

// A special meeting of the Council of the City of Lynchburg, recessed from March 11, was held on the 18th day of March, 2008, at 1:00 P.M., Council Chamber, City Hall, Bert Dodson, Jr., Vice President, presiding.

The purpose of the meeting was to conduct a work session regarding the FY2009 Budget. The following Members were present:

Present: Dodson, Garrett, Helgeson, Johnson, Seiffert 5

Absent: Gillette, Foster 2

// Council Member Gillette joined the meeting at 1:07 p.m.

// Mayor Foster joined the meeting at 1:08 p.m.

// City Manager Kimball Payne and Deputy City Manager Bonnie Svrcek provided an overview regarding individual budgets within the following categories: General Government Administration, Judicial Administration, Public Safety, Public Works, Health and Welfare, Parks, Recreation and Cultural Services, and Community Development. Municipal staff was present to respond to questions regarding their individual budgets.

// During the budget discussion, Council Members raised several questions that required staff follow-up...

- Sheriff's Office: What are the duties of the two positions that are being considered by the State for reduction?
- Police: What is the cost of one officer and related equipment? How should the positions be grouped for efficiency?
- Law Library: Explain the revenues from Law Library fees on page 208 of the FY2009 Proposed Budget.
- Schools: Provide a comparison of the School's health plan to the City's health plan?
- Animal Warden: How many deer have been killed and how many permits were requested. Also, how many deer-related accidents have been reported?
- Public Works/Streets Division: Provide the Street Condition Index.

Deputy City Manager Svrcek stated that information requested would be provided to City Council at the next work session.

// School Board Chair Julia Doyle along with Schools Superintendent Paul McKendrick and Schools Chief Financial Officer Beverly Padgett provided information regarding the Schools FY2008-2009 Budget request. Ms. Doyle presented a power point presentation that included information regarding ...

- School Board priorities
- operating revenue
- operating expenditures
- employee compensation
- program initiatives
- accreditation status
- indicators of success

// Following the presentation and discussion regarding the Schools budget request, Council Members requested additional information from the Schools ...

- The number of middle school mathematics teachers.
- Information regarding enrollment projections.
- Retirement projections.
- Regular education costs per Student/Special Education Costs per Student
- List of prospective areas to cut if needed to balance the budget.
- Student achievement comparison with that of surrounding counties.
- Description of budget request of \$150,000 for Alternative Education.
- Summary of Fund Balance.
- Enrollment Projections.
- Health Insurance Summary.
- Health Care and Textbook Reserve Information/Account Balance.

Ms. Doyle explained that City Council would be provided the requested information.

// Alan Burchette and Darren Conner, Dewberry & Davis, Inc., along with School Board Chair Julia Doyle and Schools Superintendent Paul McKendrick presented an overview regarding information contained in a feasibility study regarding Heritage High School. Mr. Burchette provided a brief summary regarding three options for Heritage High School ...

- Option 1. Renovations and Additions – Total Project Costs \$61,580,127
- Option 2. Renovations and Major Additions – Total Project Costs \$69,754,425
- Option 3. New School – Total Project Costs \$81,226,040

Dr. McKendrick explained that the feasibility study was prepared to provide options and gather financial data to assist in the planning for the Heritage High School project. In response to Council questioning, Ms. Doyle explained that the School Board has not discussed the various options and questioned if City Council wanted the School Board to proceed with formalizing a recommendation for Heritage High School at this time. City Manager Kimball Payne reminded Council members that there are no funds currently in the Capital Improvements Program for Heritage High School. City Council briefly reviewed the options, and some Council Members expressed concern regarding the community's ability to pay for the increased debt service that would be required for this project, especially considering the new Sandusky Middle School and Juvenile and Domestic Relations Court now under construction. Council Members agreed that more information was needed from the Schools regarding the Heritage High School project including what would happen to the building if nothing is done. Ms. Doyle stated that City Council would be provided the information requested.

// City Manager Kimball Payne stated that requests have been received from the League of Women Voters and the Chamber of Commerce to broadcast City Council candidate forums on the City's Government Channel. Mr. Payne explained that in the past, the League of Women Voters has broadcast its forum on the now defunct Public Access Channel and that now both organizations have been told that

according to staff interpretation of the Government Access Policy, the candidate forums could not be broadcast on the Government Channel. Mr. Payne went on to say that other localities were contacted and that ten out of twelve do not allow broadcast of candidate forums. Mr. Payne explained that the two that do allow the forums have very specific policy guidelines that must be followed. Mr. Payne outlined several issues that City Council should consider regarding broadcasting candidate forums:

- What will be the parameters to guide which groups will be provided coverage for their candidate forums?
- Staff Time and Costs – Should sponsoring organization cover the costs? If so, will this limit the organizations that can use this service?
- Is there a concern that this would create a limited public forum that could create additional issues?
- Would coverage be extended to offsite venues or limited to Council Chambers?
- Are there similar groups and circumstances, apart from the election period, that might expect similar access to government channel programming?
- Who determines the content and scheduling of government channel programming?

Mr. Payne noted that should Council decide to allow candidate forums to be broadcast on the government access channel, the approximate costs involved in producing this type of programming if done off-site following minimum standards would be \$980.00, and if held in Council Chambers, \$500.00. Council Members Helgeson and Gillette stated that they would abstain if a vote were taken regarding this matter since they are running for re-election and would probably take part in the candidate forums. In response to questioning, City Attorney Walter Erwin explained that one of the reasons that so few localities allow these types of programs on the government channel is that the law is very clear in that you have to give everyone equal opportunities to broadcast their programs. Mr. Erwin went on to say that Council can establish very specific criteria that everyone would need to follow in order to have their programming broadcast on the government channel. At Council's request, a representative from the League of Women Voters and the Chamber of Commerce came forward to provide a brief summary regarding their candidate forums. Council Members discussed at length the pros and cons regarding the broadcasting of candidate forums on the City's government channel and determined that there was not enough time to thoroughly develop a policy before this year's candidate forums. Some Council Members indicated that development of criteria for broadcasting candidate forums on the City's government channel would be something that could be explored prior to the next City Council election in 2010.

// The meeting was recessed at 5:51 p.m. to March 25, at 1:00 p.m., to conduct a work session regarding the FY2009 Budget and several items.

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Clerk of Council

**LYNCHBURG CITY COUNCIL  
Agenda Item Summary**

|                                                                                                                                                               |              |                                   |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------|-----------------------------------|
| MEETING DATE: <b>April 8, 2008</b>                                                                                                                            |              | AGENDA ITEM NO.: 3                |
| CONSENT:                                                                                                                                                      | REGULAR: X   | CLOSED SESSION:<br>(Confidential) |
| ACTION: X                                                                                                                                                     | INFORMATION: |                                   |
| <b>ITEM TITLE: REZONING – B-3C, Community Business District (Conditional) to B-3C, Community Business District (Conditional) at 310 and 312 Border Street</b> |              |                                   |

**RECOMMENDATION:** Approval of the requested rezoning petition.

**SUMMARY:** The Lynchburg Regional Chamber of Commerce is petitioning to rezone two (2) tracts totaling one and nine-tenths (1.9) acres. The rezoning request would amend existing proffers for the properties to allow the renovation of an existing building and parking area for use as an office for the Lynchburg Regional Chamber of Commerce, or other future B-3, Community Business District uses. Planning Commission recommended approval of the petition because:

- The Lynchburg *Comprehensive Plan* recommends both Employment 2 and Community Commercial uses in this area. Adjacent zoning patterns for the area include a combination of industrial and business zones along Border Street, Candler's Mountain Road and the Lynchburg Expressway with both commercial and manufacturing buildings comprising the existing land uses. Given the adjacent land use patterns and zoning, the redevelopment of the existing commercial use is appropriate based on the Employment 2 allowance for "business service uses."
- Petition agrees with the *Zoning Ordinance* in that office uses are permitted in a B-3, Community Business District.

**PRIOR ACTION(S):**

February 27, 2008: Planning Division recommended approval of the rezoning petition.  
Planning Commission recommended approval (4-0-1, with 2 Absent Sale, Hannon) of the rezoning with the following voluntarily submitted proffers:

1. The existing proffers on the property will be eliminated.
2. The site shall be developed in substantial compliance with the rezoning plan.

**FISCAL IMPACT:** N/A

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

**ATTACHMENT(S):**

Ordinance  
PC Report  
PC Minutes  
Vicinity Zoning Pattern  
Vicinity Proposed Land Use  
Watershed Location Map  
Site Plan  
Rezoning Narrative and Feasibility Analysis  
Existing Proffers from January 15, 2002 Rezoning (to be removed from subject properties)  
Speaker Sign-Up Sheet

**REVIEWED BY:** lkp

## ORDINANCE

AN ORDINANCE CHANGING A CERTAIN AREA AT 310 AND 312 BORDER STREET FROM B-3C, COMMUNITY COMMERCIAL BUSINESS DISTRICT (CONDITIONAL) TO B-3C, COMMUNITY COMMERCIAL 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 35.1-76.\_\_\_\_ which section shall read as follows:

Section 35.1-76.\_\_\_\_. Change of a certain area at 310 and 312 Border Street from B-3C, Community Business District (Conditional) to B-3C, Community Business District (Conditional).

The area embraced within the following boundaries ...

Beginning in the southwestern corner of the intersection of the property, said corner lying in the right of way of Border Street, thence N 28°58'00" E 96.41', thence N 37°11'30" W 108.23', thence N 36°06'50" W 238.66', thence N 60°56'20" E 209.00', thence S 36°28'30" E 371.00', thence S 37°31'30" W 14.2', to a point at the end of the right of way on Border Street, thence N 51°25'30" W 16.10', thence S 38°34'30" W 94.83', thence along a curve having a delta of 44°32'06", radius of 246.996', arc length of 191.98', and chord of 187.19' to the point of beginning and containing approximately 1.904 acres.

... is hereby changed from B-3C, Community Business District (Conditional) to B-3C, Community Business District (Conditional) subject to the conditions set out hereinbelow which were voluntarily proffered by the owner, namely Wayne Booth, to wit:

1. The existing proffers on the property will be eliminated.
2. The site shall be developed in substantial compliance with the rezoning plan.

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

Adopted:

Certified:

\_\_\_\_\_  
Clerk of Council

046L

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

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**To:** Planning Commission  
**From:** Planning Division  
**Date:** February 27, 2008  
**Re:** **REZONING: B-3C, Community Business District (Conditional) to B-3C, Community Business District (Conditional) at 310 and 312 Border Street.**

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**I. PETITIONER**

Lynchburg Regional Chamber of Commerce, 2015 Memorial Avenue, Lynchburg, VA 24501  
**Representative:** Scott Beasley, Hurt & Proffitt, Inc., 2524 Langhorne Road, Lynchburg, VA 24501

**II. LOCATION**

The subject property includes two (2) tracts totaling approximately one and nine tenths (1.9) acres at 310 and 312 Border Street.

**Property Owner:** Wayne Booth, 21547 Timberlake Road, Lynchburg, VA 24502

**III. PURPOSE**

The purpose of this petition is to allow the renovation of one (1) existing building and parking area for use as an office for the Lynchburg Regional Chamber of Commerce, or other future B-3, Community Business District uses.

**IV. SUMMARY**

- The *Comprehensive Plan* recommends Employment 2 and Community Commercial uses in this area.
- Petition agrees with the *Zoning Ordinance* in that office uses are permitted in a B-3, Community Business District.

**The Planning Division recommends approval of the rezoning petition.**

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**V. FINDINGS OF FACT**

2. **Comprehensive Plan.** The Lynchburg *Comprehensive Plan* recommends both Employment 2 and Community Commercial uses in this area. Employment 2 uses include light and heavy manufacturing, research and development, flex space and large scale office uses. Restaurant, hotel and business service uses are also appropriate, if sized and designed to serve the employment area. **(pg. 5.4)** Community Commercial uses are characterized by retail personal service, entertainment and restaurant uses that draw customers from at least several neighborhoods up to the entire City, ranging from one-hundred thousand (100,000) to two-hundred thousand (200,000) square feet and serving forty thousand (40,000) to seventy thousand (70,000) people. **(pg. 5.5)**  
  
Adjacent zoning patterns for the area include a combination of industrial and business zones along Border Street, Candler's Mountain Road and the Lynchburg Expressway. Existing land uses include a mix of both commercial and manufacturing buildings. Given the adjacent land use patterns and zoning, the redevelopment of the existing commercial use is appropriate based on the Employment 2 allowance for "business service uses."
3. **Zoning.** The subject property was annexed into the City in 1958. The existing B-3C, Community Business District (Conditional) was established on January 15, 2002 with the approval of the rezoning ordinance by City Council.
4. **Proffers.** The petitioner voluntarily submitted the following proffers with the rezoning application:

1. The existing proffers on the property will be eliminated.
2. The site shall be developed in substantial compliance with the rezoning plan.
5. **Board of Zoning Appeals (BZA).** The Zoning Official has determined that no variances will be needed for the development of the property as proposed.
6. **Surrounding Area.** There have been several items requiring City Council approval in the immediate area:
  - On November 13, 2007, City Council approved Robert Hartless's petition to rezone twenty-four hundredths (0.24) of an acre at 2415 Wards Road from B-3C, Community Business District (Conditional) to B-5C, General Business District (Conditional) to allow the use of an existing building as a rental car office with parking and vehicle storage for up to six (6) automobiles.
  - On January 15, 2002, City Council approved Carl and Evan Sanders's petition to rezone one and nine tenths (1.9) acres at 310 and 312 Border Street from I-2, Light Industrial District (Conditional) to B-3C, Community Business District (Conditional) to allow the operation of an ice-cream parlor/restaurant in an existing building.
  - On July 19, 2002, City Council approved John Watts's conditional use permit petition to allow the construction and operation of a car wash at 2209 Wards Road.
  - On June 13, 1995, City Council approved Central Virginia Federal Credit Union's petition to rezone three and three tenths (3.3) acres at 4640 Murray Place from I-3, Heavy Industrial District to B-5C, General Business District (Conditional) to allow the construction of a credit union and associated parking, as well as other selected office and commercial uses.
  - On November 11, 1986, City Council approved Autolease Inc.'s conditional use permit petition to allow the use of an existing building and parking area as an automobile leasing agency.
  - On July 13, 1982, City Council approved Video Voyage Inc.'s conditional use permit petition to allow a game room at 2110 Wards Road.
7. **Site Description.** The subject property includes a vacant commercial building (formally a restaurant) and parking area on two (2) lots. The properties are bound to the north by vacant industrial land, an industrial manufacturing facility, Norfolk and Southern Railroad and a cemetery, to the east by the Lynchburg Expressway, as well as a combination of industrial and commercial uses, and to the south and west by the Lynchburg Expressway and commercial buildings.
8. **Proposed Use of Property.** The petitioner proposes to renovate the existing building and parking area for use as an office for the Lynchburg Regional Chamber of Commerce, with the option of other future commercial uses. The petitioner proposes to eliminate the existing proffers on the site which require the use of the building as a restaurant and prohibit drive-in window facilities. The Chamber proposes to modify the exterior façade for a professional office and allow the provision for future redevelopment under the provisions of the B-3, Community Business District. The site is served by City water and sewer and all utilities will be located underground. Since the site is a re-development, no landscaping would be required for the project; however, the petitioner has incorporated parking area landscaping, parking area screening, street trees, utility area screening and foundation plantings into the conceptual design.
9. **Traffic, Parking and Public Transit.** The City's Transportation Engineer had no comments regarding the proposed Chamber of Commerce office.

Parking requirements for the proposed development are set by the City's *Zoning Ordinance* for office uses at one (1) space per three hundred (300) square feet of gross floor area (exclusive of utility area). The proposed fourteen thousand four hundred (14,400) square feet of office would require forty-eight (48) parking spaces. The concept plan provides for eighty-eight (88) parking spaces, which exceeds the requirements of the City Code.

Public transit is not currently accessible in this area. The closest service is Greater Lynchburg Transit Company's Route 4D at the intersection of Candler's Mountain Road and Fort Avenue, approximately one half (0.5) mile from the site.

10. **Stormwater Management.** New impervious areas for the renovation do not exceed the one thousand (1,000) square foot threshold and the proposed redevelopment would result in a net reduction in the existing impervious area; as such, a stormwater management plan is not required for the construction. If approved, the project would not change existing drainage patterns which currently directs all stormwater to a receiving channel on the east side of the property. Preliminary engineering analysis shows the natural drainage way is an adequate receiving channel.

Preliminary analysis also indicates that water quality will likely not be required due to a reduction in impervious area. Though not required, the proposed parking area landscaping, parking area screening, street trees and foundation plantings will provide new low maintenance greenspace which will result in less runoff and an improved stormwater quality benefit from the site.

11. **Emergency Services.** The City's Fire Marshal had no comments regarding the proposed redevelopment project.

The City Police Department's recommendations concerned adequate lighting, as well as the location and fencing of the proposed dumpster. The dumpster is shown at the rear of the site as recommended by the Police Department; the type of fencing and lighting will be addressed during the final site plan review.

12. **Impact.** The proposed redevelopment would allow for the renovation of an existing vacant building and parking area. Traffic, parking, stormwater management and emergency services concerns have all been addressed to the satisfaction of City staff, and the result is a project that would provide an easily accessible, centrally located site for the Regional Chamber of Commerce.

13. **Technical Review Committee.** The Technical Review Committee (TRC) reviewed the preliminary site plan on February 5, 2008. 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.

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## VI. PLANNING DIVISION RECOMMENDATION

**Based on the preceding Findings of Fact, the Planning Commission recommends to City Council approval of Lynchburg Regional Chamber of Commerce's petition to rezone one and nine tenths (1.9) acres located at 310 and 312 Border Street from B-3C, Community Business District (Conditional) and to B-3C, Community 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  
Mr. Walter C. Erwin, City Attorney  
Ms. Charlene B. Montford, Director of Community Development  
Mr. J. Lee Newland, City Engineer  
Ms. Cynthia L. Kozarow, Lynchburg Police Department



Battalion Chief Greg Wormser, Fire Marshal  
Mr. Gerry L. Harter, Traffic Engineer  
Mr. Robert Drane, Building Commissioner  
Mr. Keith Wright, Zoning Official  
Mr. Robert S. Fowler, Zoning Administrator  
Mr. Kent L. White, Senior Planner  
Mrs. Erin B. Hawkins, Environmental Planner  
Mr. Scott Beasley, Hurt & Proffitt, Inc., Representative,  
Mr. Rex Hammond, Lynchburg Regional Chamber of Commerce, Applicant

## **VII. ATTACHMENTS**

- 1. Vicinity Zoning Pattern**
- 2. Vicinity Proposed Land Use**
- 3. Watershed Location Map**
- 4. Site Plan**
- 5. Rezoning Narrative and Feasibility Analysis**
- 6. Proposed Proffers**
- 7. Existing Proffers from January 15, 2002 Rezoning (to be removed from property)**

**MINUTES FROM THE FEBRUARY 27, 2008 PLANNING COMMISSION MEETING (MINUTES HAVE BEEN APPROVED):**

**a. Petition of the Lynchburg Regional Chamber of Commerce to rezone approximately 1.9 acres from B-3C, Community Business District (conditional) to B-3C, Community Business District (conditional) at 310 and 312 Border Street to amend previously approved proffers and allow the use of an existing building, as well as two future additions, for B-3 uses.**

Mr. Martin addressed the commissioners with the following comments. This property was rezoned on January 15, 2002. The proffers associated with the rezoning limit the use of the existing building to a restaurant. The petitioner would like to utilize this building for the Chamber offices. The *Future Land Use Map* recommends a commercial and Employment 2 uses. There will be additional landscaping and façade improvements to the existing building. The Planning Division recommends approval of the rezoning request.

Mr. Gary Case of Gary Case & Company came forward to represent the petitioner. The subject property faces the Lynchburg expressway and was formerly a pizzeria and most recently an ice cream parlor. The current building is 9,800 square feet. The Chamber has been at its current location since 1964 and the present facility has outgrown its useful life. They need more office space and are not able to expand because they are landlocked. Parking is also inadequate. This site has been identified as the top priority after many surveys done over the last two years.

The Chamber members feel that a vibrant, progressive organization must have an appropriate and attractive facility to present a positive image to the community and visitors. More space will also allow the expansion of services. The Chamber has contracted to purchase this property contingent on approval of this rezoning petition and securing the funds necessary for the acquisition of the property and proposed renovations. This location will also be a convenient location for visitors. It is accessible from 29, 460 and 501, and has many hotels surrounding it. The expansion calls for an additional 4,400 square feet to be added to the present building and the plan allows for 88 parking spaces.

Mr. Gary Case commented that the Chamber is very excited about this project and respectfully requests that the Planning Commission recommend the rezoning petition to City Council. He mentioned that Mr. Rex Hammond, the CEO of the Chamber and Mr. Scott Beasley with Hurt and Proffitt were both available to answer any questions.

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

Commissioner Barnes commented that he could see that a lot of thought has gone into selecting this location and he agrees that this is a good location.

Chair Hamilton commented that she is glad that they have chosen to redevelop rather than building a new facility. She likes the design and feels that it fits in with the surrounding community. Commissioner Worthington agreed with those comments.

