laws will not be resolved in the federal courts for some time.

FISCAL IMPACT: Regulations and mandates under the PPACA will have an ongoing, long term, negative financial impact on the City, its citizens and businesses based partially on, but not limited to, the following:

1. The removal of lifetime limits on the value of essential benefits, the inability to rescind health care coverage in certain instances, the exclusion of pre-existing conditions, the removal of waiting periods and the inclusion of unmarried or married dependents up to the age of 26 will increase numbers of beneficiaries and will increase costs to group health plan providers who will pass these costs on to the employer who will have less resources to compensate, maintain and hire employees.
2. Employers with 50 or more employees that do not offer health coverage and that have at least one full-time employee who receives a premium tax credit will be assessed a fee of \$750 per full-time employee (30+ hours per week).
3. Employers may be subjected to a cost of \$2,000 per full time employee (excluding the first 30 employees) if they maintain waiting periods of more than 90 days before coverage is provided.
4. The requirement for "first-dollar" coverage on preventative care removes the patient co-payment, increasing costs to the insurer and subsequently to the employer.
5. Employers will now be taxed on subsidies received under Medicare Part D for maintaining retiree drug coverage for their Medicare eligible retirees.
6. Contributions to employee flexible spending accounts will be limited to \$2,500 per year and reimbursements for non-prescription drugs will no longer be allowed eliminating the current savings to employers on FICA for each dollar placed in flexible spending accounts.
7. Providers of employer sponsored health plans with aggregate values exceeding \$10,200 for individuals and \$27,500 for family coverage will have to pay a high-cost plan excise tax equal to 40% of the excess benefit.
8. Taxes on wages and net investment income of individuals with adjusted gross incomes of \$200,000 or married couples filing jointly of \$250,000 will be increased to cover Medicare (hospital insurance).
9. Employers will be required to report on Form W-2 the aggregate cost of health coverage received by an employee under the employer's health care plan (determined on a basis similar to COBRA).

10. Health insurance providers will see dramatic changes in how they can do business including limitations on policy restrictions and exclusions as well as on premiums as they relate to expenditures for medical services. The health insurance industry will be subject to an excise tax and Medicare Advantage payments to managed care organizations will be reduced.

RESOURCES:

Proskauer International Law Firm from their website:

www.proskauer.com/publications/client-alerts/health-care-reform-has-arrived/

Infinisource, America's Leading Employee Benefits Administration and Compliance Specialist, from their website:

<http://www.infinisource.net/Health-Care-Reform.aspx>

RESOLUTION

A RESOLUTION COMMENDING THE MEMBERS OF THE VIRGINIA GENERAL ASSEMBLY WHO SUPPORTED ENACTMENT OF VIRGINIA CODE §38.2-3430.1:1, COMMENDING MEMBERS OF THE UNITED STATES CONGRESS FROM VIRGINIA WHO DID NOT SUPPORT THE PATIENT PROTECTION AND AFFORDABLE CARE ACT (PPACA) AND DENOUNCING THE PPACA FOR THE LONG TERM, NEGATIVE FINANCIAL IMPACT IT WILL HAVE ON THE CITY OF LYNCHBURG, ITS CITIZENS AND BUSINESSES.

WHEREAS, the Virginia General Assembly, at its 2010 Regular Session, enacted Virginia Code §38.2-3430.1:1 with bipartisan support in both the House and the Senate and with the assent of the Governor providing that no resident of the Commonwealth of Virginia shall be required to obtain or maintain a policy of individual insurance coverage except under very limited circumstances and that no resident of this Commonwealth shall be liable for any penalty, assessment, fee or fine as a result of this failure to procure or obtain health insurance coverage. Members of the Virginia General Assembly who supported this legislation should be commended for their actions; and

WHEREAS, the enactment and implementation of the Patient Protection and Affordable Care Act (PPACA) will require a majority of Virginians to purchase health insurance, a mandate to purchase a certain product which is unprecedented. The PPACA injects government into the healthcare decisions of individuals and will interfere with medical treatment decisions better left between the individual and their health care provider. The PPACA will increase the numbers of beneficiaries required to be covered under group health care plans causing increased costs which will be passed on to employers who will have less resources with which to compensate, maintain and hire employees. Employers who meet or fail to meet certain criteria will be subjected to additional fees, costs and taxes which will diminish resources for growth and expansion in an already struggling economy. Individual citizens will be taxed on the value of the health care coverage they receive from their employers and will be limited in their abilities to shelter some of their health care costs under flexible spending accounts. With less money to spend, citizens will find it necessary to cut back on discretionary purchases causing employers more financial stress in this difficult economy and many will be unable to remain in business. The local economy will suffer and the tax base will be diminished affecting the City's ability to provide services to its citizens. Moreover, some of the most vulnerable citizens in the City will lose support and funding from cuts to Social Services, Medicaid and Medicare. The City will be required to make up the difference for these recipients, but without federal funds, will face increasing costs which it cannot meet. Because the PPACA will subject the City of Lynchburg, its citizens and businesses to mandatory regulations which will have ongoing, long term, negative financial impacts on the City, its citizens and businesses, members of the United States Congress from Virginia who did not support this legislation should be commended for their stance on this issue; and

WHEREAS, the Commonwealth of Virginia through its Attorney General, Kenneth T. Cuccinelli, II, has filed a Bill of Complaint in the United States District Court for the Eastern District of Virginia requesting the Court declare the PPACA as unconstitutional, that Virginia Code §38.2-3430.1:1 is a valid exercise of state power and requesting an injunction against the enforcement of the PPACA; and

WHEREAS, members of the Lynchburg City Council are required to uphold the Constitution and laws of the United States of America as well as the Constitution and laws of the Commonwealth of Virginia and are presented with a conflict between federal and state laws which will not likely be resolved for some time in the federal courts and it is the wish of the Lynchburg City Council to indicate its position regarding these issues.

NOW, THEREFORE, BE IT RESOLVED that members of the Virginia General Assembly supporting the enactment of Virginia code §38.2-3430.1:1 be and hereby are commended by Lynchburg City Council for their actions; that members of the United States Congress from Virginia withholding support of the Patient Protection and Affordable Care Act be and hereby are commended by Lynchburg City Council for their stance on that issue; and that Lynchburg City Council hereby denounces enactment of the Patient Protection and Affordable Care Act for the long term, negative financial impact it will have on the City of Lynchburg, its citizens and businesses.

Adopted:

Certified:

Interim Clerk of Council

041L