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

**“That the Planning Commission recommends to City Council approval of Lynchburg Regional Chamber of Commerce’s petition to rezone one and nine tenths (1.9) acres located at 310 and 312 Border Street from B-3C, Community Business District (Conditional) and to B-3C, Community Business District (Conditional) with the voluntarily submitted proffers.”**

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

310, 312 Border Street  
Map # 116-04-001, 016  
Rezoning from B-3C to B-3C  
Petitioner: Lynchburg Regional Chamber of Commerce

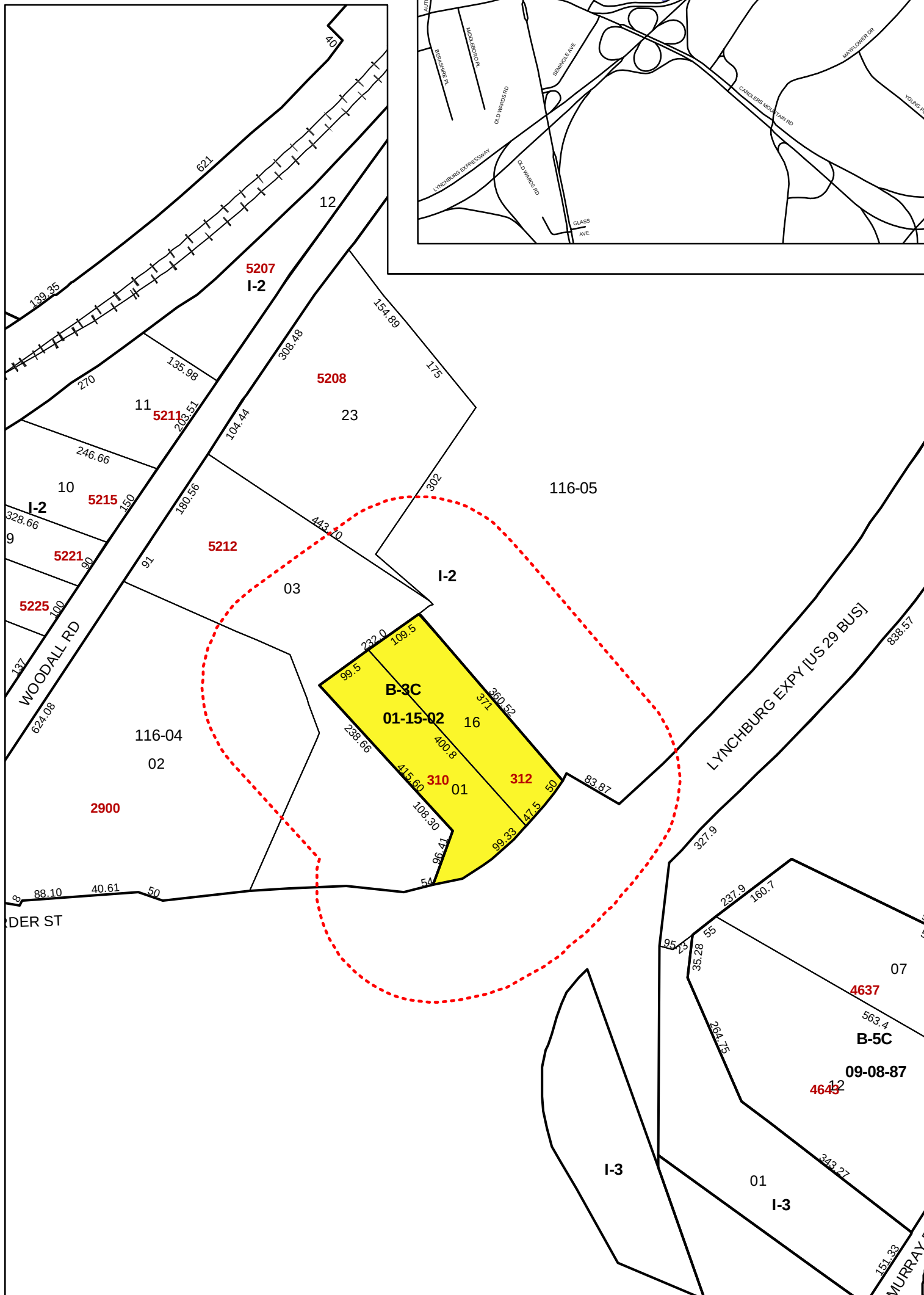
MAP PREPARED BY  
THE DEPARTMENT OF COMMUNITY DEVELOPMENT



 Subject Property

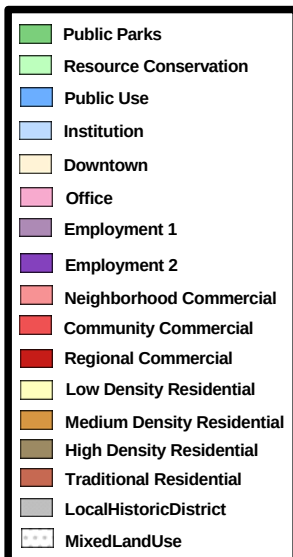
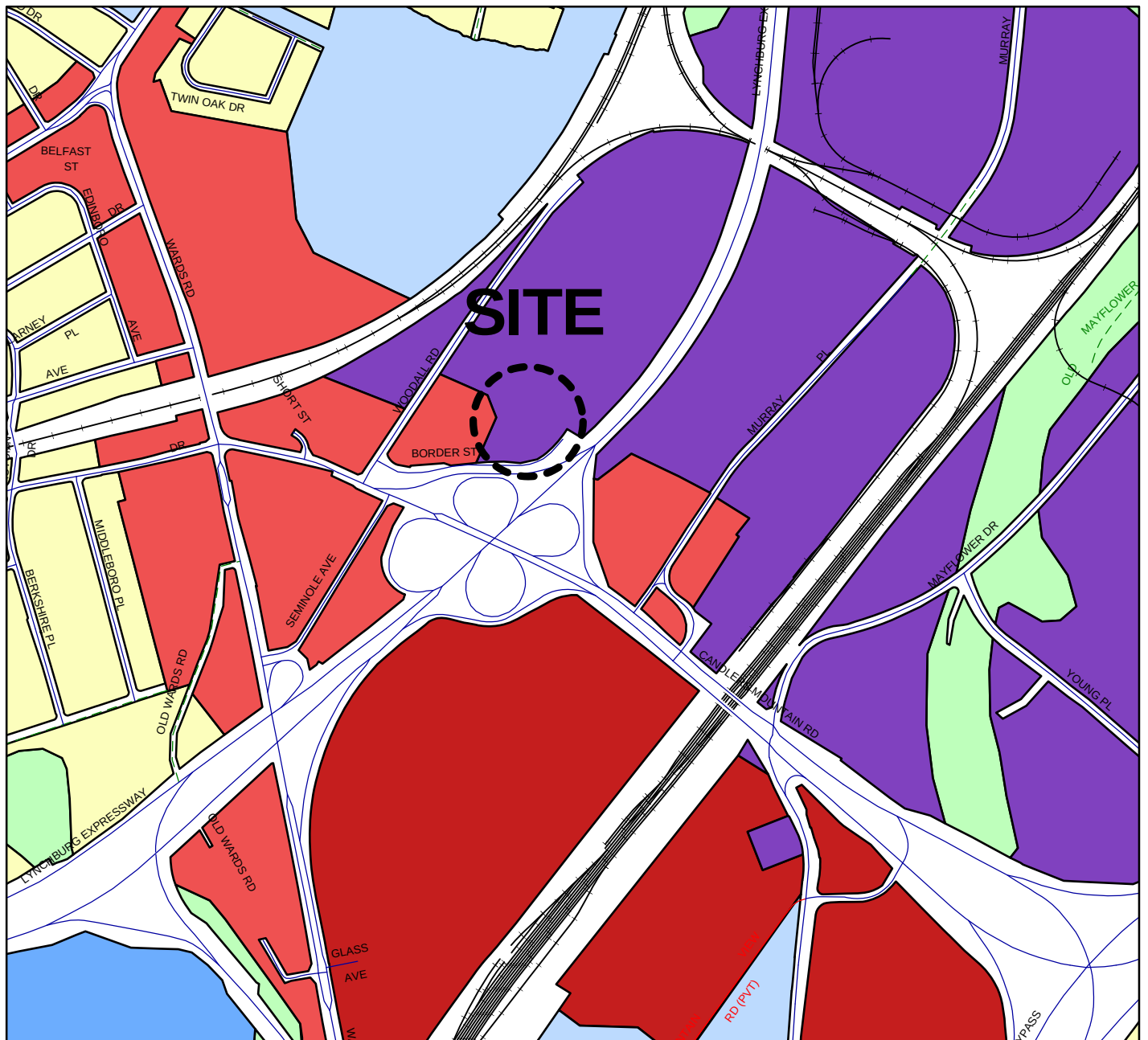


200 ft Radius

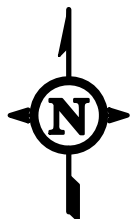


CHAMBER OF COMMERCE ADJOINING OWNERS

| PIN            | OWNER                                         | LOCADDR                   |
|----------------|-----------------------------------------------|---------------------------|
| 11604001       | BOOTH WAYNE B                                 | 310 BORDER ST             |
| 11604002       | GDG LYNCHBURG HOTEL LLC                       | 2900 CANDLERS MOUNTAIN RD |
| 11604003       | GDG LYNCHBURG HOTEL LLC                       | 5212 WOODALL RD           |
| 11604016       | BOOTH WAYNE B                                 | 312 BORDER ST             |
| 11604023       | LT ACQUISITION COMPANY INC                    | 5208 WOODALL RD           |
| 11605001       | LT ACQUISITION COMPANY INC                    | 5114 WOODALL RD           |
| Owner          | BOOTH WAYNE B                                 |                           |
| Petitioner     | REX HAMMOND/LYBG REGIONAL CHAMBER OF COMMERCE |                           |
| Representative | SCOTT BEASLEY/HURT & PROFFITT                 |                           |



# **LYNCHBURG REGIONAL CHAMBER OF COMMERCE 310, 312 BORDER STREET LAND USE PLAN**

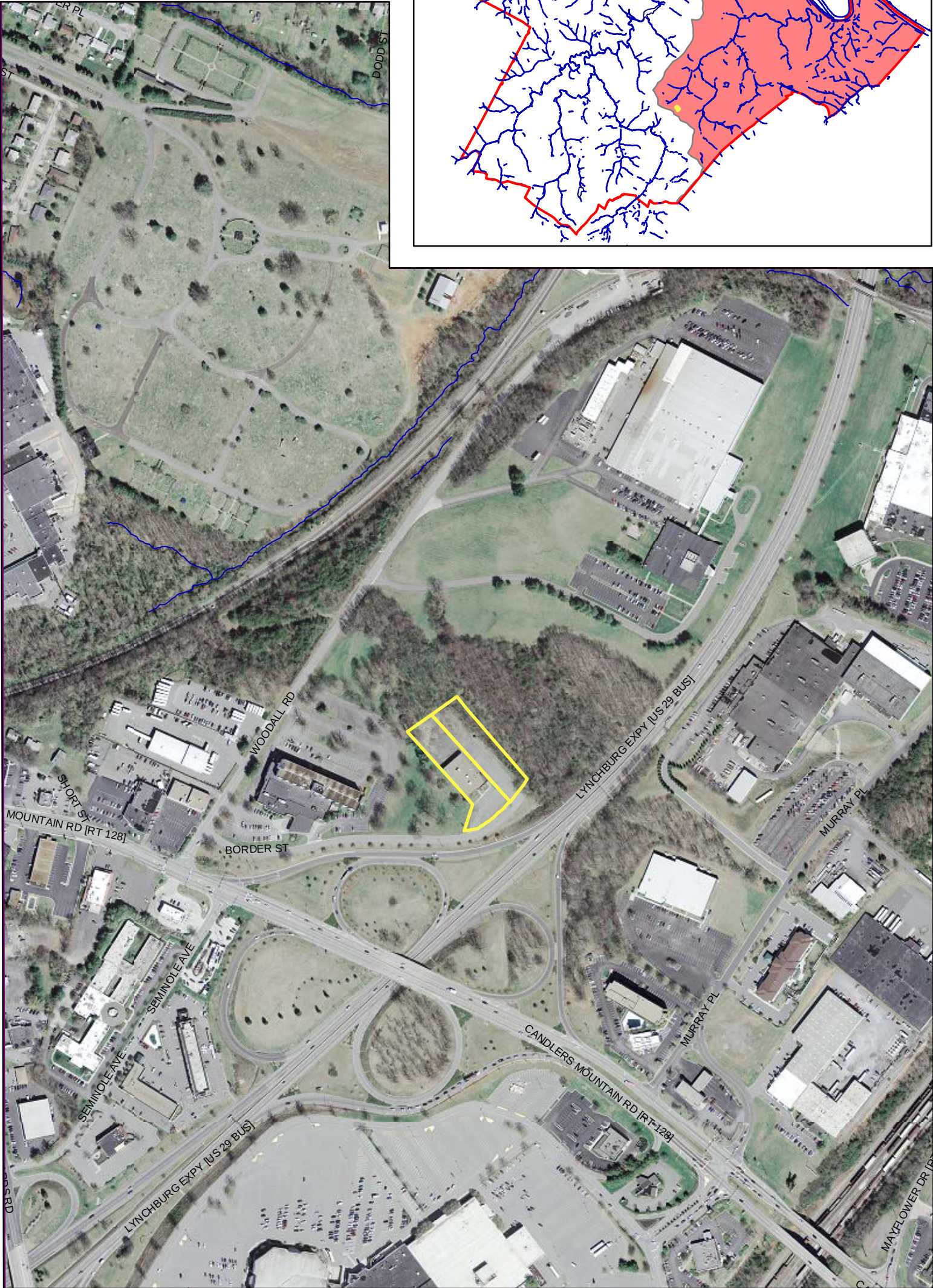
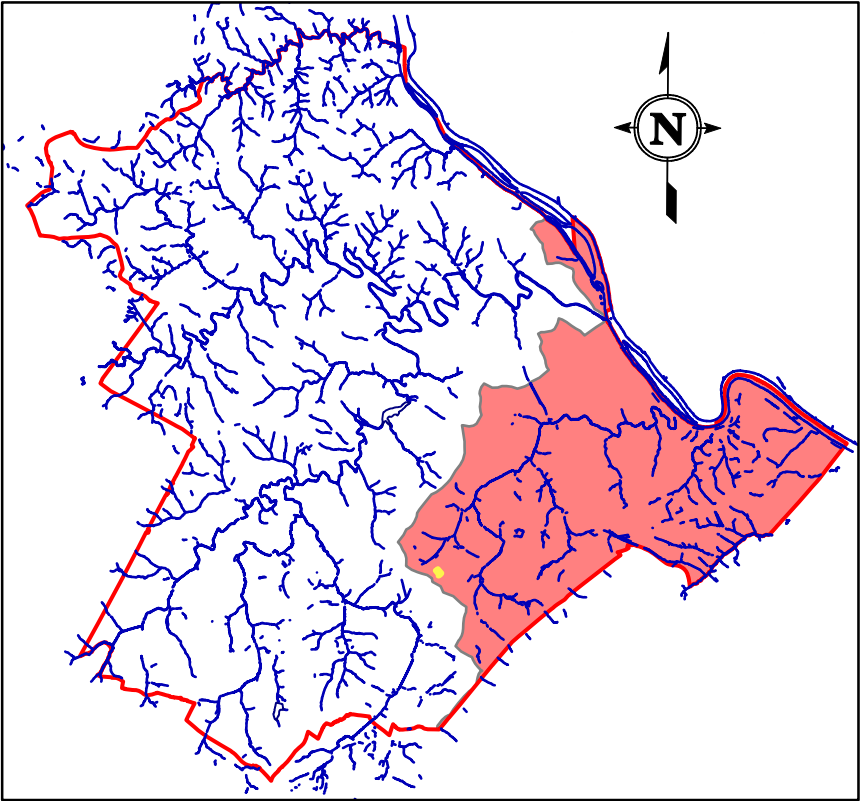




Lynchburg Chamber of Commerce  
Watershed Location Map

Legend

-  Project Site
-  Corporate Limit
-  Fishing Creek Watershed







## Hurt & Proffitt, Inc.

Engineering • Surveying • Environmental  
Materials Testing • Geotechnical  
Site Planning

2524 Langhorne Road • Lynchburg, VA 24501  
(434) 847-7796 • FAX (434) 847-0047

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FEB 15 2008

COMMUNITY  
DEVELOPMENT

### REZONING NARRATIVE

Lynchburg Regional Chamber of Commerce  
2015 Memorial Avenue  
Lynchburg, Virginia

CITY PROJECT #REZ0801-0001

HURT & PROFFITT PROJECT #20080001 – Task 001

### **PROJECT DESCRIPTION**

The Rezoning Plan for the Lynchburg Regional Chamber of Commerce building shows the layout and landscaping for the proposed office building. The site does not fall within either the Commercial Corridor Overlay District (CCOD) or the Scenic Corridor Overlay District (SCOD).

### **BUILDING MATERIALS**

The applicant plans to renovate the existing structure similar to the attached rendering, using materials such as metal, glass, and brick. Colors will be similar to the attached rendering.

### **STORM WATER MANAGEMENT**

Topographically, the site slopes from its highest point at about the midpoint of the long dimension of the existing building to the north and south. On the north, runoff flows across the parking lot toward a drainage channel in the northeast corner of the site. On the south, runoff flows to a flume in the corner of a parking space, then eastward to the same drainage channel. The drainage channel is located on the neighboring property.

There will be a net reduction in the impervious surface on the site due to the elimination of the row of parking against the existing building. This area will be replaced with landscaping consisting of shrubs and trees. No major grading changes are planned, but the site will probably be repaved due to the condition of the paving behind the building. Existing drainage patterns will remain the same. The existing curb line on the east side of the site is in good condition and will remain in the rezoning plan. It is likely that detention won't be required on the property due to a decrease in the runoff coefficient in the post-developed condition.

## ADEQUATE CHANNEL

The ultimate receiving channel is the natural drainage way to which all of the stormwater from the site flows. This drainage way is located on the east side of the property. Drainage from the parking area flows through flumes into this natural channel. If necessary, rip rap outlet protection can be added to mitigate any adverse velocities. Preliminary engineering analysis shows the natural drainage way is an adequate receiving channel. In addition, because the impervious area is reduced, there will be a net reduction in the runoff.

## WATER QUALITY

Preliminary analysis indicates that water quality may not be required due to the reduction in impervious area. If it is, however, the pollutant removal requirement will be very small, requiring, at the most, a water quality measure such as a grassed swale. The site plan will provide specifics as to each water quality measure.

## PARKING

The project must meet the current City of Lynchburg parking requirements. The City of Lynchburg's ordinance requires one (1) parking space for each 300 square feet of gross floor area. Proposed parking spaces for the Chamber of Commerce office building are shown on the plan along with parking calculations.

The parking as shown on the rezoning plan is as follows:

### Office:

#### Required:

|                 |                                       |
|-----------------|---------------------------------------|
| Existing Office | 9,600 SF x 1 space/300 SF = 32 spaces |
| Front Addition  | 2,400 SF x 1 space/300 SF = 8 spaces  |
| Rear Addition   | 2,400 SF x 1 space/300 SF = 8 spaces  |
| Total           | 48 spaces                             |

#### Provided:

88 spaces

## LANDSCAPING/OTHER

The clearing and grading limits are shown on the rezoning plan. Landscape plantings will be as provided on the attached rezoning plan. All landscape ordinance requirements will be met. The area behind the long curb line on the east side of the site will be cleared of existing vegetation and replanted with shade type trees. Shade trees will also line the left side of the drive aisle leading to the back parking area. Foundation plantings will be provided. The front of the property will also be landscaped nicely so as not to block the limited view of the building from the expressway.

Trash removal will be via the dumpster located behind the building.

Exterior lighting shall be controlled so that no direct illumination will occur beyond any property line. A note is provided on the attached plan.



# Lynchburg Regional Chamber of Commerce



## Community Evaluation and Feasibility

January 2008





# Lynchburg Regional Chamber of Commerce

## BACKGROUND

Since 1883, the Lynchburg Regional Chamber of Commerce has taken the lead to enhance the business climate and quality of life for our region. Over the years, the Chamber, along with local innovative minds has initiated and implemented programs and services that have made significant advances to our region's economy.

In 1964, the Chamber moved to its current location of Langhorne Road and Memorial Avenue and doubled its size with an addition to its building in 1979. We are again at a point where the Chamber must move in order to continue our positive impact on the community. A building task force, comprised of real estate, architectural and construction professionals has taken the past two years to research whether this move was necessary and possible. The task force came to the conclusion that a move was the only option for the following reasons:

1. More space for day-to-day operations is needed.
  - renovation of the current facility is not possible due to being landlocked; and
  - parking is no longer adequate
2. Our current facility has outlived its useful life.
  - Even if the land was available to renovate, projections indicate that the cost to renovate would be near as much as creating a brand new, state of the art facility.
3. Chamber leaders and our members feel that this building is no longer an appropriate or attractive front door to the community and region.

The results of 2,000 member and associate members surveyed over the last two of years identified the number one Chamber priority to be addressed was the Chamber's image by means of a new facility. In 2007, the Chamber's Board of directors approved a timeline for a community evaluation, capital campaign and construction of a new facility to be available by 2011. In addition, regional economic development organizations are considering co-locating with us in our new facility. The Chamber is developing a proposal to locate a visitor center at this location.

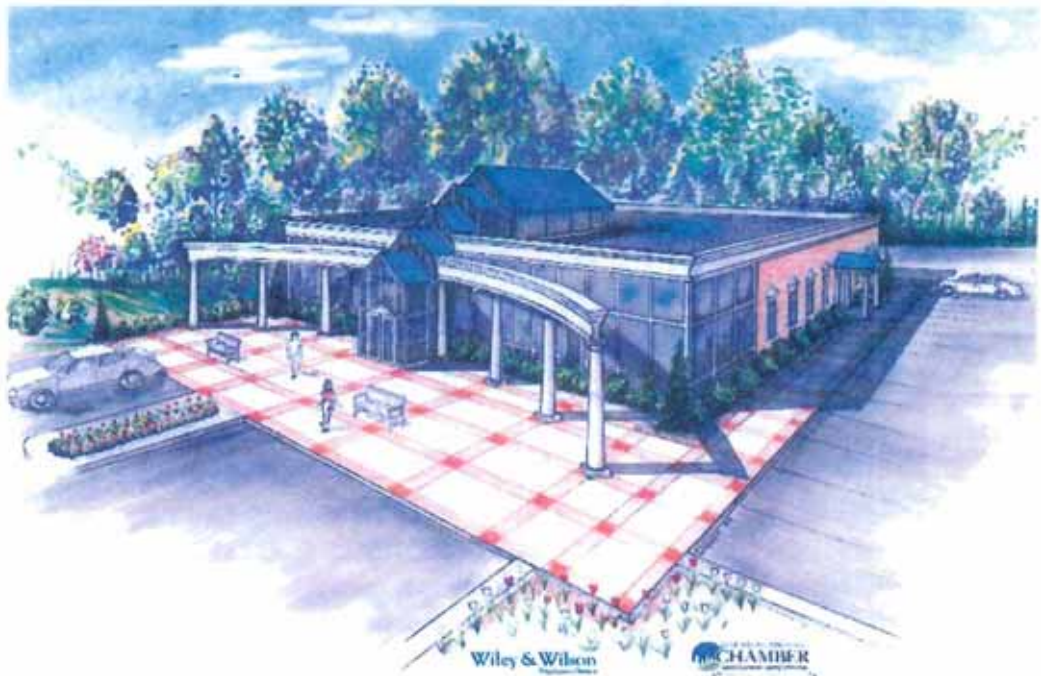


As the Lynchburg Regional Chamber of Commerce prepares to celebrate its 125th Anniversary, what follows is the proposed location, overall use, schematic, and estimated cost of a new Lynchburg Regional Chamber of Commerce facility.

## PROPOSED CHAMBER FACILITY

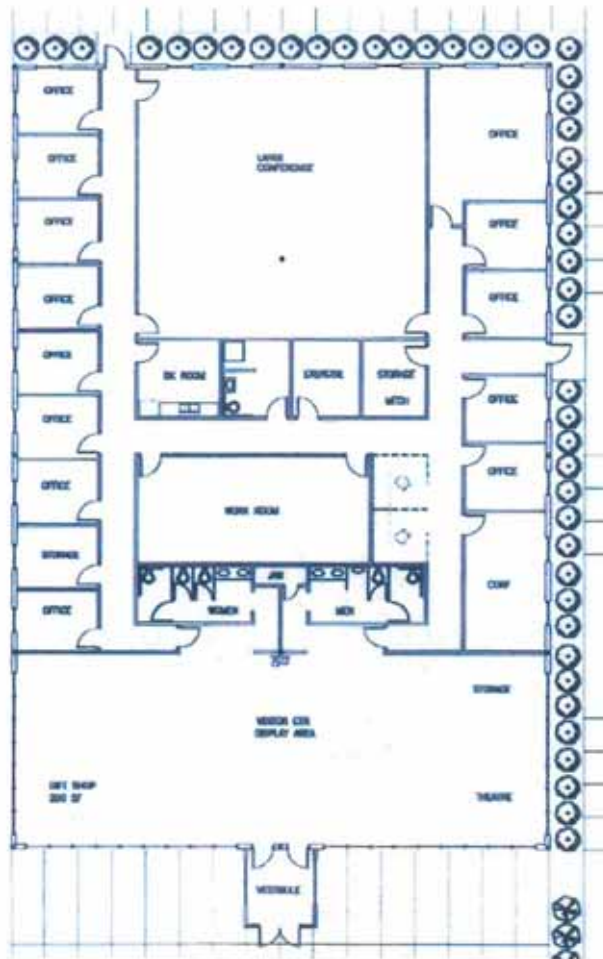
### Location Description

Poised at the US29 and US501 intersection (minutes from US460), the Chamber proposes to purchase the property and facility recently occupied by Billy Joe's Ice Cream Parlor. The 10,000 square foot building sits on two acres. Served by the Border Street off of Candler's Mountain Road, the property is located between the Kirkley Hotel and FlowServe Corporation. A distinctive and attractive façade will make the property visible and easily recognizable to travelers along US29.





## BUILDING USE



## BUILDING COST

The overall cost of purchase and renovation of this new facility for the Lynchburg Regional Chamber of Commerce is \$3.0 million.

# Lynchburg Regional Chamber of Commerce

## 2008 Board of Directors

**Doyle B. Allen**, Hurt & Proffitt, Inc.  
**Heather Allen**, SunTrust Bank  
**Rick Benedict**, Nationwide Insurance  
**Kenneth Burger**, The Summit  
**Wilton Burgess**, Quik-E Food Stores  
**Robert R. Chapman, III**, Bank of the James  
**Betty J. Davidson**, Estate Specialists, Inc.  
**Christian H. DePaul**, Ameriprise Financial  
**Jerry Falwell, Jr.**, Liberty University  
**Edmund E. Garcia**, Gateway Bank & Trust  
**John R. Gilbert, Sr.**, Seven Hills Office Machines  
**Rex K. Hammond**, CCE, Lynchburg Regional Chamber of Commerce  
**Tom Hickey**, American National Bank and Trust Company  
**James E. Hicks**, AREVA NP Inc.  
**Jessie Hubbard**, K and J Limousine Service, Inc.  
**Terry H. Jamerson**, The News & Advance  
**John Keith**, J. Crew  
**Ronald G. Kidd, Jr.**, Southern Air, Inc.  
**R. David Laurell**, Campbell County  
**Robert A. Leveque**, R. R. Donnelley  
**Chris Mabry**, Mabry Auto Group  
**Robert Mason**, BB&T  
**Paul McKendrick**, Lynchburg City Schools  
**Pat Merryman**, Sonny Merryman, Inc.  
**Sharon Oglesby**, Oglesby Management Group, Inc.  
**L. Kimball Payne, III**, City of Lynchburg  
**Tracy E. Sendrick**, The Babcock & Wilcox Co.  
**Darrel W. Staat**, Central Virginia Community College  
**Michael Syrek**, SunTrust Bank  
**Cindy Thomas**, First Citizens Bank  
**William H. Varner**, CENTRA  
**William M. Walker**, John Stewart Walker, Inc.  
**Jenny Woollett**, Associated Business Technologies, Inc.

## Building Committee

**Doyle B. Allen**, Hurt & Proffitt, Inc.  
**Gary W. Case**, Gary W. Case & Co., Inc.  
**Gary Christie**, Region 2000 Local Government Council  
**Lee Cobb**, Region 2000 Economic Development Council  
**John D. Doyle**, The Pettyjohn Company  
**Edmund E. Garcia**, Gateway Bank & Trust  
**Kenneth Garren**, Lynchburg College  
**Rex K. Hammond**, CCE, Lynchburg Regional Chamber of Commerce  
**Danny A. Inge**, Region 2000 Workforce Investment Board  
**Ronald G. Kidd**, Southern Air, Inc.  
**R. David Laurell**, Campbell County  
**L. Kimball Payne**, City of Lynchburg  
**Darrel W. Staat**, Central Virginia Community College  
**William H. Varner**, CENTRA

AN ORDINANCE CHANGING A CERTAIN AREA FROM I-2, LIGHT INDUSTRIAL DISTRICT TO B-3 (CONDITIONAL), COMMUNITY BUSINESS DISTRICT.

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

Section 35.1-76.\_\_\_\_. Change of a certain area from I-2, Light Industrial District to B-3 (Conditional), Community Business District.

The area embraced within the following boundaries . . .

Beginning at a point in said northerly line of Border Street, corner to the property that was formerly the site of the "Hilton Hotel" (currently the "Radisson Hotel") on said plat and running thence N 28° 58' 00" E 96.41 feet to point; thence N 37° 11' 50" W 108.23 feet to a point; thence N 36° 06' 50" W 238.66 feet to a point; thence N 60° 56' 20" E 209 feet to a point adjoining the property designed "Outlet" on said plat; thence along the boundary line between said property and said "Outlet", S 36° 28' 30" E 371.00 feet to a point; thence S 37° 31' 30" W 14.2 feet to a point; thence along said northwesterly line of Border Street as shown on said plat, S 38° 34' 30" W 94.83 feet to a point; thence on a curve to the right, the radius of which is 246.996 feet a distance of 191.98 feet to the point of beginning.

. . . is hereby changed from I-2, Light Industrial District to B-3 (Conditional), Community Business District, subject to the conditions setout herein below which were voluntarily proffered in writing by the owner, namely: Wayne B. Booth, to wit:

1. The property will be used as a site for a restaurant completely enclosed within a building.
2. The building will not have drive-in window facilities.

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

Adopted: January 15, 2002

Certified: Patricia W. Kost  
Clerk of Council

008L

cc: Carl and Ellen Sanders w/form  
~~B. McDonald~~  
G. Daniels

RECEIVED  
FEB 08 2002  
COMMUNITY PLANNING  
& DEVELOPMENT



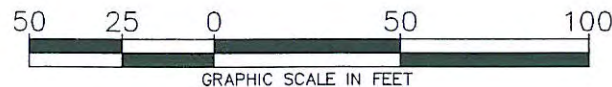
## February 27, 2008

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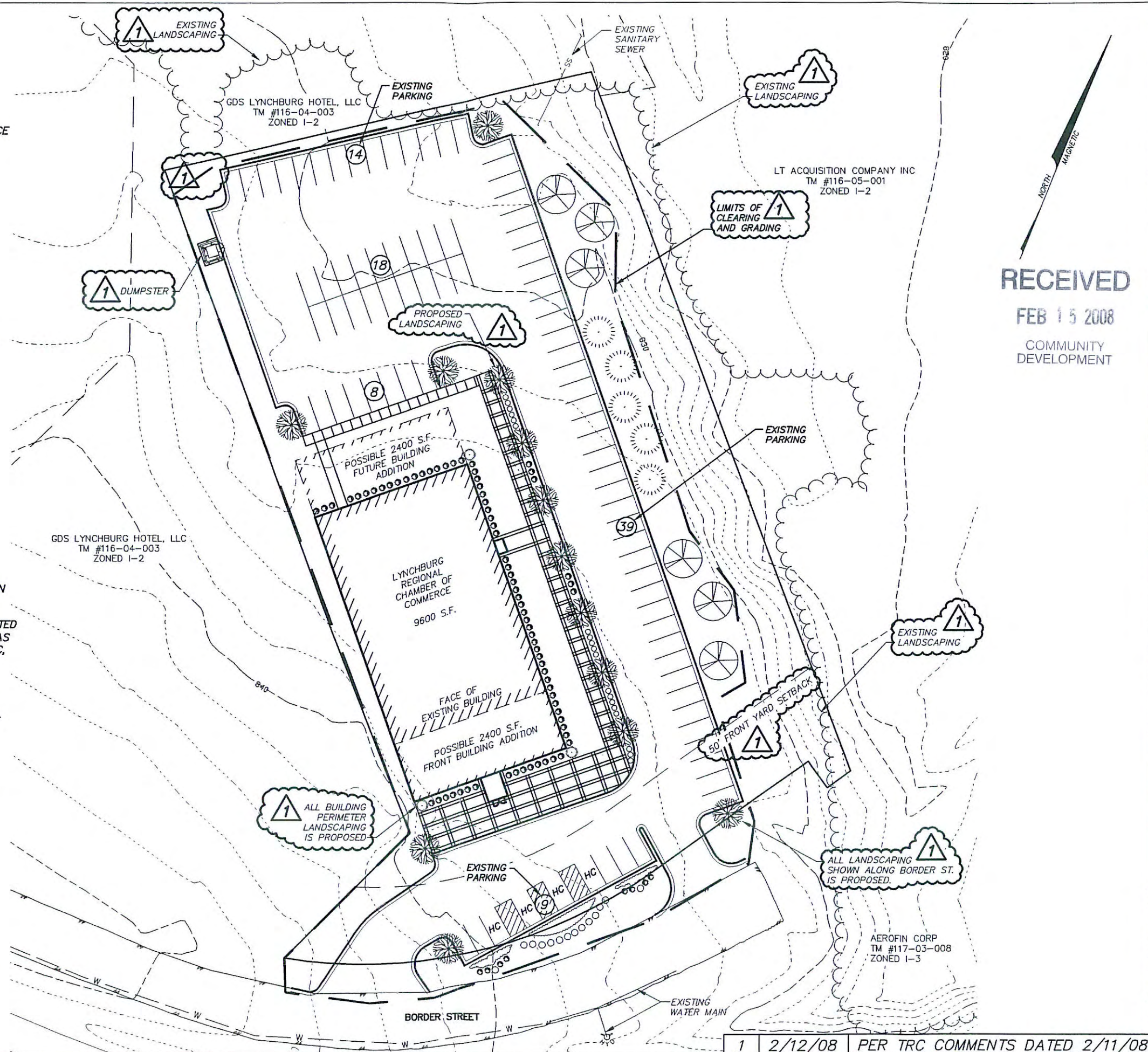


NOTES:

1. TAX MAP #116-04-001 AND #116-04-016  
CURRENT ZONING: B-3C  
LOCATION: 310 & 312 BORDER ST.  
PROPOSED ZONING: B-3  
OWNER: WAYNE B. BOOTH  
21547 TIMBERLAKE RD.  
LYNCHBURG, VIRGINIA 24502  
  
APPLICANT: LYNCHBURG REGIONAL CHAMBER OF COMMERCE  
2015 MEMORIAL AVE  
LYNCHBURG, VA 24501  
CONTACT: REX HAMMOND  
  
EXISTING USE: VACANT RETAIL  
PROPOSED USE: CHAMBER OF COMMERCE
2. TOTAL IMPROVED AREA: 1.59 ACRES  
SITE AREA: 1.904 ACRES  
MAXIMUM BUILDING COVERAGE: .33 ACRES (17%)
3. SETBACKS:  
FRONT: 50' (OFF LIMITED ACCESS HIGHWAY)   
SIDE: NO REQUIREMENT  
REAR: NO REQUIREMENT
4. EXTERIOR LIGHTING SHALL BE CONTROLLED SO THAT NO DIRECT ILLUMINATION WILL OCCUR BEYOND ANY PROPERTY LINE.
5. PARKING SUMMARY  
REQUIRED:  
 OFFICE: 1 SPACE/300 S.F.  
EXISTING BUILDING:  
9600 S.F./300 = 32 SPACES  
WITH POSSIBLE 2400 S.F. FRONT ADDITION =  
12,000 S.F./300 = 40 SPACES  
WITH POSSIBLE 2400 S.F. FUTURE REAR ADDITION =  
14,400 S.F./300 = 48 SPACES  
PROVIDED:  
88 SPACES (INCLUDES REQUIRED 4 HCP SPACES)  
TYPICAL PARKING SPACES ARE 9' X 18'  
AISLES ARE 24' WIDE.
6. ADJACENT PROPERTY LINES ARE SHOWN IN APPROXIMATE LOCATIONS. NO FIELD WORK HAS BEEN CONDUCTED TO VERIFY THE LOCATIONS. ADJOINING PROPERTY LINES SHOWN FOR INFORMATION ONLY.
7. THIS PROPERTY IS LOCATED IN ZONE 'C' AND IS NOT LOCATED WITHIN FLOOD HAZARD ZONE 'A' FOR A 100-YEAR FLOOD AS DETERMINED BY F.E.M.A. COMMUNITY PANEL 510093 0020 C, REVISED NOVEMBER 16, 1983.
8. LANDSCAPING:  
 REQUIRED PLANTINGS TO BE DETERMINED BASED ON LANDSCAPE ORDINANCE REQUIREMENTS. PROJECT WILL MEET THE TEN PERCENT (10%) TREE CANOPY REQUIREMENT FOR THE PROPOSED B-3, GENERAL BUSINESS DISTRICT.
9. DUMPSTER ENCLOSURE TO BE IN KEEPING WITH THE ARCHITECTURAL STYLE OF BUILDING.
10. LIMITS OF CLEARING AND GRADING TO FOLLOW PROPERTY LINE, EXCEPT WHERE NOTED.
11. ALL MECHANICAL EQUIPMENT SHALL BE SCREENED.
12. ALL UTILITIES TO BE LOCATED UNDERGROUND.
13. SIGN WILL COMPLY WITH CITY SIGN ORDINANCE. 



1" = 50'



ENGINEERING >> SURVEYING >> PLANNING  
**HURT & PROFFITT**  
INCORPORATED

2524 LANGHORNE ROAD  
LYNCHBURG VA 24501  
800.242.4906 TOLL FREE  
434.847.7796 MAIN  
434.847.0047 FAX

**REZONING PLAN  
FOR**  
**LYNCHBURG REGIONAL CHAMBER OF COMMERCE**  
**CITY OF LYNCHBURG, VIRGINIA**

PROJECT NO. 20080001  
G.L. NO. 264-02-A1.6  
FILE NO.  
DATE: 1/22/2008  
DRAWN BY: ALB  
CHECKED BY: PSB

SHEET NO.  
**1 OF 1**

1 2/12/08 PER TRC COMMENTS DATED 2/11/08



**LYNCHBURG CITY COUNCIL**  
**Agenda Item Summary**

MEETING DATE: **April 8, 2008**

AGENDA ITEM NO.: 4

CONSENT:

REGULAR: **X**

CLOSED SESSION:  
(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: **CONDITIONAL USE PERMIT (CUP) – Cornerstone Community Church, 519, 521 and 525 Old Graves Mill Road**

RECOMMENDATION: Approval of the requested conditional use permit petition.

SUMMARY: Cornerstone Community Church is petitioning for a conditional use permit to allow construction of an eighteen thousand two hundred (18,200) square foot church and associated parking. Planning Commission recommended approval of the petition because:

- The Lynchburg *Comprehensive Plan* recommends a Low Density Residential use for this area. In addition to single-family residential homes, other uses may include public and institutional uses compatible in scale with single-family residential homes. The *Future Land Use Map* also provides for Institutional uses in the surrounding area. The original proposal for the church included a twenty-six thousand one hundred fifty-two (26,152) square foot metal building with two hundred eighty-five (285) parking spaces. In addition to eliminating seventy-three (73) parking spaces and reducing the size of the church by thirty percent (30%), they have proposed to include finishes for the metal structure (a Drivit® or stucco-like exterior covering on the front and wood appearance finishes on the sides and rear), architectural features along the roofline, earth tone colors and brick accents to enhance the look of the structure. The proposed setbacks, proximity of other institutional uses and the proposed buffer between the church and the nearest residences ensure its compatibility with the standards for low density residential areas set forth within the *Comprehensive Plan*.
- Petition agrees with the *Zoning Ordinance* in that churches are allowed in an R-1, Low Density Single-Family Residential District, upon approval of a conditional use permit (CUP) from City Council.

PRIOR ACTION(S):

- March 12, 2008: Planning Division recommended approval of the conditional use permit petition. Planning Commission recommended approval (6-0, 1 Absent Sale) of the CUP with the following conditions:
1. The property shall be developed in substantial compliance with the Site Plan dated February 4, 2008 and received by the Department of Community Development on March 5, 2008.
  2. The building design will be in substantial compliance with the renderings submitted by W.A. Stratton and received by the Department of Community Development on February 28, 2008.
  3. Any exterior lighting will be glare-shielded and non-directional to prevent direct illumination across the property line.

4. A right turn lane will be constructed along the front of the property for access to the site from Old Graves Mill Road as depicted on the "Cornerstone Community Church" concept plan dated February 4, 2008 and received by the Department of Community Development on March 5, 2008.

March 24, 2008: Based on subsequent review, the City's Transportation Engineer has determined that the condition for the right-turn lane is no longer warranted. Staff recommends that City Council consider removing this condition from the CUP request and that a larger turning radius be constructed to approximately thirty-five (35) feet so that vehicles do not have to slow down significantly to make the right turn into the site

FISCAL IMPACT: N/A

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

ATTACHMENT(S):

Resolution

PC Report

PC Minutes

Vicinity Zoning Pattern

Vicinity Proposed Land Use

Watershed Location Map

Site Plan

Architectural Rendering

Citizen Petition

Speaker Sign-Up Sheet

Staff Memo – Transportation Engineer's Decision to Reverse Recommendation for Right-Turn Lane

REVIEWED BY: lkp

## RESOLUTION

A RESOLUTION GRANTING A CONDITIONAL USE PERMIT TO ALLOW THE CONSTRUCTION OF A CHURCH AND ASSOCIATED PARKING IN A R-1, LOW DENSITY SINGLE-FAMILY RESIDENTIAL DISTRICT LOCATED AT 519, 521 AND 525 OLD GRAVES MILL ROAD.

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF LYNCHBURG that the petition of Cornerstone Community Church for a Conditional Use Permit for use of the properties at 519, 521 and 525 Old Graves Mill Road to allow the construction of an eighteen thousand two hundred (18,200) square foot church with associated parking be, and the same is hereby, approved subject to the following conditions:

1. The property shall be developed in substantial compliance with the Site Plan dated February 4, 2008 and received by the Department of Community Development on March 5, 2008.
2. The building design will be in substantial compliance with the renderings submitted by W.A. Stratton and received by the Department of Community Development on February 28, 2008.
3. Any exterior lighting will be glare-shielded and non-directional to prevent direct illumination across the property line.
4. A right turn lane will be constructed along the front of the property for access to the site from Old Graves Mill Road as depicted on the "Cornerstone Community Church" concept plan dated February 4, 2008 and received by the Department of Community Development on March 5, 2008.

Adopted:

Certified:

\_\_\_\_\_  
Clerk of Council

043L



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

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**To:** Planning Commission

**From:** Planning Division

**Date:** March 12, 2008

**Re: CONDITIONAL USE PERMIT (CUP): Cornerstone Community Church, 519, 521, 525 Old Graves Mill Road**

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**I. PETITIONER**

Pastor Willie Taylor, Cornerstone Community Church, 3225 Old Forest Road, Lynchburg, VA 24501

**Representative:** Robert Walker, WW Associates, P.O. Box 4119, Lynchburg, VA 24502

**II. LOCATION**

The subject properties include three (3) tracts totaling five and twenty-two hundredths (5.22) acres located at 519, 521, 525 Old Graves Mill Road.

**Property Owner:** Aremar, LLC, 521 Old Graves Mill Road, Lynchburg, VA 24502

**III. PURPOSE**

The purpose of this petition is to allow construction of an eighteen thousand two hundred (18,200) square foot church and associated parking.

**IV. SUMMARY**

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

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

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**V. FINDINGS OF FACT**

1. **Comprehensive Plan.** The Lynchburg *Comprehensive Plan* recommends a Low Density Residential use for this area. Low Density Residential areas are dominated by single-family detached housing at densities of up to four (4) dwelling units per acre. In addition to residential uses, they may include public and institutional uses compatible in scale with single-family residential homes. The *Future Land Use Map* also provides for Institutional uses in the surrounding area.

The original proposal for the church included a twenty-six thousand one hundred fifty-two (26,152) square foot metal building with two hundred eighty-five (285) parking spaces. The petitioner and their representative have revised this plan to be more sensitive to the adjacent neighborhood. In addition to eliminating seventy-three (73) parking spaces and reducing the size of the church by thirty percent (30%), they have proposed to include finishes for the metal structure (a Drivit® or stucco-like exterior covering on the front and wood appearance finishes on the sides and rear), architectural features along the roofline, earth tone colors and brick accents to enhance the look of the structure. The proposed setbacks, proximity of other institutional uses and the proposed buffer between the church and the nearest residences ensure its compatibility, with the standards for low density residential areas set forth within the *Comprehensive Plan*.

2. **Zoning.** The existing R-1, Low Density Single-Family Residential District was established in 1978 with the adoption of the *Zoning Ordinance*.
3. **Board of Zoning Appeals (BZA).** The Zoning Official has determined that no variances will be needed for the development of the property as proposed.

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

- On August 10, 2004, City Council approved the CUP petition of St. Thomas More to amend the conditions related to traffic calming approved by the City Council on September 10, 2002.
- On July 8, 2003, City Council approved the CUP petition of Jamerson & Company to amend the Traditional Neighborhood Development plan to allow construction of apartments and additional single-family uses.
- On September 10, 2002, City Council approved the CUP petition of St. Thomas More for the construction of a sanctuary, columbarium and associated parking at 3015 Roundelay Road.
- On February 13, 2001, City Council approved Medallion Homes' CUP petition for a planned unit development of eighty-eight (88) single-family detached units at 305, 325 Graves Mill Road.
- On May 9, 2000, City Council approved The Summit, J E Jamerson & Sons' CUP petition for a Traditional Neighborhood Development on Enterprise Drive.
- On July 14, 1998, City Council approved J E Jamerson & Sons' CUP petition for a Traditional Neighborhood Development on Laxton Road and Enterprise Drive.
- On July 14, 1998, City Council approved J E Jamerson & Sons' CUP petition for the construction of a dam and lake in the floodplain.
- On December 13, 1994, City Council approved Believers Fellowship's CUP petition for the construction of a ninety (90) space church parking lot at 727 Old Graves Mill Road.
- On June 8, 1993, City Council approved Timberlake Dixie Youth Athletic Association's CUP petition for the amendment of master plan allowing installation and usage of lights on three existing ball fields.
- On November 11, 1991, City Council approved National Business College's CUP petition for usage of an existing building as a business college at 104 Candlewood Court.
- On May 14, 1991, City Council approved Timberlake Dixie Youth Athletic Association's CUP petition for a master plan amendment allowing installation of additional ball fields, parking and concessions.
- On November 13, 1990, City Council approved the CUP petition of St. Thomas More for the construction of an educational wing and parking at 3015 Roundelay Road.
- On November 14, 1989, City Council approved Willow Bend Ltd's CUP petition for a swimming pool and bath house at 101 Willow Bend Drive.
- On August 11, 1987, City Council approved Seven Hills Church of Christ's CUP petition for a building addition and parking lot expansion at 810 Old Graves Mill Road.
- On October 11, 1983, City Council approved Believers Fellowship's CUP petition for the construction of a church and parking lot at 727 Old Graves Mill Road.
- On March 24, 1981, City Council approved Seven Hills Church of Christ's petition for a church at 810 Old Graves Mill Road.
- On March 25, 1980, City Council approved the City of Lynchburg's CUP petition for a fire station at 213 Old Graves Mill Road.
- On November 13, 1979, City Council approved the CUP petition of St. Thomas More for the construction of a new church at 3015 Roundelay Road.
- On July 10, 1979, City Council approved George Fralin, Jr.'s CUP petition for a family billiard center at 7705 Timberlake Road.

5. **Site Description.** The properties currently include multiple abandoned vehicles and three (3) homes, one (1) vacant and two (2) of which are occupied by the owner and their son. The site is bound to the north by single-family detached homes, a church and an industrial park, to the east by single-family detached homes, to the south by single-family detached and medium density single-family attached homes, and to the west by the Brookville Ruritan Club recreational fields, single family detached homes and Wyndhurst Traditional Neighborhood Development.
6. **Proposed Use of Property.** The purpose of this petition is to allow construction of an eighteen thousand two hundred (18,200) square foot church and associated parking. The site is currently served by City water and sewer. The building will be a sheet metal structure that includes Drivit® (a stucco-like coating) and wood appearance finishes, architectural features along the roofline, earth tone colors and brick accents. In addition to the landscaping required by the City's *Zoning Ordinance*, which includes street trees, parking area landscaping, parking screening, foundation plantings and utility screening, the petitioner has also agreed to buffer two (2) sides of the property and retain/supplement significant vegetation at the rear of the property. Pedestrian connections from the street to the sanctuary area will be available by public sidewalk along Old Graves Mill Road with private sidewalk and crosswalk connections along the front of the property.
7. **Traffic and Parking.** The designer met with the City's Transportation Engineer and the City Engineer regarding the proposed access to the site. The designer has re-aligned the entrance to meet the recommendations of Engineering Design. The Transportation Engineer reviewed the project and noted that the sight distance and left turn access to the site were adequate; however, a right-turn lane warrant analysis indicated that the church would meet the requirements for a right-turn lane on Sundays and Wednesday nights. During his analysis he noted that a right-turn lane would help keep through traffic from going in the center turn lane to avoid right turners, and go a long way to improve safety at the driveway. The applicant has revised the plan and included the right-turn lane in the design.

Parking requirements for the proposed church are set at one (1) space for every (3) seats by the City's *Zoning Ordinance*; the four hundred (400) seat sanctuary requires one hundred thirty-four (134) parking spaces. The proposed design provides for two hundred twelve (212) spaces, thus meeting the requirements of City Code.

Public transportation is available to the site by Greater Lynchburg Transit Company's bus route seven (7). The closest stop to the proposed church would be located at the intersection of Old Graves Mill Road and Pearson Drive, approximately three hundred eighty (380) feet from the site.

8. **Storm Water Management.** New impervious areas will exceed one thousand (1,000) square feet; as such, a stormwater management plan will be required for the construction. The increase in post-development runoff conditions due to the new impervious area will be managed through the use of a bioretention facility located at the rear of the property. The facility would promote infiltration of the stormwater from the site into the ground. Any overflow would discharge to two (2) level spreaders which would convert any excess stormwater to sheet flow (i.e non-erosive run-off) and discharge into an existing wooded buffer. The run-off from the proposed management area would follow the existing drainage patterns of the site; a preliminary drainage review indicates that the volume and velocity of this run-off would not impact adjacent properties. Stormwater quality would also be addressed through the proposed bioretention pond that would be designed to meet the performance or technology based standard requirements based on percentage of impervious area for the site. The proposed management strategy is acceptable to the City's Environmental Planner.
9. **Emergency Services.** The City's Fire Marshal had no comments regarding the conditional use permit for the proposed church.  
  
The City Police Department had no comments about the proposed church.
10. **Impact.** The proposed development will allow for an eighteen thousand two hundred (18,200) square foot church and associated parking. The final landscape plan will be supplemented with evergreens for

screening along property lines adjoining single-family residential areas. Traffic, parking, stormwater management and emergency services concerns have all been addressed to the satisfaction of City staff and the result is a project that would fit into the fabric of the existing neighborhood.

11. **Technical Review Committee.** The Technical Review Committee (TRC) reviewed the preliminary site plan on February 19, 2008. 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.
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## **VI. PLANNING DIVISION RECOMMENDATION**

**Based on the preceding Findings of Fact, the Planning Commission recommends to City Council approval of Cornerstone Community Church's petition for a conditional use permit (CUP) at 519, 521, 525 Old Graves Mill Road, subject to the following conditions:**

- 1. The property shall be developed in substantial compliance with the Site Plan dated February 4, 2008 and received by the Department of Community Development on March 5, 2008.**
- 2. The building design will be in substantial compliance with the renderings submitted by W.A. Stratton and received by the Department of Community Development on February 28, 2008.**
- 3. Any exterior lighting will be glare-shielded and non-directional to prevent direct illumination across the property line.**
- 4. A right turn lane will be constructed along the front of the property for access to the site from Old Graves Mill Road as depicted on the "Cornerstone Community Church" concept plan dated February 4, 2008 and received by the Department of Community Development on March 5, 2008.**

This matter is respectfully offered for your consideration.

William T. Martin, AICP  
City Planner

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

Mr. Keith Wright, Zoning Official  
Mr. Robert S. Fowler, Zoning Administrator  
Mr. Kent L. White, Senior Planner  
Mrs. Erin B. Hawkins, Environmental Planner  
Pastor Willie Taylor, Cornerstone Community Church, Applicant  
Robert Walker, WW Associates, Representative

## **VII. ATTACHMENTS**

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



**MINUTES FROM THE MARCH 12, 2008 PLANNING COMMISSION MEETING (MINUTES HAVE NOT BEEN APPROVED – NO MARCH 26, 2008 MEETING)**

**b. Petition of Cornerstone Community Church for a Conditional Use Permit to allow the construction of 30,202 square foot church and associated parking in an R-1, Low Density, Single-Family Residential District at 519, 521 and 525 Old Graves Mill Road**

Mr. White addressed the commissioners with the following comments. This proposal is for an 18,200 square foot church and parking. The property currently contains three houses, one of which is vacant and several automobiles located throughout the site. The project came to staff as a 26,000 square foot sheet metal church with 285 parking spaces. Following discussion with staff, the petitioner has agreed to reduce the size of the church by approximately a third and they have reduced the parking by 69 spaces. They have also agreed to use a Drivit® or stucco like finish along the front and wood panel finish along the sides, brick accents and architectural treatments along the roofline. The project is close to a bus stop and the petitioner has agreed to realign the access to allow the safe conveyance to it. Old Graves Mill Road recently underwent improvements and public sidewalk was installed along the bulk of that corridor. The petitioner has agreed to add private sidewalk and crosswalk to provide an internal pedestrian connection. When reviewing churches, the *Comprehensive Plan* directs us to look at appropriate size, scale and character. With these revisions, the Planning Division recommends approval of the petition.

Mr. Robert Walker with WW Associates came forward to speak as the representative for Cornerstone Community Church. He thanked them for the opportunity to present and staff for their help in this process. He had with him Pastor Willie Taylor of Cornerstone Community Church, the realtor, the contractor and the surveyor for the project. They are putting the building in the middle of the site. They have reduced the size to be more in keeping with the surrounding community. The stormwater pond is in the rear of the property. Landscaping will be on the north and south sides. They are leaving 30 feet of existing vegetation along the rear of the property.

Mr. Walker said they are in agreement with staff's finding in the report with the exception of condition four. This request is for monetary reasons. They would like to keep the intersection as it is now. They would like to tie onto that existing apron and keep the width at 25 feet up to where the new driveway will be. Prior to this, they had a direct access road, but they wanted to continue the street theme as per code and relocated the actual connection to the right of way. They would like to meet the city code requirement with the width without curb and gutter. They would also like not to have to put in the right-turn lane because of the church's budget. They feel that the center turn lane is adequate for this site. Additionally, they would have to relocate some trees and existing curb and gutter. That is the only condition that the church has respectively requested not to have to do.

Chair Hamilton asked for clarification that they are asking the commissioners to remove condition four and Mr. Walker said that was correct.

Pastor Willie Taylor came forward to speak in favor of the petition. He wanted to address condition four first and said that he did not know why the traffic engineer wanted them to do that. There are two other churches on this street and they do not have right turn lanes. There is no right turn lane at Robin Drive either. They have approximately 136 homes in the area of Robin Drive with no outlet. The times that the church meets are off peak hours. Wednesday night service starts at 6:30 p.m. He does not mind doing what is being asked of them, but are asking for relief from this because they are being forced out of their location because Wal-Mart is coming in there. This was land that they were able to get at a reasonable cost compared to other land in the city and they see it as an opportunity to maybe be able to stretch their budget.

They are hoping that they do not have to build a street that just goes to two properties with curb and gutter. They could use the same driveway. It is going to be even nicer. They are going to bring an upscale building to those three lots. Anything they do is going to improve what is there. They will do anything they possibly can to make the neighbors pleased with them because they want to bring a positive, spiritual environment to the area. They have met their neighbors and the ones that are not here welcome them. They need the commissioners' help to find somewhere to go by the end of September when Wal-Mart is going to tear their building down.

Ms. Zita McCann came forward to speak. She is a member of Cornerstone Community Church. They have been in several buildings. They would just like a place to encourage people because we all need God. They would really like to go to that area because it is economically good for them and the size of their congregation. The location is good. The parking is good and hopefully, they will help the community and it will be good for all of us.

Chair Hamilton asked those that wish to speak to keep their comments to three minutes and try not to repeat what others have said. She asked them to give as much new information as they can and to sign the signup sheet.

Mr. Thomas Ring came forward to speak in favor of the petition. His mother owns the two houses that they are talking about with regard to driveway. They are glad that this project is happening. His only question is about the detention pond. He is wondering how deep it will, how much water it will hold and how long will it take to dissipate. He is also wondering about the driveway and where it will be in relation to the principal house at 511 Old Graves Mill Road.

Mr. Earl Mottley of WW Associates came forward to speak. He wanted to make sure that everyone was aware that the driveway is an old county road where Old Graves Mill Road has been relocated. It has been treated as a driveway, although the city does own a part of this road. He wanted to make sure that everyone understands that this driveway is the old location. To make the standard improvement that we are speaking of for two people that live beyond that is an extensive expense for its use.

Mr. Barry Witt, a member of Cornerstone Community Church, came forward. He had the opportunity to go out and meet some of the neighbors. They want to be an outreach to the community. Most of those they talked were very pleased with them coming in. Traffic was a major concern and they did the best they could to help them with their concerns. They are going to be doing all they can to be good neighbors. They see themselves as an extension of the community. They feel a little dislodged right now where they are now and it will be nice to be placed back into a community where they can do outreach. The building they are going to be putting up will be very aesthetically pleasing to the area. It is going to be extremely nice.

Judy Doering with Professional Real Estate Group came forward. She is the agent for Cornerstone Community Church. She wanted to address the issue of property values, since that is her area of expertise. It has been said that Lynchburg has a church on every corner and to that she replies, "Yes. That is what keeps our city one of the safest cities around." She has been selling real estate in this area for over twenty years. Churches provide beautification, safety--a positive environment for the community. A well-planned structure should increase property value surrounding the church.

Mr. John Dateo, a member of Cornerstone Community Church, came forward to speak in favor of the petition. He has been a member of the church since around 1990. Their goal is to join with the community in partnership to make it a better place to live. They have done that for a number of years. They have done the Daily Bread and the "Day in the Park." They have children's programs. They have an Easter Egg Hunt. They do a yard giveaway instead of a garage sale. They go to James Crossing once a year and do a large carnival. He is giving them a smattering of things they do to show that they care about their community. That is their value system. They are going to make it nice and keep it nice. They want to be a blessing to their neighbors. They will help them in any way they possibly can.

Mr. Virgil Moore of Cornerstone Community Church came forward to speak next. He said that their church is not segregated at all. They are a very diverse church and as the city is currently working on racism issues, he would hope that they bring about a change that is very needed in Lynchburg. The church meets some of the goals that the city wants to meet as far as diversity.

Mr. Alex Weeks of Cornerstone Community Church came forward to speak next. He also lives at 500 Robin Drive. He passes by this property every day. It is an eyesore. Anything that they put on this property is going to improve it.

Chair Hamilton asked that those in favor of the petition to stand and approximately 35 people stood. She thanked them for coming.

Chair Hamilton then asked for those who wished to speak in opposition of the petition. Ms. Pam Carter came forward to speak. She lives at 104 Pearson Drive. Her parents picked out the land, built the house and moved in the day they got married in 1961. One of the concerns they have is that Old Graves Mill Road is already extremely overburdened. She listed all the businesses and subdivisions that affect this road from one end to the other. People constantly use Old Graves Mill Road as a throughway to get to 221 to Timberlake Road and vice versa. Since the expansion, they have had people use the turning lane to pass cars that are going the speed limit. They have had people pass them when they are trying to turn onto Robin Drive as opposed to stopping. She has had people get

into that turn lane too soon and met her head on because they want to turn into Willow Bend. That is because this is on a curve, and she pointed out that this is where the church would be going, on that bend.

The Ruritan Club has a ball park on Pearson Drive and she loves children and the fact that they have a safe place. That is why she hates to be in a position to oppose a church. But traffic is insane on Pearson Drive during ball season, which is seven months of the year. On Wednesday nights, you are going to have traffic going to the ball field, as well as going to this church, as well as people who actually live on Pearson Drive. She cannot even imagine what the traffic is going to be like.

She talked about the pretty view she has and the wildlife that she enjoys at her house. There is a responsibility to be good stewards. She asked if there could just be a place of rest on Old Graves Mill Road. She did not mind them demolishing the houses. Could there be an area without asphalt, concrete, brick or aluminum?

Chair Hamilton thanked her for her comments. Ms. Carter mentioned that she had not heard from anyone from the church.

Chair Hamilton asked for those who were in opposition to this petition and five people stood.

Mr. Walker came back to address these concerns. He explained that the detention pond will be a dry pond. Their preliminary analysis showed this to be a dry pond for water quality and also to make sure that the creek condition stays at the same rate.

Mr. Walker did not know what to say about the developments on Old Graves Mill Road. The church's operations are basically off peak. When you design roads, you usually design them for peak hours, not the times that the church will be meeting.

As far as the view that Ms. Carter now enjoys, they are planning on saving all the existing vegetation on the left side. If she looks to the east, she will be looking at all the vegetation they are planning to preserve. Where there is an opening, they are also planning on planting trees. You will not see much of the building at all.

Chair Hamilton asked Mr. Ring if that had answered his question about the detention pond. He said that it had, but that he still had questions about the driveway and Chair Hamilton said they would get that answered later.

Ms. Carter came back and said that her concern is still traffic, particularly on Wednesday nights during ball season. This is going to be a nightmare and they have not addressed that issue.

Ms. Doering came forward to comment that this space will not remain as a green space. If she does not sell it, it will be sold. Possibly, someone will want to put apartments or townhomes. Something will eventually go on that five acres. To think of it as a green space and keeping it that way is too idealistic in the time that we live in now. We are in a pattern of growth and we all want to do it right. She is on board for that too. This project is the right place. It is the right land for a church to complement everything that is there right now.

Chair Hamilton asked Mr. Harter to talk about the city right of way, driveway, etc. She asked him to explain why the city is asking them to do these types of improvement. He said that he was not totally involved, but that it was his understanding that the reason was that it was a city road. They went back and forth with different options and they did not want to create a situation where if that road was ever built that they would not have to redo a lot of work in that area. It is his understanding that there was some extra road frontage that was requested along that particular road. It is also policy that when a property is fronting off a road that we ask them to build, at least along the frontage of the property, to get it built as much we can. With this particular project, he did not think that we asked them to go all the way across their frontage. There is a good chance that the road won't be continued in the future.

Chair Hamilton asked Mr. White if he could add anything to this, since it is such a large expense for the church. Mr. White thought that Mr. Harter summed it up very nicely. When the city has unimproved right of way in front of the property, it is a universal city policy that we always try to get that road extended. The concession that was made by engineering staff was to work on the alignment of that entrance rather than the full extension of pavement across the full frontage because they realized access would be pretty minimal.

Mr. Harter addressed the right hand turn lane. He requested that turn lane be added early on in the process and he was never asked to reconsider. He is a little surprised to hear that he is being asked to reconsider it now. One of the reasons that they were asked to put it in was they are on a curve and they felt it was better to get traffic off the road and into the turn lane. He would be happy to reconsider that, but does not know if he would be able to do that today. He thinks that there is a chance that they could possibly just do a taper type situation where there is a nice curve to the property to get people off Old Graves Mill Road quicker. But he was not prepared for this tonight and did not know that it was an opposition point.

Commissioner Worthington asked what the cost of this turn lane would be. Pastor Taylor said that he got some initial figures and it would cost between \$50,000 and \$60,000. This may not sound like a lot of money to someone like Wal-Mart but to them, with a congregation of 200 people, it is a lot of money.

Chair Hamilton asked Mr. Harter to address why this church is being asked to put in a right turn lane and the other churches were not asked to do so. Mr. Harter said that these churches were built years ago, and Old Graves Mill Road has seen a significant increase in traffic over the last ten to twenty years. The widening of the road was actually a city project. They looked at potential right turn lanes. Some of them were not put in because of right of way issues. The reason that they are asking for it here is that they are on a curve.

Commissioner Worthington asked how many cars they thought show up on a Sunday and a Wednesday. Pastor Taylor said that on Sunday morning approximately 50 cars--on a Wednesday night, maybe only ten to fifteen cars.

Commissioner Swienton asked if there are other regular activities that occur now or that they plan in the immediate. There is Tuesday night choir practice or band practice that brings maybe three cars. On a daily basis, there will be three cars there.

Commissioner Swienton asked him what they see as being the size of congregation in the future and how does that compare with what they have now. Visionary wise, Pastor Taylor said that, of course, they want to expand. But in the last ten years, they have been approximately the same size. Commissioner Worthington asked him what they see the maximum they feel they can handle, and Pastor Taylor said that the maximum would be 400. Pastor Taylor said that they are doing all the things necessary now to accommodate that number in the future.

Commissioner Swienton asked if this site allows them to expand beyond the 400. Mr. White's opinion is that many times bioretention ponds can be paved over and converted to underground detention. Any future expansion would have to come before the Planning Commission and City Council.

Chair Hamilton asked Ms. Hawkins to talk about the dry retention pond, how it would look, etc. Ms. Hawkins said that it was her impression that the stormwater management would be handled by a bioretention measure, which is not the same thing as a dry retention pond. What this typically does is that it allows for infiltration of water by biological uptake and handle any type of pollutant that would be coming off the site. They are typically very well landscaped. Your dry ponds are mainly used for detention. There are some design criteria that allow dry ponds that would also provide water quality. A lot of times that eats up a lot of space because of the size requirements for that. She does not know if that would be the best scenario for this site given its limited size, where they are looking at building this. Typically, a dry pond is not landscaped. It is essentially a hole in the ground. Certainly the fact that they have greatly reduced their building footprint and parking area will ultimately have a good impact on the site. It would be her inclination though to stick with the bioretention pond.

Commissioner Barnes questioned the parking, since the requirement is for only 134 parking spaces. This design is for 212 parking spaces. By his calculation, you could eliminate parking along one side of the building. Grass could be put there or put some pavers, and that would allow for overflow parking when necessary. This would contribute to more infiltration and reduce the size of the bioretention pond necessary.

Mr. Walker clarified that what he meant by a dry pond was used more to explain it to the neighbors. Most people do not know what bioretention pond means, and the neighbors had thought that it would be a pond for swimming. This pond is going to be a bioretention pond, not a dry pond.

Chair Hamilton asked him to talk about the landscaping. He said that they will be following the ordinance and mentioned with respect to the parking issue that they have discussed the possibility of doing what Commissioner Barnes had suggested with regard to the overflow area. They had not had the chance to get the pricing yet.

Commissioner Barnes reiterated that he would like to see the amount of paved area reduced and still provide for overflow parking. Mr. Walker remarked that in their canvas survey of the neighborhood, it turned out that parking was a big issue to the neighbors. They did not want to see people parking on the street because the church did not have enough parking.

Ms. Carter commented from the floor about the right turn lane and the potential problems she could foresee. Chair Hamilton said they would try and get her questions answered, but asked that she refrain from making further comments from the floor.

Chair Hamilton said that she has questions about traffic and the right turn lane. It would be her inclination that they hold off until Mr. Harter has a chance to look at this some more. Commissioner Barnes agreed with that and would like to see another plan that addresses some of the things that need to be tweaked a little.

Commissioner Barnes made a motion to table this until the traffic and parking concerns can be addressed and Commissioner Oglesby seconded that motion.

Commissioner Worthington pointed out that the church is on a timeline because they are being pushed out of their facility. He is not comfortable with delaying this. Mr. Walker said that they have to be out by November 1 and that is why it is so critical that they hit these dates. Mr. Walker apologized to Mr. Harter for not informing him before tonight that they would oppose the right turn lane but that was because they did not have their cost estimate. They would be willing to do the taper lane and he thinks that he can work this out with Mr. Harter. Chair Hamilton asked Mr. Harter if he was prepared to make that type of recommendation today. He said that he would prefer not to do that tonight. Commissioner Worthington suggested that they consider passing it subject to Mr. Harter's final plan.

Commissioner Hannon said that although Mr. Harter may be generous and come up with something, but that he thinks that the right turn lane is the right solution. He would be willing to approve this petition with the right turn lane condition without hesitation. They could try and get that changed with City Council, but he thinks that the right turn lane is critical to the plan because it is on a curve and there is a lot of traffic. He is not inclined to approve it if the right turn lane condition is removed.

Commissioner Swienton compared this to when the Salvation Army was asked to address a stormwater problem that would prove very costly to a non-profit organization. There was a part of him that felt badly about that, but it was the appropriate thing to do. In the same way, although this is costly for the church, he thinks that they need to stick with what is appropriate. He is in favor of the right turn lane.

At this point, Mr. Walker informed the commissioners that they withdraw their request to remove this condition. Commissioner Barnes then withdrew his motion to table this matter.

Commissioner Swienton asked why there was a difference in the buffer areas. Why is it 30 feet in the rear and 20 feet on the sides. Mr. White remarked that the buffer on the rear of the property is existing and that will be supplemented with an evergreen buffer. The reason for the 20 feet on the side is that is the typical width as required by code. Mr. White did point out that in this case the buffer would not be required, but the petitioner has voluntarily agreed to do so. The property would not be considered a commercial use, so it does not require a buffer. Commissioner Swienton thanked him for clearing this up because to him, 20 feet is not enough. Mr. White remarked that Planning Commission may increase that width since this is a conditional use permit petition.

Commissioner Swienton suggested increasing the buffer on the sides to 30 feet, but Mr. Walker thought that the way the trees are going to be planted, twenty is more than you need. He does not think that increasing the size of the buffer will do what Commissioner Swienton wants it to do. The way the trees are planted in the normal buffer will provide enough coverage in a few years. Commissioner Swienton asked if there was any discussion about a privacy fence and Mr. Walker said there was not. Commissioner Swienton thought that there might be headlights going into some of the homes and he was wondering how this could be minimized. Mr. Walker said that in the preliminary grading of the site, they kept the same elevation. If it was built up, the headlights would shine right into houses, but they kept it at the same elevation. Commissioner Swienton wondered if they could get it more tightly dense at the areas that have the greatest potential for light pollution. Mr. Walker said that they have the plantings planned to allow for viability. If you plant trees too close together, they tend to choke each other out. Mr. Walker said that he did see any problem, but Commissioner Swienton thought that 27 or 28 feet of buffer would be better.



Commissioner Swienton asked what the height of the church is and Mr. White that it cannot exceed 40 feet. Commissioner Swienton pointed out that this is no different than the maximum height for a single-family dwelling in an R-1 district.

Chair Hamilton entered into the record a petition from Ms. Wilma Dye: "Due to illness, I will be unable to attend the Planning Commission Meeting this afternoon. I am faxing the petition that the Citizens of Ward IV have signed requesting that the rezoning of the property between Robin Drive and Pearson Drive be denied. Thank you." Chair Hamilton read the content of the petition, which summarized that there are five churches within a one-mile radius, that traffic would be worsened and there were concerns about a swimming pond. Thirty-one people had signed the petition.

Chair Hamilton asked for any motions. Commissioner Hannon made the following motion, which was seconded by Commissioner Worthington:

**"That the Planning Commission recommends to City Council approval of Cornerstone Community Church's petition for a conditional use permit (CUP) at 519, 521, 525 Old Graves Mill Road, subject to the following conditions:**

- 1. The property shall be developed in substantial compliance with the Site Plan dated February 4, 2008 and received by the Department of Community Development on March 5, 2008.**
- 2. The building design will be in substantial compliance with the renderings submitted by W.A. Stratton and received by the Department of Community Development on February 28, 2008.**
- 3. Any exterior lighting will be glare-shielded and non-directional to prevent direct illumination across the property line.**
- 4. A right turn lane will be constructed along the front of the property for access to the site from Old Graves Mill Road as depicted on the "Cornerstone Community Church" concept plan dated February 4, 2008 and received by the Department of Community Development on March 5, 2008."**

Before the vote was taken, Commissioner Swienton mentioned that there is a Neighborhood Traffic Management Program and you can go on the City's website and request a study. He mentioned this to Ms. Carter as a possible solution to the baseball traffic. Commissioner Swienton did think the impact the church will have is on Old Graves Mill Road and not the side streets. His main concern is that the buffer is sufficient to protect the neighbors from light and sound. He is supportive of this petition because churches are allowed in R-1 districts if they go through this process and he is satisfied that the concerns have been met.

Chair Hamilton asked him if he is offering an amendment to the conditions and he said that he would like to see the buffer increased to 27 feet, and Commissioner Worthington seconded that motion. Chair Hamilton commented that she feels that they put a lot of thought into the *Landscape Ordinance* and she does not know if they should get into the habit of increasing those buffers. Commissioner Worthington commented that she made a good point, and he withdrew his second. Commissioner Swienton then withdrew his motion. Commissioner Swienton commented that he satisfied that his thoughts are part of the record and the final site plan review process.

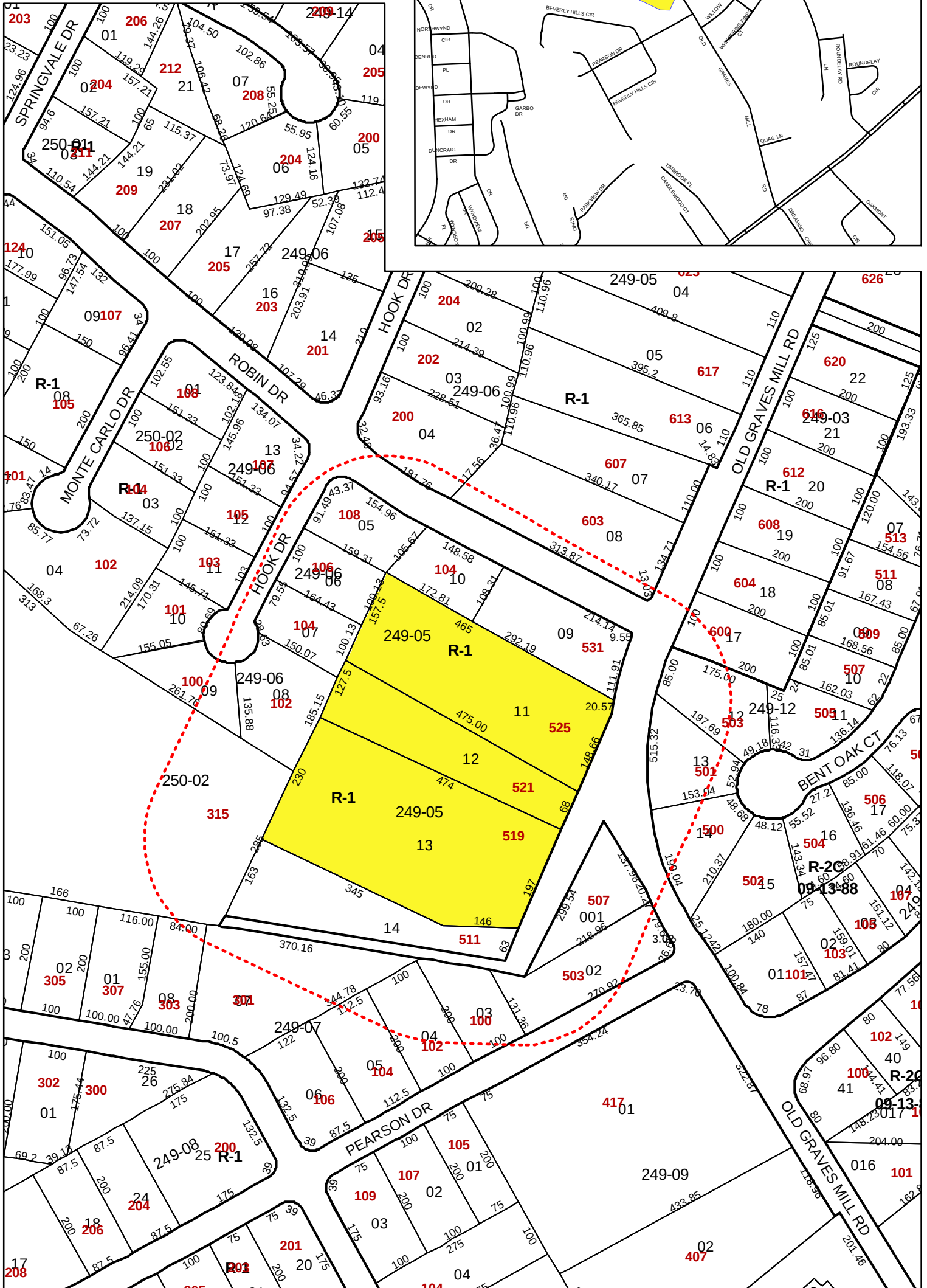
The vote was then taken on Commissioner Hannon's motion to pass this conditional use permit petition and the vote was as follows:

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

519, 521, 525 Old Graves Mill Road  
Map # 249-05-011/013  
Conditional Use Permit Request  
Petitioner: Cornerstone Community Church

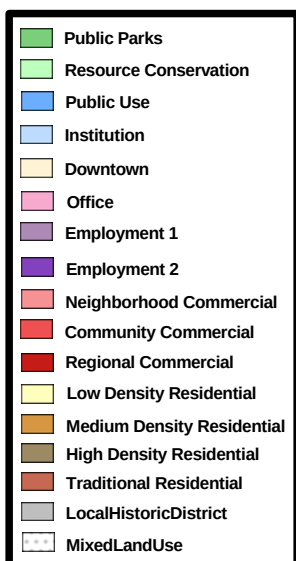
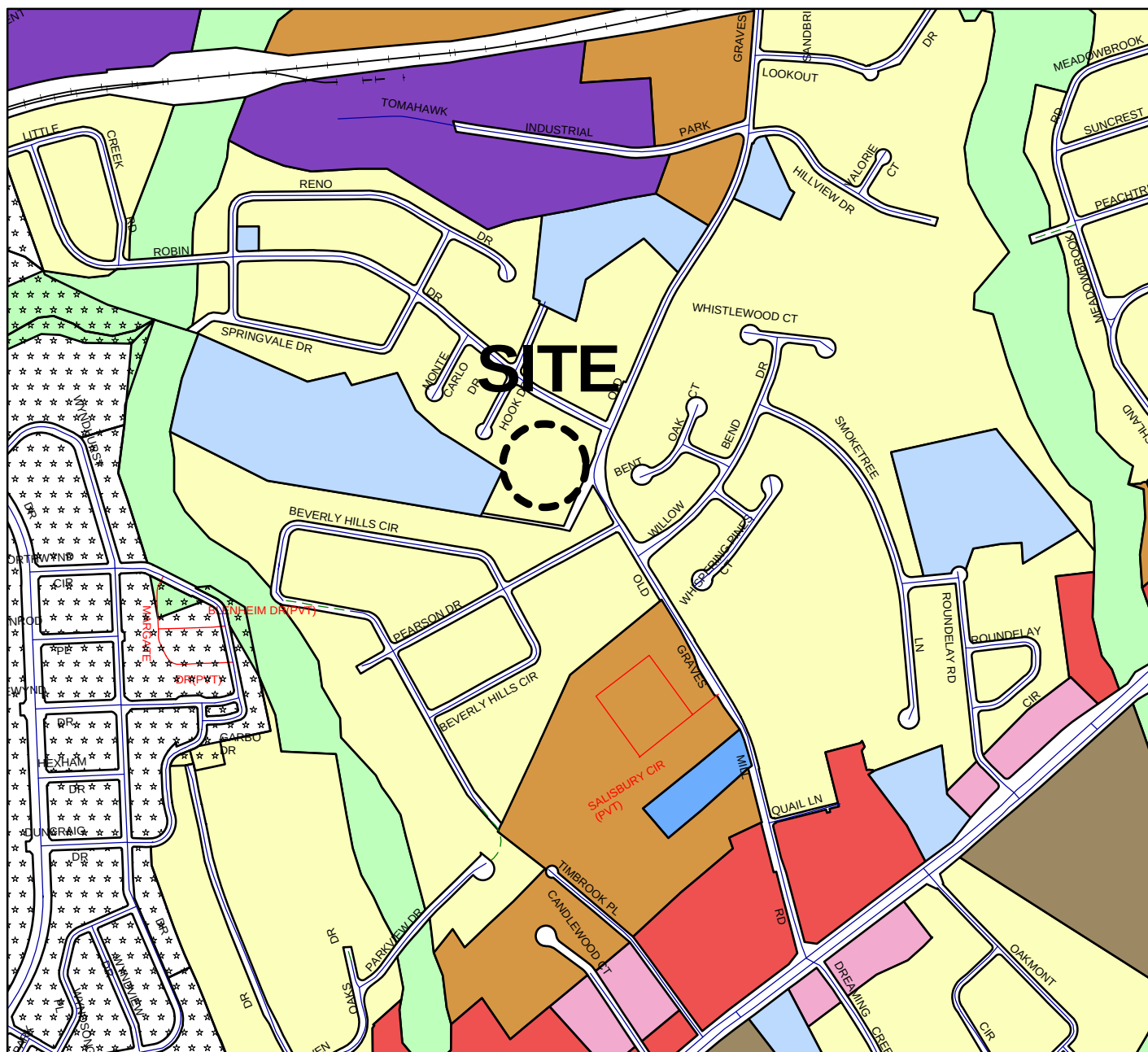
 Subject Property

 200 ft Radius



CORNERSTONE COMMUNITY CHURCH ADJOINING OWNERS

| PIN            | OWNER                                           | LOCADDR                |
|----------------|-------------------------------------------------|------------------------|
| 24903017       | JARRETT RONALD J & ANN M                        | 600 OLD GRAVES MILL RD |
| 24905008       | MORTON R DENNIS TRUSTEE U/T MORTON LIVING TRUST | 603 OLD GRAVES MILL RD |
| 24905009       | SOUTHARD CHARLOTTE D                            | 531 OLD GRAVES MILL RD |
| 24905010       | SOUTHARD CHARLOTTE D                            | 104 ROBIN DR           |
| 24905011       | AREMAR LLC                                      | 519 OLD GRAVES MILL RD |
| 24905012       | AREMAR LLC                                      | 521 OLD GRAVES MILL RD |
| 24905013       | AREMAR LLC                                      | 525 OLD GRAVES MILL RD |
| 24905014       | PAULETTE RUTH H                                 | 511 OLD GRAVES MILL RD |
| 24906004       | PATTERSON THOMAS E & SHARON S                   | 200 HOOK DR            |
| 24906005       | ALVAREZ LLADIRA L                               | 108 HOOK DR            |
| 24906006       | CLEMENTS ROGER G & PATRICIA C                   | 106 HOOK DR            |
| 24906007       | TAYLOR EDWARD L JR & LOIS A                     | 104 HOOK DR            |
| 24906008       | STROMER STEVEN S & STROMER GEORGIA              | 102 HOOK DR            |
| 24906009       | MIKHAIL NABIH N & SHIRLEY J                     | 100 HOOK DR            |
| 24907001       | ROBERTS TIMOTHY N & ELIZABETH G                 | 507 OLD GRAVES MILL RD |
| 24907002       | LOVELACE ELIZABETH S                            | 503 OLD GRAVES MILL RD |
| 24907003       | SCOTT BRIAN L & LAURA R                         | 100 PEARSON DR         |
| 24907004       | COLEMAN BRIAN W & MARY F                        | 102 PEARSON DR         |
| 24907005       | CARTER PHILLIP G & SHIRLEY S                    | 104 PEARSON DR         |
| 24907007       | RING THOMAS W & PATRICIA K                      | 301 BEVERLY HILLS CIR  |
| 24907008       | SKIRVIN KELLY L                                 | 303 BEVERLY HILLS CIR  |
| 24912012       | YELVINGTON MARGARET S                           | 503 BENT OAK CT        |
| 24912013       | MOODIE MARK M                                   | 501 BENT OAK CT        |
| 24912014       | FITCH RUBY B                                    | 500 BENT OAK CT        |
| 25002006       | BROOKVILLE RURITAN COMMUNITY                    | 315 BEVERLY HILLS CIR  |
| Owner          | AREMAR LLC                                      |                        |
| Petitioner     | CORNERSTONE COMMUNITY CHURCH                    |                        |
| Representative | ROBERT WALKER/WW ASSOCIATES                     |                        |



# CORNERSTONE COMMUNITY CHURCH

## 519, 521, 525

### OLD GRAVES MILL ROAD

### LAND USE PLAN

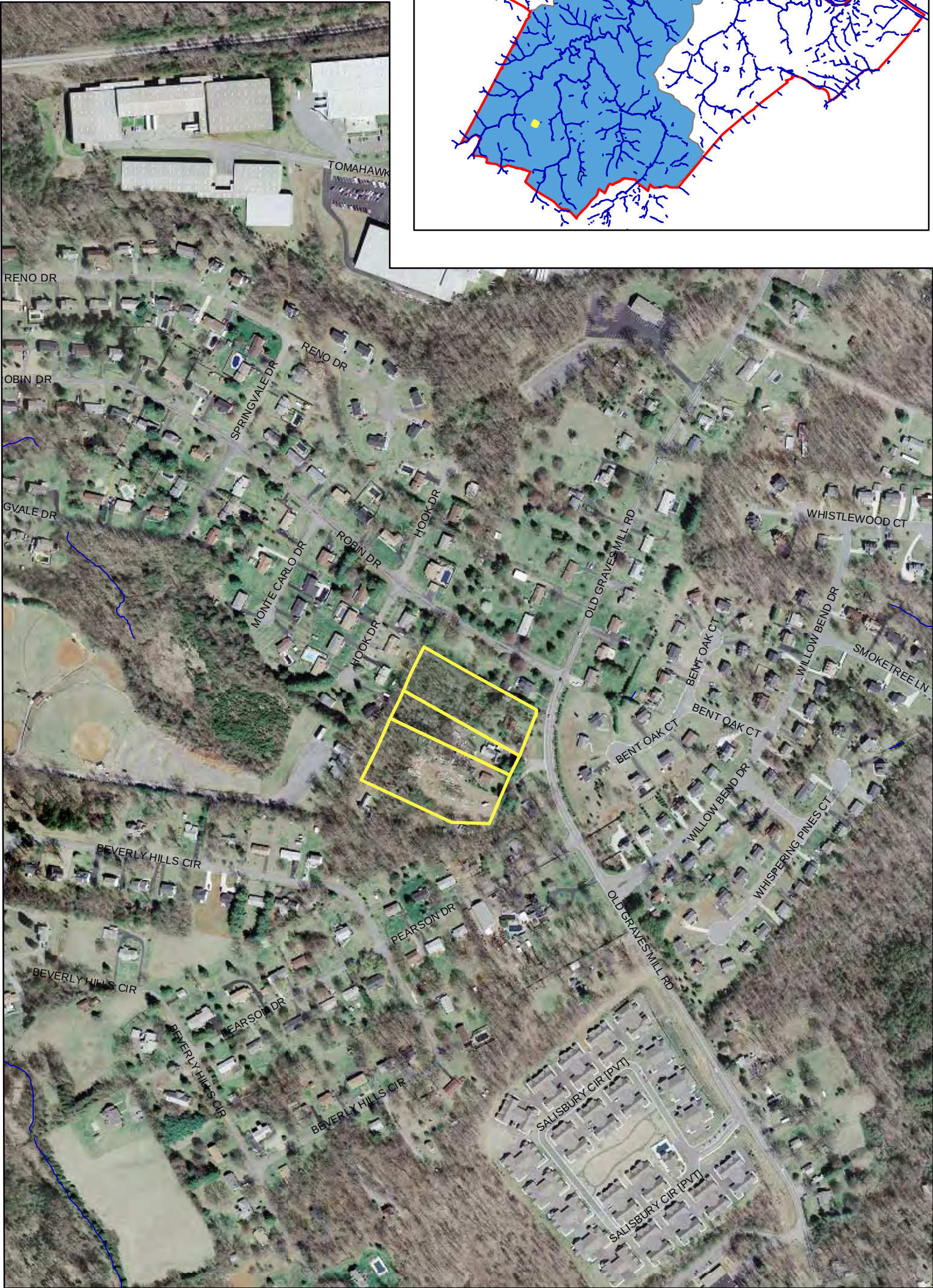
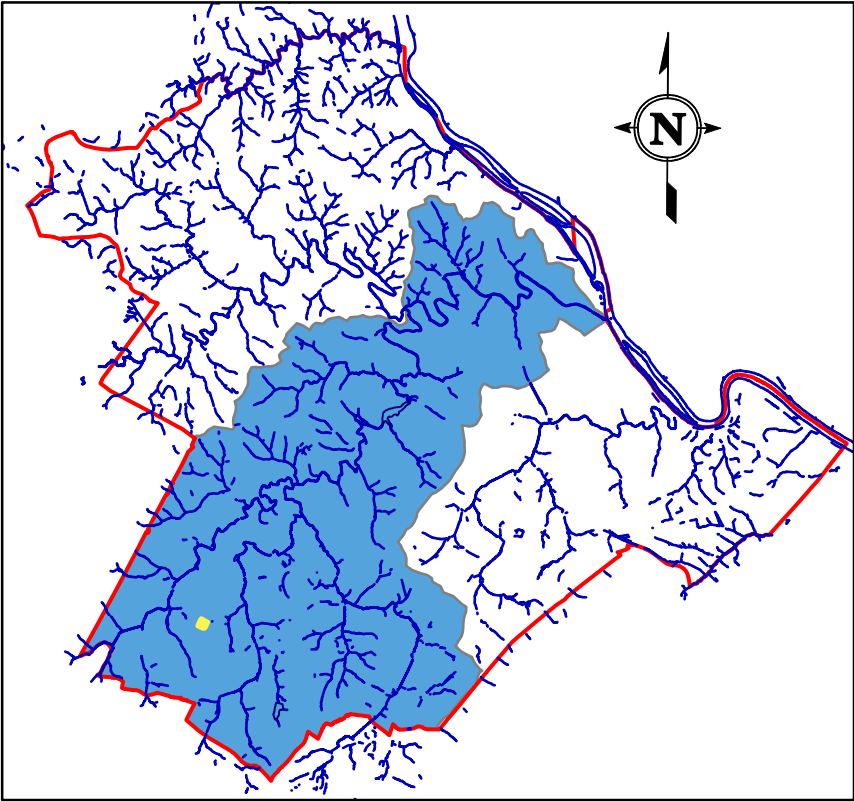




Cornerstone Community Church  
Watershed Location Map

Legend

-  Project Site
-  Corporate Limit
-  Blackwater Creek Watershed





521 OLD GRAVES MILL ROAD  
LYNCHBURG, VIRGINIA  
FEBRUARY 4, 2008

COMMUNITY DEVELOPMENT

| LEGEND   |       |                                              |
|----------|-------|----------------------------------------------|
| EXISTING | NEW   | DESCRIPTION                                  |
| 435      | 435   | CONTOUR (INTERNAL AS INDICATED ON SITE PLAN) |
| +56.1E   | +56.1 | SPOT ELEVATION                               |
|          |       | TREE LINE                                    |
|          |       | HEDGEROW                                     |
| 100-005  |       | TOP OF BANK/ NOC OF SLOPE                    |
|          |       | CENTER/EDGE OF STREAM                        |
|          |       | FENCE AND GATE                               |
|          |       | EDGE OF PAVEMENT                             |
|          |       | PROPERTY LINE                                |
|          |       | RIGHT-OF-WAY                                 |
|          |       | OVERHEAD POWER AND/OR TELEPHONE              |
| SAW      | SAW   | SEWAGE SOWER                                 |
| SS       | SS    | STORM SOWER AND END WALL, TYPE AS INDICATED  |
| FM       | FM    | FORCE MAIN                                   |
| FW       | FW    | TRAFFIC WIRE                                 |
| USE      | USE   | UNDERGROUND ELECTRICAL LINE                  |
| UTS      | UTS   | UNDERGROUND TELEPHONE LINE                   |
| A-A-A    |       | ABANDONED OR REMOVED UTILITY                 |
|          |       | STRUCTURE                                    |
|          |       | FUTURE STRUCTURE                             |
|          |       | DEMOLISH OR ABANDON STRUCTURE                |
|          |       | WATER METER                                  |
|          |       | FIRE HYDRANT                                 |
|          |       | WATER VALVE                                  |
|          |       | GAS VALVE                                    |
|          |       | SANITARY OR STORM MANHOLE                    |
|          |       | CATCH BASIN                                  |
|          |       | DROP INLET                                   |
|          |       | SANITARY CLEAN OUT                           |
|          |       | LIGHT POLE                                   |
|          |       | TELEPHONE POLE, WITH GUY AND ANCHOR          |
|          |       | POWER POLE                                   |
|          |       | TREE                                         |
|          |       | BUSH                                         |
|          |       | IRON PIN                                     |
|          |       | BENCHMARK                                    |



VICINITY MAP

|                              |                                                                                 |
|------------------------------|---------------------------------------------------------------------------------|
| <b>OWNER INFORMATION</b>     |                                                                                 |
| NAME                         | AREMAR, LLC                                                                     |
| ADDRESS                      | ATTN: ROBERT BULLOWE<br>321 OLD GRAVES MILL ROAD<br>LYNCHBURG, VA 24503         |
| <b>SITE DATA</b>             |                                                                                 |
| PHONE                        | (434) 841-8871                                                                  |
| <b>DEVELOPER INFORMATION</b> |                                                                                 |
| NAME                         | CORNERSTONE COMMUNITY CHURCH                                                    |
| ADDRESS                      | ATTN: PASTOR WILHE DAVID<br>3225 OLD FOREST ROAD, UNIT 3<br>LYNCHBURG, VA 24503 |
| PHONE/FAX                    | (434) 847-4795                                                                  |
| <b>DESIGNER INFORMATION</b>  |                                                                                 |
| NAME                         | W W ASSOCIATES                                                                  |
| ADDRESS                      | P.O. BOX 4118<br>LYNCHBURG, VA 24503                                            |
| PROJECT DESIGNER             | MICHAEL W. STRADER, JR. REGISTRATION NUMBER: #1282                              |
| PHONE                        | (434) 316-6050 FAX: (434) 316-6081                                              |
| E-MAIL ADDRESS               | MSTRADER@WVASSOCIATES.NET                                                       |

|                       |                                        |
|-----------------------|----------------------------------------|
| SOURCE OF SURVEY:     | WM ASSOCIATES, INC.                    |
| SOURCE OF TOPOGRAPHY: | CITY OF LYNCHBURG                      |
| COUNTY, STATE:        | CITY OF LYNCHBURG, VA.                 |
| TAX MAP REFERENCES:   | 248-05-011<br>248-05-012<br>248-05-013 |
| ZONING:               | R-1                                    |

### UTILITY CONTACTS

**WATER & SEWER:** CITY OF LYNCHBURG UTILITY DEPARTMENT  
525 TAYLOR STREET  
LYNCHBURG VA 24504  
(434)455-42710 ATTN: HARRY DOSS, JR.

**TELEPHONE:** VERIZON VIRGINIA, INC.  
ENGINEERING DEPARTMENT  
553 LEESVILLE ROAD  
LYNCHBURG, VIRGINIA 24502  
(434) 237-9522

**ELECTRICITY:** APPALACHIAN ELECTRIC POWER  
CONTACT TO BE ASSIGNED  
1-800-856-8237

### ABBREVIATIONS

|             |                       |       |                           |
|-------------|-----------------------|-------|---------------------------|
| AFY         | ABOVE FINISHED FLOOR  | LF    | LINEAR FEET               |
| AND         | AND                   | LF    | LEFT                      |
| ARV         | AIR RELEASE VALVE     | MH    | MANHOLE                   |
| BC          | BACK OF CURB          | HC    | NOT IN CONTRACT           |
| BF          | BUILD FLANGE          | NTS   | NOT TO SCALE              |
| BM          | BENCH MARK            | O.C.  | ON CENTER                 |
| BN          | BACK                  | PE    | POLYETHYLENE              |
| C/C         | CENTER TO CENTER      | PPCP  | PROPOSED                  |
| C & S       | CURB & GUTTER         | PCV   | POLYVINYL CHLORIDE        |
| CGI         | GAST IRON PIPE        | RCF   | REINFORCED CONCRETE PIPE  |
| C           | CENTER LINE           | REQ'D | REQUIRED                  |
| CL          | CHWLN LIRK            | RSA   | RAMPAGE SERVICE AUTHORITY |
| CMF         | CORRUGATED METAL PIPE | RT    | RIGHT                     |
| CO          | CLEAN OUT             | R/W   | RIGHT OF WAY              |
| CONE        | CONCRETE              | SAN   | SANITARY                  |
| CP          | CURB YARDS            | SQ    | SQUARE                    |
| DA          | DAMETER               | S.S.  | STAINLESS STEEL           |
| DY          | DUCTILE IRON PIPE     | STA   | STATION                   |
| EL          | ELEVATION             | STD   | STANDARD                  |
| ELEC        | ELECTRIC              | STL   | STEEL                     |
| EQUIP       | EQUIPMENT             | SW    | SWITCH                    |
| EX OR EXIST | EXISTING              | TBA   | TO BE ABANDONED           |
| FF          | FINISHED FLOOR        | TBR   | TO BE REMOVED             |
| FL          | FLORIDE               | TC    | TOP OF CURB               |
| FVC         | FACE OF CURB          | TYP   | TYPICAL                   |
| GALV        | GALVANIZED            | UG    | UNDERGROUND               |
| HR          | HOOK                  | UNO   | UNLESS OTHERWISE NOTED    |
| INV         | INVERT                | WT    | WATERTIGHT                |
| IRS         | IRON PIN SET          | WN    | WONEN WIRE                |
| IPP         | IRON PIN FOUND        | YDS   | YARDS                     |
| JT          | JUNCTION BOX          |       |                           |

NOTES:

1. THE SIZE OF THE SYMBOLS MAY VARY FROM THOSE SHOWN.
2. ALL ABBREVIATIONS AND SYMBOLS GIVEN ARE MEANT TO BE USED.

1. THE SIZE OF THE SYMBOLS MAY VARY FROM THOSE SHOWN.
2. ALL ABBREVIATIONS AND SYMBOLS SHOWN MAY NOT BE USED.

| LIST OF DRAWINGS |          |           |                                                          |
|------------------|----------|-----------|----------------------------------------------------------|
| SHEET NO.        | DWG. NO. | REFERENCE | TITLE                                                    |
| 1 OF 3           | CS-1     | GENERAL   | LEGEND, LIST OF DRAWINGS, VICINITY MAP AND GENERAL NOTES |
| 2 OF 3           | C-1      | CIVIL     | SITE PLAN                                                |
| 3 OF 3           | C-2      | CIVIL     | GRADING, DRAINAGE AND UTILITY                            |

CONTACT THE CITY OF LINCOLNBURG CONSTRUCTION COORDINATOR AT (434)455-4450 A MINIMUM OF 48 HOURS PRIOR TO BEGINNING CONSTRUCTION.

TO MAKE APPLICATION AND PAY FOR ANY NEW WATER AND SEWER FEES CONTACT THE ENGINEERING MAP ROOM AT (434)455-3952

CONTACT MISS UTILITY 1-800-552-7021 48 HOURS IN ADVANCE OF ANY CONSTRUCTION ACTIVITY.

ALL CONSTRUCTION SHALL BE PERFORMED IN ACCORDANCE WITH CITY OF LINCOLNBURG MANUAL OF SPECIFICATIONS AND STANDARD DETAILS, LATEST EDITION.

THE PROPERTY IS NOT LOCATED WITHIN AN ESTABLISHED 100-YEAR FLOOD

[illegible]











REAR ELEVATION  
1/8" = 1'-0"



LEFT SIDE ELEVATION  
1/8" = 1'-0"



RIGHT SIDE ELEVATION  
1/8" = 1'-0"



FRONT ELEVATION  
1/8" = 1'-0"

RECEIVED

FEB 28 2008

COMMUNITY  
DEVELOPMENT

|                                                         |           |                              |      |
|---------------------------------------------------------|-----------|------------------------------|------|
| NEW FACILITIES, INC.                                    |           | CORNERSTONE COMMUNITY CHURCH |      |
| LINDSEY, VIRGINIA                                       |           |                              |      |
| NAME AS NOTED                                           | DATE      | APPROVED BY                  | DATE |
| W.A. STRATTON                                           | 2-11-2008 |                              |      |
| S W.A. STRATTON                                         |           | CONTRACTOR                   |      |
| P.O. Box 508, Appomattox, Virginia 24512 (434) 532-1235 |           | DRAWING NUMBER               |      |
|                                                         |           | 1-001                        |      |

4342396492

Mar 12 08 12:23p

Whitfield Judy

4342396492

p. 1

Page 1

March 12, 2008

TO: Mr. Tom Martin  
Lynchburg Planning Commissioner

FAX 434-845-7630

PHONE 434-455-3909

FROM: Wilma Dye

Phone: 434-239-7593

Due to illness, I will be unable attend the Planning Commission Meeting this afternoon. I am faxing the petition that the Citizen of Ward IV have signed requesting that the rezoning of the property between Robin Drive and Pearson Drive be denied.

Thank you

# of pages 5

According to Mapquest, there are five churches within a one mile radius of the intersection of Robin and Old Graves Mill Road

|                          |          |
|--------------------------|----------|
| Believers Fellowship     |          |
| 727 Old Graves Mill Road | .26 mile |

|                              |         |
|------------------------------|---------|
| Seven Hills Church of Christ |         |
| 810 Old Graves Mill Road     | 36 Mile |

|                         |        |
|-------------------------|--------|
| St Thomas More Catholic |        |
| 3015 Roundelay Road     | 4 Mile |

|                      |         |
|----------------------|---------|
| The Lynchburg Church |         |
| 7619 Timberlake Rd   | 53 mile |

|                    |     |
|--------------------|-----|
| Faith Bible Church |     |
| 7808 Timberlake Rd | .54 |



## PETITION

### MEMBERS OF THE LYNCHBURG PLANNING COMMISSION

We, the concerned citizens of Ward IV, do hereby petition the Lynchburg Planning Commission to oppose the rezoning of the three adjoining lots between Pearson Drive and Robin Drive from a residential zone to a commercial zone. We believe that allowing the rezoning for The Cornerstone Church would either create or worsen the following problems:

- 1) Traffic is a major concern. It is now difficult to enter Old Graves Mill Road in this area. The entrance to the Church in the middle of the curve would create serious visibility problems for oncoming traffic in either direction.
- 2) There are now five churches within walking distance of the neighborhood -- two on Old Graves Mill Road.
- 3) A "swimming pond" and how it will be used and what the effect will be on a residential neighborhood are unknown.

We respectfully request the Lynchburg Planning Commission to deny the request for the property to be rezoned.

| Name / Date:                 | Address:                                  |
|------------------------------|-------------------------------------------|
| 2/8/08 Edward Martin         | 104 Monte Carlo Drive Lynchburg, VA 24502 |
| Jerry + Kitty Mason 3/8/08   | 101 Monte Carlo Dr., Lynchburg VA 24502   |
| James + Sheila Gillam 3-8-08 | 106 Monte Carlo Dr. Lynchburg, VA 24502   |
| Emily + Walter Curule        | 102 Monte Carlo Dr., Lynchburg, VA 24502  |
| Daniel + Ann Neely           | 107 Monte Carlo Dr. Lynchburg, VA 24502   |
| PETE + SARAH ALLEN           | 107 MONTE CARLO DR. LYNCHBURG, VA 24502   |
| SCOTT + MEREDITH MORDON      | 1003 OLD GRAVES MILL RD L'BORE VA         |
| Mary Elder                   | 313 Beverly Hills Cir. Lynchburg VA 24502 |
| AC + BETTY GEDEN             | 202 Hook Drive Lynchburg VA 24502         |
| Brenda + Harold Thomas       | 203 Robin Drive Lynchburg, VA             |
| Regina + Harold              | 204 Robin Dr. Lynchburg, VA 24502         |
| Melinda + David              | 103 Hook Drive, Lynchburg, VA             |
| WILLIAM H. SCHARBARDSON      | 204 HOOK DRIVE, LYNCHBURG, VA             |
| Robert + Mikoto              | 200 HOOK DR                               |
| Brenda Reynolds              | 103 Hook Drive Lynchburg                  |
| Nes Reynolds                 |                                           |
| LEON WARE                    |                                           |
| LEONA WARE                   |                                           |

4 of

## PETITION

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- 3) A “swimming pond” and how it will be used and what the effect will be on a residential neighborhood are unknown.

We respectfully request the Lynchburg Planning Commission to deny the request for the property to be rezoned.

Name / Date:

Address:

|                      |                                |          |
|----------------------|--------------------------------|----------|
| Judith & Whitfield   | 504 Robin Dr                   | 24502    |
| Cynthia S. Smith     | 502 Robin Dr. Lynchburg, VA    | 24502    |
| Roger W. Whitfield   | 501 Robin Dr. Lynchburg        |          |
| Michael J. Whitfield | 505 Robin Dr. Lynchburg        | 24502    |
| Thomas Whitfield     | 505 Robin Dr. Lynchburg        | 24502    |
| Thomas Whitfield     | 513 Little Creek Rd. Lynchburg | 24502    |
| John L. Butler       | 513 Little Creek Rd. Lynchburg | 24502    |
| Carol Currence       | 511 Little Creek Rd. Lynchburg | 24502    |
| Jack Currence        | 511 Little Creek Rd. Lynchburg | 24502    |
| David L. Currence    | 507 Little Creek Rd. Lynchburg | 24502    |
| Scott Currence       | 503 Robin Dr. Lynchburg        | 24502    |
| LEWIS W. PUGH        | 411 ROBIN DR. LYNCHBURG        | VA 24502 |
|                      |                                |          |
|                      |                                |          |
|                      |                                |          |
|                      |                                |          |
|                      |                                |          |



March 12, 2008

[illegible]

**Gerry L Harter/PubServ/COL**

03/24/2008 11:08 AM

To kent.white@lynchburgva.gov

cc Charlene B Montford/CityHall/COL@COL, James  
Talian/PubServ/COL@COL, kent.white@lynchburgva.gov,  
lee.newland@lynchburgva.gov,

bcc

Subject Re: Cornerstone Church - Old Graves Mill Road

History: This message has been replied to.

Kent

Just a clarification, we were made aware of the reduction in building size by the applicant before the planning commission meeting. We did not rerun the analysis for the right turn at the time as we were unaware of their desire to remove the condition.

Gerry Harter, P.E. PTOE  
City Transportation Engineer  
900 Church Street  
Lynchburg, VA 24504

Phone: 434-455-3935

Fax: 434-847-1436

Gerry L Harter/PubServ/COL

**Gerry L Harter/PubServ/COL**

03/21/2008 02:04 PM

To Kent White

cc lee.newland@lynchburgva.gov,  
tom.martin@lynchburgva.gov, James  
Talian/PubServ/COL@COL, Charlene B  
Montford/CityHall/COL@COL

Subject Cornerstone Church - Old Graves Mill Road

Kent

As you know, there was some discussion regarding the requirement for a right-turn lane during the planning commission meeting for the above referenced project. At this meeting, the applicant made Planning Commission aware that some of the design elements have changed since the original plans were submitted, and as a consequence, was trying to remove the condition of constructing a right-turn lane based on the new conceptual plan. Planning Commission, at the end, was pretty adamant that the right-turn lane be constructed. Since the applicant made us aware that some of the design elements have changed since our original comments, we decided to look into their request regarding constructing the right-turn lane. As I stated during the Planning Commission meeting, this was the first I heard of the applicant's desire to remove the condition.

Based on our second review of the project, I offer the following:

1. A right-turn or left-turn lane needs to have a proper deceleration length in order for vehicles to pull out of the traffic stream and be able to slow down to make the turn. In this case, there is not enough site frontage to allow a proper length for the decel lane. I was made aware that property from an adjacent owner would have to be purchased and the adjacent landowner's driveway may have to be relocated (since it would fall within the taper of the right-turn lane). This could cause hardship on the applicant since the adjacent property owner knows that they have a condition to put a right-turn lane in and may charge



them an unfair price for the land or to relocate the driveway.

2. Since the actual driveway location has been set in the latest conceptual plan, it appears that there will be adequate sight distance for vehicles turning into the driveway so that they will not be rear-ended. Shifting the driveway north or south could cause it to be more hidden and thus right-turning vehicles into the driveway may not be seen by vehicles on Old Graves Mill Road causing rear-end crashes. At its current location, there is adequate sight distance to view a right-turning vehicle.

3. The original plan came in with a larger building and more parking. The original building size put the right-turn lane warrant "on the bubble" for being met during church events. With it on the bubble, staff made the decision to be conservative and request the turn lane. Now that the building has decreased over 8,000 square feet and the parking decreased by over 50 spaces, the warrant is no longer "on the bubble" and as a consequence, a right-turn lane is no longer warranted.

Based on the above factors, staff is now recommending that the right-turn lane not be a requirement as part of this Conditional Use Permit. We are recommending that a larger turning radius be constructed (approx. 35 feet) so that vehicles do not have to slow down significantly to make the right turn into the site. Again, if we were made aware of this by the applicant in a more timely matter, we could have made this second assessment before the Planning Commission meeting and adverted this situation. I do apologize for any delay we may have caused in this situation.

Gerry Harter, P.E. PTOE  
City Transportation Engineer  
900 Church Street  
Lynchburg, VA 24504

Phone: 434-455-3935  
Fax: 434-847-1436

**LYNCHBURG CITY COUNCIL**  
**Agenda Item Summary**

|                             |                                                                                                                                                                      |                                   |
|-----------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------|
| MEETING DATE: April 8, 2008 |                                                                                                                                                                      | AGENDA ITEM NO.: 5                |
| CONSENT:                    | REGULAR: X                                                                                                                                                           | CLOSED SESSION:<br>(Confidential) |
| ACTION: X                   | INFORMATION:                                                                                                                                                         |                                   |
| <u>ITEM TITLE:</u>          | FUTURE LAND USE MAP (FLUM) AMENDMENT – Employment 2, Low Density Residential and Resource Conservation to Medium Density Residential at 903 and 903A Wiggington Road |                                   |
|                             | REZONING – I-3, Heavy Industrial District to R-3C, Medium Density Two-Family Residential District (Conditional) at 903 and 903A Wiggington Road                      |                                   |
|                             | CONDITIONAL USE PERMIT (CUP) – Parkside Villas (formerly Park Place), 903 and 903A Wiggington Road                                                                   |                                   |

RECOMMENDATION: Denial of the requested *Future Land Use Map* amendment, rezoning and conditional use permit petitions.

SUMMARY: Tom Dewitt is petitioning to amend the *Future Land Use Map*, to rezone forty-six and fifty-two hundredths (46.52) acres of the property and for a conditional use permit to allow construction of a one hundred and ninety (190) unit townhouse neighborhood with associated parking and amenities. The remaining ten and ninety-six hundredths (10.96) acres of the property are not included as part of the petitions and would remain zoned as Resource Conservation (this area would only be disturbed to allow the construction of walking trails and utilities for the project). Planning Commission recommended denial of these petitions because:

- The Lynchburg *Comprehensive Plan* recommends a combination of Resource Conservation, Low Density Residential and Employment 2 uses in this area. The *Comprehensive Plan*; Goal 2.A. prompts the City to conserve development sites by “identify[ing] undeveloped areas of the City and surrounding counties that would be suitable for large-scale industrial development, and determine when and how to protect these areas from conversion to small scale uses.” [page 9.6]
- The properties are currently zoned as I-3, Heavy Industrial District. The Office of Economic Development and the Industrial Development Authority’s [IDA] Property Committee have reviewed the project and agree that the property has the potential for commercial office or industrial development.
- Staff is concerned about the potential for conflict between the residents of the proposed development and future development of any industrial uses on the adjacent properties. The I-3, Heavy Industrial District zoning of the adjacent properties would allow for the most intensive uses permitted by the City’s *Zoning Ordinance*. Staff also noted that changing the zoning to permit residential use would likely put a burden on adjacent industrially zoned property. The *Zoning Ordinance* would require the industrially zoned properties adjacent to residentially zoned property to implement a one hundred (100)- foot setback and vegetative buffers on those properties at the time any improvements were made.
- The project would not be a “transit-oriented development”. The townhouse community would not provide for any pedestrian features outside of the development nor is any public transit accessible to the site.

PRIOR ACTION(S):

March 12, 2008: Planning Division recommended denial of the *FLUM* amendment, rezoning and conditional use permit petitions.

Planning Commission recommended denial (5-1, with 1 absent, Sale) of the rezoning with the following voluntarily submitted proffers:

1. The site will be developed into one (1) level attached dwellings for sale (sometimes referred to as patio homes or villas), configured generally as shown on the submitted preliminary plan.
2. A natural vegetated buffer will be retained along Ivy Creek and the southeasterly and southwesterly property lines as shown.
3. All areas shown outside the limits of work on the submitted preliminary plan will remain undisturbed except for the installation of walking trails, stormwater management facilities and utilities as required.
4. A five (5) foot wood chip walking trail will be constructed generally as shown as coordinated with the Department of Parks and Recreation, within six (6) months of the first dwelling being occupied.
5. An approximately one hundred and fifty (150) square foot gazebo will be constructed for the use of the homeowners within six (6) months of the first dwelling being occupied.
6. As identified in the "Traffic Impact Analysis" for this project by the Renaissance Planning Group, dated February 28, 2008, we hereby proffer construction of the left hand turn noted in this report. A copy of this analysis was submitted to the City Traffic Engineer's office on February 29, 2008.
7. Per the revised site plan by Perkins & Orrison for this project, dated March 6, 2008, we hereby proffer that this project will be in substantial compliance with this revised site plan.

Planning Commission recommended denial (5-1, with 1 absent, Sale) of the CUP with the following conditions:

1. The entrance, or a portion thereof, will be dedicated to the City as a public street to provide the opportunity to create an additional street out to the Industrial Development Authority property at the west of the site.
2. The petitioner will provide adequate site distance to the west of Wiggington Road from the proposed access drive for the project.
3. The petitioner will address any additional findings of the traffic study, submitted to the City on February 29, 2008 prior to final approval of a site plan for the project.

FISCAL IMPACT: N/A

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

ATTACHMENT(S):

Resolution

Ordinance

PC Report

PC Minutes

Vicinity Zoning Pattern

Vicinity Proposed Land Use

Watershed Location Map

Site Plan

Building Elevations

FLUM Amendment Narrative Justification

Proffers

Letter of Opposition – Industrial Development Authority

Speaker Sign-Up Sheet

REVIEWED BY: lkp

ORDINANCE:

AN ORDINANCE AMENDING THE FUTURE LAND USE MAP FOR THE PROPERTY LOCATED AT 903 and 903A WIGGINGTON ROAD, FROM EMPLOYMENT 2, RESOURCE CONSERVATION AND LOW DENSITY RESIDENTIAL TO MEDIUM DENSITY RESIDENTIAL.

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

Section 35.1-76.\_\_\_\_. Amend the Future Land Use Map for the subject property at 903 and 903A Wiggington Road, from Employment 2, Resource Conservation and Low Density Residential to Medium Density Residential.

The area embraced within the following boundaries . . . .

BEGINNING AT A POINT, said point being Wiggington Road thence S 50°51'18" W, 184.21 feet to a point, thence S 28°59'42" E, 103.67 feet to a point, thence S 38°22'30" W, 137.24 feet to a point, thence S 06°49'42" E, 297.00 feet to a point, thence S 42°10'42" E, 191.21 feet to a point, thence S 63°54'42" E, 103.86 feet to a point, thence N 84°04'18" E, 71.32 feet to a point, thence S 37°43'42" E, 174.40 feet to a point, thence S 20°05'42" E, 18.85 feet to a point, thence S 74°15'24" W, 36.04 feet to a point, thence S 48°38'12" W, 75.28 feet to a point, thence S 33°14'44" W, 89.80 feet to a point, thence S 21°28'41" W, 83.77 feet to a point, thence S 07°03'59" W, 104.60 feet to a point, thence S 14°21'24" E, 92.49 feet to a point, thence S 56°19'26" E, 108.09 feet to a point, thence S 44°39'01" E, 115.23 feet to a point, thence S 60°27'41" E, 199.06 feet to a point, thence S 88°20'55" E, 114.49 feet to a point, thence S 28°47'28" E, 51.68 feet to a point, thence S 07°21'22" E, 42.41 feet to a point, thence S 21°29'45" W, 76.99 feet to a point, thence S 36°00'46" W, 142.11 feet to a point, thence S 15°36'43" W, 123.30 feet to a point, thence S 16°50'24" E, 120.31 feet to a point, thence S 29°00'01" E, 54.33 feet to a point, thence S 09°15'54" E, 18.89 feet to a point, thence S 07°34'48" W, 91.70 feet to a point, thence S 21°35'16" W, 7.17 feet to a point, thence S 40°55'46" W, 40.09 feet to a point, thence S 28°58'32" W, 151.23 feet to a point, thence S 00°24'23" E, 104.94 feet to a point, thence S 06°00'44" W, 64.71 feet to a point, thence S 75°00'20" W, 133.78 feet to a point, thence S 20°56'51" W, 161.35 feet to a point, thence S 07°10'32" E, 84.67 feet to a point, thence S 27°04'57" W, 72.66 feet to a point, thence S 31°12'31" W, 82.71 feet to a point, thence S 20°52'41" W, 130.59 feet to a point, thence S 25°30'52" W, 140.25 feet to a point, thence N 65°47'59" W, 24.47 feet to a point, thence N 63°34'22" W, 98.51 feet to a point, thence N 18°26'39" E, 38.51 feet to a point, thence N 31°41'46" E, 71.34 feet to a point, thence N 37°13'39" E, 105.79 feet to a point, thence N 26°10'05" E, 116.70 feet to a point, thence N 05°39'16" E, 206.59 feet to a point, thence N 57°01'31" W, 171.36 feet to a point, thence N 76°31'34" W, 79.41 feet to a point, thence N 46°50'59" W, 124.53 feet to a point, thence N 71°50'47" W, 190.83 feet to a point, thence N 77°20'34" W, 52.14 feet to a point, thence N 14°14'42" W, 27.52 feet to a point, thence N 23°30'18" E, 40.12 feet to a point, thence N 33°35'42" W, 60.93 feet to a point, thence N 06°59'18" E, 78.20 feet to a point, thence N 20°12'18" E, 90.23 feet to a point, thence N 29°47'18" E, 53.49 feet to a point, thence N 06°07'42" W, 34.51 feet to a point, thence N 18°30'42" W, 100.50 feet to a point, thence N 08°17'42" W, 96.37 feet to a point, thence N 42°10'42" W, 91.33 feet to a point, thence N 23°03'42" W, 180.84 feet to a point, thence N 00°23'18" E, 191.90 feet to a point, thence N 07°45'42" W, 100.18 feet to a point, thence N 01°45'18" E, 151.05 feet to a point, thence N 16°52'42" W, 105.54 feet to a point, thence N 11°06'42" W, 108.14 feet to a point, thence N 22°36'42" W, 113.26 feet to a point, thence N 03°57'18" E, 150.00 feet to a point, thence N 25°30'42" W, 216.90 feet to a point, thence N 38°41'48" E, 612.46 feet to a point, thence N 50°22'18" E, 265.69 feet to a point, thence S 64°01'25" E, 80.78 feet to a point, Thence, along a tangent curve to the right with a radius of 1369.75 feet, a tangent length of 58.39 feet, a central angle of 04°52'54", the radius of which bears S 25°58'35" W, the chord of which bears S 61°34'58" E for a distance of 116.67 feet; Thence along the arc of said curve for a distance of 116.70 feet to a point; the POINT OF BEGINNING.



CONTAINING: 2026845 square feet or 46.53 acres of land, more or less.

. . . is hereby amended on the Future Land Use Map from Employment 2, Resource Conservation and Low Density Residential to Medium Density Residential and the Director of Community Planning and Development shall forthwith cause the Future Land Use Map referred to in Section 35.1-4 of this chapter to be amended in accordance therewith.

Adopted:

Certified: \_\_\_\_\_  
Clerk of Council

044L1

## ORDINANCE

AN ORDINANCE CHANGING A CERTAIN AREA FROM I-3, HEAVY INDUSTRIAL DISTRICT TO R-3C, MEDIUM DENSITY, TWO-FAMILY RESIDENTIAL 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 35.1-76.\_\_\_\_ which section shall read as follows:

Section 35.1-76.\_\_\_\_. Change of a certain area at 903 and 903A Wiggington Road from I-3, Heavy Industrial District to R-3C, Medium Density Two-Family Residential District (Conditional).

The area embraced within the following boundaries ...

BEGINNING AT A POINT, said point being Wiggington Road thence S 50°51'18" W, 184.21 feet to a point, thence S 28°59'42" E, 103.67 feet to a point, thence S 38°22'30" W, 137.24 feet to a point, thence S 06°49'42" E, 297.00 feet to a point, thence S 42°10'42" E, 191.21 feet to a point, thence S 63°54'42" E, 103.86 feet to a point, thence N 84°04'18" E, 71.32 feet to a point, thence S 37°43'42" E, 174.40 feet to a point, thence S 20°05'42" E, 18.85 feet to a point, thence S 74°15'24" W, 36.04 feet to a point, thence S 48°38'12" W, 75.28 feet to a point, thence S 33°14'44" W, 89.80 feet to a point, thence S 21°28'41" W, 83.77 feet to a point, thence S 07°03'59" W, 104.60 feet to a point, thence S 14°21'24" E, 92.49 feet to a point, thence S 56°19'26" E, 108.09 feet to a point, thence S 44°39'01" E, 115.23 feet to a point, thence S 60°27'41" E, 199.06 feet to a point, thence S 88°20'55" E, 114.49 feet to a point, thence S 28°47'28" E, 51.68 feet to a point, thence S 07°21'22" E, 42.41 feet to a point, thence S 21°29'45" W, 76.99 feet to a point, thence S 36°00'46" W, 142.11 feet to a point, thence S 15°36'43" W, 123.30 feet to a point, thence S 16°50'24" E, 120.31 feet to a point, thence S 29°00'01" E, 54.33 feet to a point, thence S 09°15'54" E, 18.89 feet to a point, thence S 07°34'48" W, 91.70 feet to a point, thence S 21°35'16" W, 7.17 feet to a point, thence S 40°55'46" W, 40.09 feet to a point, thence S 28°58'32" W, 151.23 feet to a point, thence S 00°24'23" E, 104.94 feet to a point, thence S 06°00'44" W, 64.71 feet to a point, thence S 75°00'20" W, 133.78 feet to a point, thence S 20°56'51" W, 161.35 feet to a point, thence S 07°10'32" E, 84.67 feet to a point, thence S 27°04'57" W, 72.66 feet to a point, thence S 31°12'31" W, 82.71 feet to a point, thence S 20°52'41" W, 130.59 feet to a point, thence S 25°30'52" W, 140.25 feet to a point, thence N 65°47'59" W, 24.47 feet to a point, thence N 63°34'22" W, 98.51 feet to a point, thence N 18°26'39" E, 38.51 feet to a point, thence N 31°41'46" E, 71.34 feet to a point, thence N 37°13'39" E, 105.79 feet to a point, thence N 26°10'05" E, 116.70 feet to a point, thence N 05°39'16" E, 206.59 feet to a point, thence N 57°01'31" W, 171.36 feet to a point, thence N 76°31'34" W, 79.41 feet to a point, thence N 46°50'59" W, 124.53 feet to a point, thence N 71°50'47" W, 190.83 feet to a point, thence N 77°20'34" W, 52.14 feet to a point, thence N 14°14'42" W, 27.52 feet to a point, thence N 23°30'18" E, 40.12 feet to a point, thence N 33°35'42" W, 60.93 feet to a point, thence N 06°59'18" E, 78.20 feet to a point, thence N 20°12'18" E, 90.23 feet to a point, thence N 29°47'18" E, 53.49 feet to a point, thence N 06°07'42" W, 34.51 feet to a point, thence N 18°30'42" W, 100.50 feet to a point, thence N 08°17'42" W, 96.37 feet to a point, thence N 42°10'42" W, 91.33 feet to a point, thence N 23°03'42" W, 180.84 feet to a point, thence N 00°23'18" E, 191.90 feet to a point, thence N 07°45'42" W, 100.18 feet to a point, thence N 01°45'18" E, 151.05 feet to a point, thence N 16°52'42" W, 105.54 feet to a point, thence N 11°06'42" W, 108.14 feet to a point, thence N 22°36'42" W, 113.26 feet to a point, thence N 03°57'18" E, 150.00 feet to a point, thence N 25°30'42" W, 216.90 feet to a point, thence N 38°41'48" E, 612.46 feet to a point, thence N 50°22'18" E, 265.69 feet to a point, thence S 64°01'25" E, 80.78 feet to a point, Thence, along a tangent curve to the right with a radius of 1369.75 feet, a tangent length of 58.39 feet, a central angle of 04°52'54", the radius of which bears S 25°58'35" W, the chord of which bears S 61°34'58" E for a distance of 116.67 feet; Thence along the arc of said curve for a distance of 116.70 feet to a point; the POINT OF BEGINNING.

CONTAINING: 2026845 square feet or 46.53 acres of land, more or less.

... is hereby changed from from I-3, Heavy Industrial District to R-3C, Medium Density Two-Family Residential District (Conditional) subject to the conditions set out hereinbelow which were voluntarily proffered by the owner, namely Regina A. Harshman, to wit:

1. The site will be developed into one (1) level attached dwellings for sale (sometimes referred to as patio homes or villas), configured generally as shown on the submitted preliminary plan.
2. A natural vegetated buffer will be retained along Ivy Creek and the southeasterly and southwesterly property lines as shown.
3. All areas shown outside the limits of work on the submitted preliminary plan will remain undisturbed except for the installation of walking trails, stormwater management facilities and utilities as required.
4. A five (5) foot wood chip walking trail will be constructed generally as shown as coordinated with the Department of Parks and Recreation, within six (6) months of the first dwelling being occupied.
5. An approximately one hundred and fifty (150) square foot gazebo will be constructed for the use of the homeowners within six (6) months of the first dwelling being occupied.
6. As identified in the "Traffic Impact Analysis" for this project by the Renaissance Planning Group, dated February 28, 2008, we hereby proffer construction of the left hand turn noted in this report. A copy of this analysis was submitted to the City Traffic Engineer's office on February 29, 2008.
7. Per the revised site plan by Perkins & Orrison for this project, dated March 6, 2008, we hereby proffer that this project will be in substantial compliance with this revised site plan.

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

Adopted:

Certified:

\_\_\_\_\_  
Clerk of Council

044L2

## RESOLUTION

A RESOLUTION GRANTING A CONDITIONAL USE PERMIT TO ALLOW THE CONSTRUCTION OF ONE HUNDRED NINETY (190) TOWNHOUSE UNITS (FOR SALE).

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF LYNCHBURG that the petition of Tom Dewitt for a Conditional Use Permit at 903 and 903A Wiggington Road to allow construction of one hundred ninety (190) townhouse units be, and the same is hereby, approved subject to the following conditions:

1. The entrance, or a portion thereof, will be dedicated to the City as a public street to provide the opportunity to create an additional street out to the Industrial Development Authority property at the west of the site.
2. The petitioner will provide adequate site distance to the west of Wiggington Road from the proposed access drive for the project.
3. The petitioner will address any additional findings of the traffic study, submitted to the City on February 29, 2008 prior to final approval of a site plan for the project.

Adopted:

Certified:

\_\_\_\_\_  
Clerk of Council

044L3

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

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**To:** Planning Commission  
**From:** Planning Division  
**Date:** March 12, 2008  
**Re:** **FUTURE LAND USE MAP AMENDMENT [FLUM]:** Employment 2, Low Density Residential, and Resource Conservation to Medium Density Residential at 903 and 903A Wiggington Road  
**REZONING:** I-3, Heavy Industrial District and R-C, Conservation to R-3C, Medium Density Two-Family Residential District (Conditional) at 903 and 903A Wiggington Road  
**Conditional Use Permit (CUP):** Parkside Villas (formerly Park Place), 903 and 903A Wiggington Road

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**I. PETITIONER**

Tom DeWitt, 20185 Timberlake Road, Lynchburg, VA 24502

**Representative:** Russ Orrison, Perkins & Orrison, P.O. Box 1567, Lexington, VA 24450

**II. LOCATION**

The subject properties include two (2) tracts totaling approximately fifty-seven and forty-eight hundredths (57.48) acres at 903 and 903A Wiggington Road.

**Property Owners:** Regina A. Harshman, 10601 Church Hill Road, Myersville, MD 21773

**III. PURPOSE**

The purpose of this petition is to rezone forty-six and fifty two hundredths (46.52) acres of the property to allow construction of a one hundred and ninety (190) townhouse unit private residential neighborhood with associated parking and amenities. The remaining ten and ninety-six hundredths (10.96) acres of the property are not included as part of the petitions; these properties would remain zoned as Resource Conservation and only be disturbed to allow the construction of walking trails and utilities for the project.

**IV. SUMMARY**

- Petition proposes to change the *Future Land Use Map [FLUM]* designation for this area from Low Density Residential and Employment 2 uses to Medium Density Residential use. Adjacent land uses designated by the map primarily include other Employment 2 uses, as well as a combination of Resource Conservation, Employment 1, Public Park, Low Density Residential, and Medium Density Residential uses.
- Petition agrees with the *Zoning Ordinance* in that townhouses are allowed in an R-3, Medium-Density Two-Family Residential District with approval of a CUP by City Council.

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

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**V. FINDINGS OF FACT**

1. **Comprehensive Plan.** The Lynchburg *Comprehensive Plan* recommends a combination of Resource Conservation, Low Density Residential and Employment 2 uses in this area. Resource Conservation Areas encompass lands with special natural characteristics that make their preservation in open space particularly important to the City's environmental health. The mapped Resource Conservation Areas include streams and rivers, their one hundred (100)-year floodplains, connected wetlands and adjacent steep slopes (defined as slopes of twenty-five percent (25%) or greater). **[page 5.2]** The petitioner does not propose to change or significantly impact the Resource Conservation areas designated for this property.



The proposed project site also includes Low Density Residential and Employment 2 areas. Low Density Residential areas are dominated by single family detached housing at densities of up to four (4) dwelling units per acre. [page 5.5] Employment 2 uses “include light and heavy manufacturing, research and development, flex space and large scale office uses. Restaurant, hotel and business service uses are also sized and designed to serve the employment area. Employment 2 differs primarily from Employment 1 uses in that it permits heavy industrial uses.” [page 5.4] The petitioner is requesting an amendment to the *Future Land Use Map* that would designate the subject property for Medium Density Residential uses. Medium Density Residential uses are characterized by small-lot single-family detached housing, duplexes, and townhouses with densities up to twelve (12) units per acre. [pg. 5.5] The proposed development would have a density of approximately three and three tenths (3.3) units per acre.

Although the City of Lynchburg is supportive of the *Comprehensive Plan*’s goal to “promote the construction of new housing and rehabilitation of existing housing to satisfy the demands of an increasingly diverse local and regional housing market” [page 10.12], the plan also emphasizes the need to “identify areas of the City with the potential, through redevelopment, to support the expansion of existing and the attraction of new industrial and office development”. [page 9.6] Planning staff asked the Department of Economic Development and the Industrial Development Authority’s [IDA] property committee to review the project with regard to the potential land use change for the area. Economic Development and the IDA both agreed that property has the potential for commercial office or industrial development. Planning staff shares these concerns, noting that amending the *Future Land Use Map* and changing the zoning to permit residential use would also likely put a burden on adjacent industrially zoned property. The *Zoning Ordinance* would require the industrially zoned properties adjacent to residentially zoned property to implement a one hundred (100) foot setback and vegetative buffers on those properties at the time any improvements were made to that property.

Also, while the *Future Land Use Map* designates a significant number of residential uses on the northern side of Wiggington Road, the south side of this corridor includes a majority of Employment 2 uses. The proposed *FLUM* amendment would likely change the growth pattern in this area, which is in direct conflict with the Economic and Employment Area chapter of the *Comprehensive Plan*; Goal 2.A. which prompts the City to conserve development sites by “identify[ing] undeveloped areas of the City and surrounding counties that would be suitable for large-scale industrial development, and determine when and how to protect these areas from conversion to small scale uses.” [page 9.6] Based on these findings of fact, the Planning Division, the Department of Economic Development and the Industrial Development Authority’s property committee are not supportive of the *Future Land Use Map* Amendment, rezoning or CUP petitions.

2. **Zoning.** The subject property was annexed into the City in 1976. The existing I-3, Heavy Industrial District, and R-C, Conservation District zoning 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:
  1. The site will be developed into one (1) level attached dwellings for sale (sometimes referred to as patio homes or villas), configured generally as shown on the submitted preliminary plan.
  2. A natural vegetated buffer will be retained along Ivy Creek and the southeasterly and southwesterly property lines as shown.
  3. All areas shown outside the limits of work on the submitted preliminary plan will remain undisturbed except for the installation of walking trails, stormwater management facilities and utilities as required.
  4. A five (5) foot wood chip walking trail will be constructed generally as shown as coordinated with the Department of Parks and Recreation, within six (6) months of the first dwelling being occupied.

5. An approximately one hundred and fifty (150) square foot gazebo will be constructed for the use of the homeowners within six (6) months of the first dwelling being occupied.
  6. As identified in the "Traffic Impact Analysis" for this project by the Renaissance Planning Group, dated February 28, 2008, we hereby proffer construction of the left hand turn noted in this report. A copy of this analysis was submitted to the City Traffic Engineer's office on February 29, 2008.
  7. Per the revised site plan by Perkins & Orrison for this project, dated March 6, 2008, we hereby proffer that this project will be in substantial compliance with this revised site plan.
4. **Board of Zoning Appeals (BZA).** The Zoning Official has determined that no variances will be needed for the proposed rezoning.
5. **Surrounding Area.** There have been several items requiring City Council approval in the immediate area:
- On May 8, 2007, City Council approved Edward B. McNally, Valencia Properties, LLC's petition to rezone the property at 118, 124 and 128 Burnham Lane and 208 Schothum Street from R-1 and R-2 to B-3C to allow for the construction of an eighteen (18) lot business park.
  - On July 10, 2005, City Council approved the petition of Joe Gantt, Gant Properties Inc., to rezone a portion of the property on Ivy Creek Lane known as Valuation Number 218-11-003 as well as a CUP to allow construction of four (4) townhouse buildings totaling twenty-two (22) units.
  - On May 10, 2005, City Council approved the petition of Joe Gantt, Gant Properties Inc., to rezone the property at 821, 823 Mercury Street and 824 Wiggington Road from R-2 to R-3C to allow for the construction of three (3) townhouse buildings totaling sixteen (16) units.
  - On December 14, 2004, City Council approved Joe Gantt's petition to rezone the property at 811 Mercury Street from R-2 and B-3 to B-3C to allow for the construction of a duplex on the lot.
  - On September 14, 2004, City Council approved Nextel Partner's CUP petition to collocate cellular equipment on an existing tower at 208 Schothum Street.
  - On December 16, 2003, City Council approved Joe Gantt's petition to rezone the property at 813 Mercury Street from R-2 to B-3C to allow for the construction, with the appropriate setbacks, of an office complex with parking.
  - On June 13, 2000, City Council denied Thomas W. Ackerman's CUP petition to allow the use of property in the 400 block of Wiggington Road to be used as a private park for a club in an R-2, Low-Medium Density Single-Family Residential District.
  - On March 9, 1999, City Council approved Lester Mulligan and Albert Henry's CUP petition for the construction of a veterinary hospital at 802-804 Wiggington Road.
  - On February 11, 1997, City Council approved Richard Gilmore's petition to rezone the property at 811 Wiggington Road from B-3 & I-3 to B-3C for the construction of a funeral home.
  - On June 11, 1996, City Council approved the Central Congregation of Jehovah's Witnesses' CUP petition to allow the addition of a driveway, canopy and parking area to an existing church facility at 319 Wiggington Road.
  - On August 13, 1996, City Council approved Victory Christian Fellowship's CUP petition to allow the construction of a new sanctuary, buildings and parking in the 400 block of Wiggington Road.
  - On September 12, 1995, City Council approved the CUP petition of Hubbard's Advertising Agency, Inc., for the use of the property at 309 Chapel Lane to allow the installation of a radio transmission tower.

- On November 12, 1991, City Council approved the petition of Charles H. Robertson, Dominion Land and Real Estate, Inc., to rezone the property at 1117 Wiggington Road from I-3 to R-C to allow marketing the property for limited residential development.
  - On August 14, 1990, City Council approved the City of Lynchburg Parks & Recreation Department's CUP petition to amend the master plan for Peaks View Park with access points on Ardmore Drive, Tenbury Drive and Ivy Creek Lane for the property off of Ardmore Drive.
  - On September 12, 1989, City Council approved Juanita Milstead's CUP petition to operate an adult care center at 1317 Ashbourne Drive.
  - On September 12, 1989, City Council amended the official zoning map to reflect the rezoning of the Northwest Expressway Area as shown on the map entitled "Northwest Expressway Area Land Use Study – 1989 – Proposed Official Zoning Map – 9-12-89."
  - On July 12, 1988, City Council approved Juanita Milstead's CUP petition to operate an adult care center at 1319 Ashbourne Drive.
  - On August 14, 1984, City Council approved Central Virginia Indoor Tennis, Inc.'s petition to rezone approximately twenty (20) acres on Davis Cup Road from R-2, Low-Medium Density Single-Family Residential District to B-5C, General Business District (Conditional) to allow the expansion of an existing facility to be used as an all-purpose sports facility.
  - On January 27, 1981, City Council approved the City of Lynchburg Parks & Recreation Department's CUP petition to develop a master plan for a new city park (Peaks View Park) off of Ardmore Drive.
6. **Site Description.** The subject property is bound to the north by single-family and multi-family homes and commercial uses, to the east by single family homes and commercial businesses, to the south by vacant industrial land and industrial uses and to the west by vacant industrial land, as well as commercial businesses and residences in Bedford County.
  7. **Proposed Use of Property.** The purpose of these petitions is to allow the construction of a one hundred and ninety (190) townhouse unit neighborhood. The project would be required to meet all requirements of the Scenic Corridor Overlay District, as well as development standards for townhouse lots for sale as defined by the City's *Zoning Ordinance*. These requirements include glare-shielded exterior lighting, architectural treatments, setbacks, minimum yard dimensions, height, width and layout requirements. The property would be served by City water and sewer with all utilities located underground. Exterior building materials would be a combination of brick and vinyl with a variety of floorplans. Landscaping would also comply with the landscaping section of the *Zoning Ordinance*, which would require street trees, parking area screening, parking lot landscaping, foundation plantings and utility area screening. A five (5) foot wood wide trip walking trail would be constructed along the one hundred (100)-year floodplain, adjacent to Ivy Creek; pedestrian connections will be provided from all units to the recreational common areas.
  8. **Traffic, Parking and Public Transit.** Engineering staff requested that the petitioner consider dedicating the entrance as a public street at least as far as the loop road intersection to provide the opportunity to create an additional street out to the Industrial Development Authority property to the west. They noted that the potential second outlet would provide an alternate route out of the residential development, as well as an opportunity to mitigate future impacts to Wiggington Road, if Jefferson Ridge Parkway is extended to meet Wiggington Road at some point in the future. Engineering concluded their recommendation by noting that one (1) entrance for one hundred and ninety (190) residences is not a high level of public access, and an additional future access point would be greatly preferred. The designer noted staff's recommendation but had concerns that the public street may make it difficult for the development to become a gated community if the petitioner opted for this at some point in the future. The petitioner has shown the street as private on the concept plan.

The City's Transportation Engineer determined that the project met the warrants for a traffic study, noting that the City is biased towards this development needing a left turn lane. The petitioner

completed the study and submitted it for staff review on February 29<sup>th</sup> along with a cover memo noting that the study concurred with the Transportation Engineer's recommendation for a turn lane. The petitioner has proffered for the left turn lane as part of the rezoning petition. The Transportation Engineer also noted that site distance to the west from the proposed driveway is partially obstructed and has noted that this distance will need to be cleared. The balance of the study is currently under review and staff will present any other findings at the March 12<sup>th</sup> Planning Commission hearing.

Parking requirements for the proposed development are set at two and a half (2.5) spaces per unit by the City's *Zoning Ordinance*. The proposed one hundred ninety (190) townhouses would require four hundred seventy-five (475) parking spaces. The project would provide for a variety of parking options including garage parking (with deed restrictions to prevent those spaces from being converted to living space at some future date), driveway parking (with allowances for additional drive lengths to incorporate the required front yards for townhouse developments) and parking lots. The concept plan provides for a combined total of five hundred and thirteen (513) parking spaces for the development, thus meeting the requirement of City Code.

Public transit is not available to the site. The closest transit route is the Greater Lynchburg Transit Company's Route Eight (8), which runs along Old Forest Road and a portion of Wiggington Road (by selected route); however the closest stop is on the opposite side of the Lynchburg Expressway just under one (1) mile from the proposed site.

9. **Storm Water Management.** New impervious areas will exceed one thousand (1,000) square feet; as such, a stormwater management plan will be required for the construction. The petitioner's preferred management option would be to do a low impact design development without stormwater quantity detention. This strategy is predicated on the fact that the watershed area for this channel is significantly greater than one hundred (100) times the area of the site. In cases where the run-off from the site is less than one percent (1%) of the total contributing drainage, the City's *Stormwater Design Manual* provides this strategy as an option for special consideration intended to benefit developers who are willing to explore alternative stormwater design. If the petitioner pursues this type of design, the site would incorporate low impact practices which would provide for a combination of distributed stormwater management features, a reduction in impervious surfaces and infiltration practices located throughout the site in such a manner to prevent direct channelized stormwater discharges into Ivy Creek. The manual also requires that the intent of all stormwater management regulations be met in all cases, as determined by the Plan Approving Authority (i.e. the Environmental Planner). Although this strategy is preferred by the petitioner and staff, the location of practices, soil types, topography and the size of the contributing drainage area will all have a significant bearing on whether this type of design can be applied to this site. Since the plan is currently at a conceptual stage, if the rezoning and conditional use permit petitions are approved, the applicant will pursue this design as a first step in the formal site plan process. If after reviewing all of the factors, the petitioner cannot meet the requirements set forth within the City's design guidelines for this special consideration, they reserve the right to pursue a standard stormwater quantity management (through detention or similar practice) and quality treatment (via best management practices designed to meet the performance standards) design in accordance with the City's *Stormwater Ordinance*. The proposed management strategy is acceptable to the City's Environmental Planner.

The Planning Division requested that the petitioner consider maintaining a one hundred (100)- foot vegetative buffer adjacent to Ivy Creek and its tributaries to protect the integrity of the stream system. The designer has maintained this buffer width along the stream corridor within the one hundred (100)-year floodplain, except for a provision for walking trails, stormwater management facilities and utilities.

10. **Emergency Services.** The City's Fire Marshal requested that the petitioner consider changing the main road name from Park Place to something else, since there are several instances of the "Park" on city streets. The petitioner has revised the name of the street and the development to Parkside Lane and Parkside Villas to address this request.

The City Police Department had no comments regarding the proposed townhouse development.

11. **Impact.** The development of a one and hundred ninety (190) unit townhouse complex with associated parking would have significant impacts on the surrounding area. Planning and Economic Development staff, as well as the Industrial Development Authority's property committee, maintain their concerns about the potential loss of forty-six and fifty two hundredths (46.52) acres of industrially zoned property with the potential to support the expansion and/or attraction of new industrial or office development. Amending the *Future Land Use Map* and rezoning the property to permit a residential use would also put an additional restriction on adjacent industrially zoned property, by requiring the potential developer to extend buffers and one hundred (100) foot building setbacks as part of the industrial development. Staff also notes the potential for conflict between the residents of the proposed project and future development of any industrial uses on the adjacent properties; the I-3, Heavy Industrial District uses on the property permits the most intensive uses allowable by the City's *Zoning Ordinance*. Lastly, the *Future Land Use Map* designates a significant number of residential uses on the northern side of Wiggington Road; however the south side of this corridor includes a majority of Employment 2 uses which the City has identified as valuable development sites that would be suitable for large-scale commercial or industrial development. Although the petitioner has worked with City staff to address the majority of the technical concerns for the project, the over-arching issues about the potential use conflicts due to the FLUM amendment, as well as the rezoning and condition use permit petitions, outweigh the positives of the development. Therefore, staff recommends denial of the petitions.

If City Council determines that development is appropriate for the area, staff recommends that Council consider adding a condition to the CUP that would require the dedication of the entrance (or a portion thereof) as a public street to provide the opportunity to create an additional street out to the Industrial Development Authority property to the west. Staff also recommends that a condition be placed on the CUP that, if approved, the development will provide for adequate site distance to the west of the proposed access drive and that the additional findings of the petitioner's Traffic Study be addressed prior to site plan approval.

12. **Technical Review Committee.** The Technical Review Committee (TRC) reviewed the preliminary site plan on February 19, 2008. 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.

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## **VI. PLANNING DIVISION RECOMMENDATION**

**Based on the preceding Findings of Fact, the Planning Commission recommends to City Council denial of an amendment to the Future Land Use Map from Resource Conservation, Low Density Residential and Employment 2 uses to Medium Density Residential at 903 and 903A Wiggington Road.**

**Based on the preceding Findings of Fact, the Planning Commission recommends to City Council denial of Tom Dewitt's petition to rezone approximately forty-six and fifty two hundredths (46.52) from I-3, Heavy Industrial District to R-3C, Medium Density Two-Family Residential District (Conditional), at 903 and 903A Wiggington Road.**

**Based on the preceding Findings of Fact, the Planning Commission recommends to City Council denial of Tom Dewitt's petition for a conditional use permit (CUP) at 903 and 903A Wiggington Road to allow for the construction of a one hundred and ninety (190) townhouse unit private residential neighborhood with associated parking and amenities, subject to the following conditions:**

- 1. The entrance, or a portion thereof, will be dedicated to the City as a public street to provide the opportunity to create an additional street out to the Industrial Development Authority property at the west of the site.**
- 2. The petitioner will provide adequate site distance to the west of Wigginton Road from the proposed access drive for the project.**
- 3. The petitioner will address any additional findings of the traffic study, submitted to the City on February 29, 2008 prior to final approval of a site plan for the project.**

This matter is respectfully offered for your consideration.

William T. Martin, AICP  
City Planner

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

## **VII. ATTACHMENTS**

- 1. Vicinity Zoning Pattern**
- 2. Vicinity Proposed Land Use**
- 3. Watershed Location Map**
- 4. Site Plan**
- 5. Building Elevations**
- 6. FLUM Amendment Narrative Justification**
- 7. Proffers**
- 8. Letter of Opposition – Industrial Development Authority**



**MINUTES FROM THE MARCH 12, 2008 PLANNING COMMISSION MEETING (MINUTES HAVE NOT BEEN APPROVED – NO MARCH 26, 2008 MEETING)**

**c. Petition of Tom DeWitt to amend the Future Land Use Map from Low Density Residential and Employment 2 to Medium Density Residential, to rezone 46.52 acres from I-3, Heavy Industrial District to R-3C, Medium Density, Two-Family Residential District and for a Conditional Use Permit to allow the construction of 190 townhouses (for sale) with associated parking and amenities at 903 and 903A Wiggington Road.**

Mr. White addressed the commissioners with the following comments. The *Future Land Use Map* designation is that of Employment 2, which leans toward light and heavy industrial development. The conditional use permit would allow the townhomes to be for sale units. The project would provide for traffic improvements. The most significant of these would be a left turn lane. Mr. Harter has reviewed the balance of the traffic study and had no additional comments. The project would also be one of our first true low impact development projects. That is a project that would attempt to eliminate the need for stormwater detention. The petitioner would attempt to eliminate the requirement for quantity by designing the project with small capsules of low impact developments, reducing impervious surface, promoting infiltration where possible to ultimately convey water so that there are not direct discharges to the channel. While this is their stated desire to do this, they are only at the concept stage of this project and do not know things like soil types, watershed constraints and topographic constraints, which could certainly affect the layout of this low impact design. Ms. Hawkins has worked with them to make sure that they have adequate room to meet our standard design criteria.

The petitioner proposes to amend the *Future Land Use Map* to medium density residential. Staff has concerns about this because this area is designated Employment 2. The zoning would currently provide for industrial uses in this area, and *Comprehensive Plan* Goal 2(a) prompts the City to "conserve development sites by identifying undeveloped areas of the city and surrounding counties that would be suitable for large scale industrial development and determine how to protect these areas from conversion to small scale uses." The Industrial Development Authority Committee and the office of Economic Development have both written in opposition to this due to the fact that they feel that it has possible future industrial or commercial development uses.

The *Future Land Use Map* amendment and rezoning would require the adjacent industrially zoned properties to enact a 100-foot buffer on those properties. This property would not be required to do the buffer, but both of the neighboring properties would have to have a 100-foot buffer. Staff also notes that there is a potential for conflict with the 190 units, specifically those that are marketed to older residents, to be sited in between sites of two potential industrial developments. Staff's last concern is that the development is not transit oriented, which is no fault of the developer, but the closest bus stop is over a mile away. Although the petitioner has been great to work with staff and has addressed comments regarding traffic, environmental and public safety, staff's concerns for the project outweigh the positives at this time.

Mr. Tom DeWitt came forward to represent the petition. For the last three years, they have been developing a project in Campbell County called Lakewalk Villas. These villas that are proposed on Wiggington Road would be very similar to those. He does not like the term townhome because they call these units patio homes or villas. Townhomes is rarely used in the marketing of them because that brings an unfavorable image to mind, something that looks like an apartment or something straight up and down. These are all one-level villas geared toward empty nesters, 55 plus, retirement age folks, active adults—you will see all those terms used for them.

One of the things that they are trying to do is maintain as much as they can in terms of the natural vegetation and making that the big amenity. The number one thing that these people do is walking, so they have created walking trails and have created good situations for them to gather outside. The units

will be 1200 to 1800 square feet. They will have one and two car garages. About 40 percent of these units will have basements. They have incorporated universal design. This makes these units very suitable for handicapped people with extra wide doors, lever type handles, low thresholds, etc. They have open floor plans with minimal hallways, maintenance free exteriors, energy efficient features, gourmet kitchens, master suites with easy access bath, etc. The price range is \$180,000 to \$280,000. They have looked at this as being the perfect demographic area for the project. Over one-third of the population of that ward will turn over 55 sometime during this project. The median adult age in this ward is 47. The average median age in the city is 35, which is a pretty big difference. They feel like there is not currently a good project in the city that is meeting the need of this group of people. He thinks that they will find that they are a good developer to work with. There are many amenities nearby and they plan on naming the units after the city's parks. Their marketing concept will be to focus on the natural beauty of the area.

They feel that this project qualifies as good, clean industry. There will not be a lot of school age children. They will not impact city services a lot. This is the kind of project that you put a stamp on and say "Who wouldn't want that? Who would turn that project down?"

As far as the Industrial Development Authority (IDA) is concerned, they have mapped out their position. He does not think they are right. They have had 30 years for something to happen in this and it has not happened. They feel like they have the right project for this area. This amounts to a \$45 to \$50 million project. They hope the commissioners will vote for and approve this project.

Mr. Ken McBride came forward to speak in favor of the petition. He is the project manager. He mentioned that they have met with city staff and Dr. Thomas Shahady of Lynchburg College to get his opinion. He has written a letter basically in support of this project from an environmental perspective. They have talked to people in the community after sending out 171 notices. They had a neighborhood meeting which was attended by eleven people. They tried to address those people's concerns. He also met with the area businesses and several of them supported it verbally.

To speak to the issue of the *Comprehensive Plan*, he pointed out that this is a plan that is revisited every five years and it is an instrument of change. They feel that this area calls for change because for thirty years, Wiggington Road has looked about the same. It has not become an industrial corridor. Everything on this side of Ivy Creek has stayed residential, light commercial and support services. He thinks that it is a matter of common sense. If you look at the petitions that have come before this one in staff's report, those were residential and residential associated activities for this area. The only one that had an industrial overtone to it was a cell phone tower site. They feel that there have been several requests that were given a favorable response that are consistent with this rezoning request. He respectfully request a favorable endorsement for this petition.

Mr. Richard Moose, who lives in Concord, came forward to speak in favor of the petition. He is a friend of the landowner, who was unable to attend tonight. She has owned this property for approximately fifteen years, and it has been vacant for that period of time. A caretaker used to live on the property, but his trailer burnt down, so Mr. Moose was asked to look out for it. They have had some problems with people shooting firearms there and other things that are not what you would want done on the property. The IDA has negotiated with the owner several times, but they only offered her two-thirds of the value of the property. Mr. Moose feels that the IDA has had ample time to secure this property and have not been aggressive in doing so.

Mr. Russ Orrison, the civil engineer and surveyor for this project, came forward next to speak in favor of the petition. He pointed out that the property would be rezoned from the heaviest industrial use that the city has--not from a field or meadow. He thought that they could work with Mr. White to address the issue of the 100-foot buffer issue, but they have already proffered a 100-foot buffer on the site plan. He feels that this is coming down to a land use issue. They feel that Wiggington Road is not heavy industrial

in nature; it is residential. He pointed out that the staff report says that one of the future land uses might be for low density residential--up to four units per acre. Their plan is for 3.3 units per acre.

Chair Hamilton read into the record an e-mail from Dr. Thomas Shahady: "In consideration of this rezone, I would like to offer the following observation for consideration. I have walked the property with the developer on two occasions. The property is very unique in that Ivy Creek defines the outer boundaries and meanders significantly from entry to exit from the property. Additionally, this property is located in very close proximity to Peaks View Park creating the potential to join Ivy Creek natural area and trail with this property. It is currently zoned industrial and this proposed use jeopardizes the potential for future citizens to ever enjoy the natural features of this portion of Ivy Creek. Additionally, industrial use presents not only stormwater impacts to the stream but toxics not otherwise found in a residential development.

With all of this in mind, I support the suggested rezone with additional proffers to adequately develop the riparian buffer along the Ivy Creek corridor. I have suggested potential stream restoration, buffer plantings and development of both a walking and biking trail through the property. Ivy Creek buffer zone must remain as RC with this request. Well maintained and established buffers with stream restoration will offer levels of protection from development, enhance water quality and provide Lynchburg with increased natural areas. This offers the city much more than any potential industrial development sometime in the future. Thank you for your consideration."

Chair Hamilton asked for anyone who wished to speak in opposition to the petition. Ms. Janice Fears of 825 Wiggington Road came forward. They have been there 32 years. They are zoned industrial and their land joins the land they want rezoned. They do not want any townhomes. They have too much traffic now. Her husband counted one morning last week between 7:00 a.m. and 8:00 a.m. There were 126 cars and two school busses. They have observed townhomes that Mr. DeWitt has off Linkhorne Drive. They are a unsightly. She would prefer not to have them behind her and asked the commissioners to please not rezone.

Ms. Robynne Fears of 825 Wiggington Road came forward to speak in opposition to the petition. She says that you cannot pull out of 903 Wiggington Road without possibly getting hit. She has pictures of this to show them. In the mornings, there is so much traffic, it is hard to get out of your driveway. She feels Lynchburg has enough townhomes. Why build more? Up the street, there are four major subdivisions with 350 homes. They do not need any more traffic. People are flying down the road and wrecking in their yard and taking out their mailbox.

Mr. Freeman Russ, Jr., of 832 Wiggington Road, came forward to speak in opposition to the petition. The curve people are speaking of is adjacent to his property. Where the driveway to this property will be coming out will be quite hazardous. The turn lane gives him concern because they will probably take some of his front yard and he will not have much left. He would like it to be a little safer. He has had cars in his front yard taking out his bushes. He takes his life into hands to cross the road to get to his mailbox on the other side. He is right between two really bad curves and it is very dangerous to cross the street. There are some townhomes being built right next to him and that will cause more traffic. To make the claim that these people will not be going to work is not true. He is 60 years old and still goes to work. People have to work later in life in these times. He asked the developer if this would be an age restricted community and was told that it would not be.

He is also afraid that if they straighten out Wiggington Road that he would have to relocate his septic unit and that would be expensive. He is not even sure if he could relocate it. He also thinks the speed issue is a big issue and law enforcement cannot be there to enforce it all the time. More traffic will just add to this problem.

Ms. Christine Valentine of 833 Wiggington Road came forward next to speak in opposition to the

petition. She worries about the traffic and she worries that the city might want to widen the road. She does not have that much land as it is. She is also concerned about the traffic light that they are proposing to put in because that is a dangerous curve.

Chair Hamilton asked those who are in favor of the petition to stand and four people stood. She asked those who were in opposition to the petition to stand and five people stood.

Mr. Russ Orrison came back to rebut some of the comments. He said that they are not proposing a traffic light at all. He pointed out that if this land was used as heavy industrial, that would generate 3,000 trips per day. That is 400 vehicle trips per hour during the peak. This development generates 1,100 vehicle trips per day and 100 vehicle trips per hour. So they are proposing a reduction in traffic by a third for daily trips and 25 percent of what would be proposed if it went to heavy industrial, the way the City wants it to go.

Mr. DeWitt pointed out that their other project is 85 percent people over the age of 55. They have a few people that are bachelors or divorcees. The school bus does not stop at their project. If there are kids there, they are grandkids. They do not have an age restriction there, but you will find those same kind of statistic at this project and you will find people coming and going during off-peak hours. He also pointed that they had indicated that half of the people in the development would still be working.

He thought that if they were asking for this property to be rezoned heavy industrial, he is not sure if this room could hold the number of people who would show up in opposition to an industrial use. There have been nineteen petitions in the report and only one was denied. Everyone of those uses was for either light office or something that would fit in B-1 like a funeral home or they were for multi-family use. They think they are right in keeping with what the true character of the neighborhood is and what is really happening there.

He also pointed out that what is allowed in the Scenic Corridor is not what you would see with a heavy industrial use. They would have metal or cinderblock and those materials are not allowed in the Scenic Corridor.

Ms. Janice Fears came back to say that she does not want any townhomes behind her property. She would much rather have a business.

Chair Hamilton then closed the public hearing portion of the petition.

Chair Hamilton wanted clarification from Mr. White about the 100-foot buffer. If they are proffering a 100-foot buffer, does that then alleviate that burden from the industrial zoned properties on either side? Mr. White said it would not. He wanted to clarify that the commercial properties would be required to provide a 100-foot setback and a 20-foot buffer. He had been mixing terms and wanted to clarify that point. Commissioner Barnes wanted clarification that the two adjoining properties are not currently developed, and Mr. White said that was correct.

Commissioner Swienton wanted to know how close the adjoining properties came to the creekbed. Mr. White said that the creekbed is zoned Resource Conservation, so they would not be allowed to develop this portion. There is a provision to allow parking in an R-C zone, but the interpretation of staff is that if the parking is for an industrial use, that property would have to be zoned industrial.

Commissioner Swienton asked Mr. White to clarify what environmental protection there would be as opposed to what this project currently proposes. Mr. White said that they are proposing a low-impact development, which staff is very supportive of--not having detention. That is predicated by the fact that they are so close to a large stream, they are considered at one percent of the watershed--something that staff really likes when they have the opportunity to enforce and encourage. The idea being that holding

back the peak adjacent to large streams oftentimes causes more stormwater problems than actually releasing before the peak flow of that watershed comes downstream. That is a great design. Similarly, an industrial development could propose that exact same design. By low-impact, we mean no detention, with provisions for water quality or alternative design. An example is the Ford Manufacturing Plant in Detroit has installed a green roof and has pervious parking.

This development could go as a by-right stormwater practice if the conditions are not right for the low impact development. If the soil does not perk, it is hard to get an infiltration practice into place. If that is the case, he would revert back to a standard detention practice of some sort and normal water quality measures. Similarly, an industrial use could use that design strategy if they chose.

Commissioner Worthington asked where the Valencia properties were that had been rezoned recently were in relation to this property, and Mr. White said they directly east and extend across to the expressway.

Commissioner Swienton asked Mr. White if he felt comfortable that the environmental things could be put in place comparable to this project through the normal Technical Review Committee process if this land was developed industrially. Mr. White said that from the standpoint of stormwater and erosion, that would be "apples to apples." However, he pointed out that industrial provides for a wide variety of uses and there could be other environmental issues associated with them. A smokestack may produce air pollution. Residential homes may overfertilize their lawns. They look at the fact that there are many non-point sources of pollutions.

Ms. Hawkins said that if you go either way, there would be certain environmental requirements that they would have to adhere to. It would depend on the type of development that came in as to their impact.

Commissioner Swienton asked if there was any way to have Parks and Recreation get an easement tossed in there through the Technical Review Committee or conditional use permit process where they could extend the trails. Mr. White said Parks and Recreation is on the Technical Review Committee as an advisory member. He would say that there is nothing codified that would require an industrial development to connect to the park system. However, Lynchpin Industrial Park and MACOM did put in walking trails to connect to the park system. Industries do like to provide options to their employees to do something during work or after hours of this nature.

Commissioner Swienton pointed out that when he walked the property that he saw many stakes with a "C" on them, which he assumes to mean "cut". Mr. Orrison said that was true. Their design says they will use the natural contour as much as possible. How does that become low impact if the top part is no longer in its natural state? Mr. Orrison said that the cuts he sees are to the basement level. A lot of these units have walkout basements. The front corners of those units would say "cut ten feet" and then the back corner of the unit would hopefully be "cut zero."

He pointed out that this design is proposing one-quarter of the area to be impervious and the chart they use for industrial sites is two-thirds impervious. That is a great headstart of doing good stormwater and good stormwater quality. This includes all parking lots and all roofs.

Commissioner Barnes commented that his initial impression was to vote against this. He thinks that in general we should preserve our industrial land. But when you look at this site as being on the bend of Ivy Creek, he thinks that a residential use for this property is better than an industrial use. So he is leaning towards approving this. Commissioner Barnes asked if all the units would have universal design. Mr. DeWitt said that it was his intention that all of them would be.

Commissioner Worthington commented that we do not have much industrial land left and that is the driving thing that he keeps thinking about. He agrees that this development will be easier on the environment. But it is not like the 20 percent vacant land we have left is really useful. This is a pretty good acreage that we could develop, and he is sensitive to industrial development. He is inclined to try and preserve it, there won't be anything left. He thinks that we have to think twenty years ahead and try to preserve the industrial land we have left.

Commissioner Oglesby commented that although this is a good project, we need to preserve the industrial land we have left.

Commissioner Hannon agreed that we need to look forward and that this project does not excite him. We have not yet seen how the townhome scenario will play out and he does not want to change the zoning on this at this time for this project. For him, it is not an attractive project. It is straight roads, almost a barracks approach to the design of these townhomes. There is no community center. If the zoning is going to be changed, let's change it for something that everyone can really get excited about.

Commissioner Swienton was not sure in the beginning how he was going to vote on this. He thought that if there was a trail system, what would he rather walk past--some detached homes or an industrial building? He weighed the issue of the buffering and the impact of future impact of industry on any nature and recreation use of any trail system. He was concerned that the industrial use would have a more negative impact on the environment than this project, but Mr. White has indicated that this could be controlled. Looking at how retail may be shifting out of the city, he thinks that we have to preserve some economic future for the city. While there is no proposed industrial use and there is nothing on the table, he is not willing to trade that card yet. So he will be supporting staff's recommendation.

Chair Hamilton commented that they did a lot of work on the stormwater ordinance and that is very good and protects against things like environmental degradation. She is sure that whatever industrial development goes in there is going to put to the highest environmental standards. You cannot take it back. If in two years after the city entertains a build out and determines whether or not more townhomes are necessary, she thinks that at this point, we need more industrial or commercial land.

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

**"That the Planning Commission recommends to City Council denial of an amendment to the Future Land Use Map from Resource Conservation, Low Density Residential and Employment 2 uses to Medium Density Residential at 903 and 903A Wiggington Road."**

|              |                                                     |   |
|--------------|-----------------------------------------------------|---|
| AYES:        | Hamilton, Hannon, Oglesby, Swienton and Worthington | 5 |
| NOES:        | Barnes                                              | 1 |
| ABSTENTIONS: |                                                     | 0 |
| ABSENT:      | Sale                                                | 1 |

Commissioner Worthington made the following motion, which was seconded by Commissioner Oglesby and passed by the following vote:

**"That the Planning Commission recommends to City Council denial of Tom Dewitt's petition to rezone approximately forty-six and fifty two hundredths (46.52) from I-3, Heavy Industrial District to R-3C, Medium Density Two-Family Residential District (Conditional), at 903 and 903A Wiggington Road."**



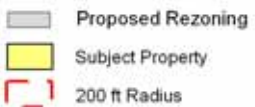
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|--------------|-----------------------------------------------------|---|
| AYES:        | Hamilton, Hannon, Oglesby, Swienton and Worthington | 5 |
| NOES:        | Barnes                                              | 1 |
| ABSTENTIONS: |                                                     | 0 |
| ABSENT:      | Sale                                                | 1 |

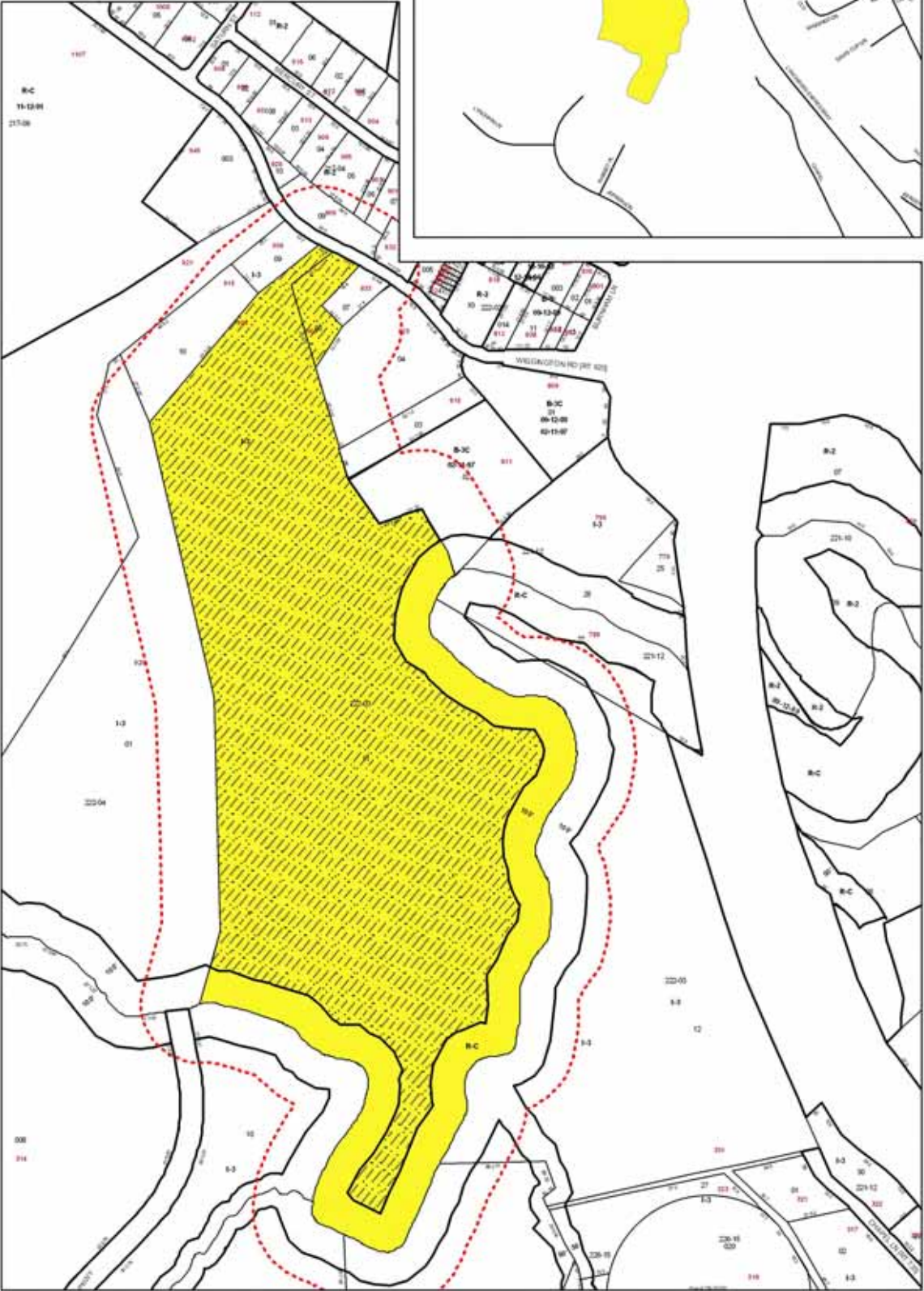
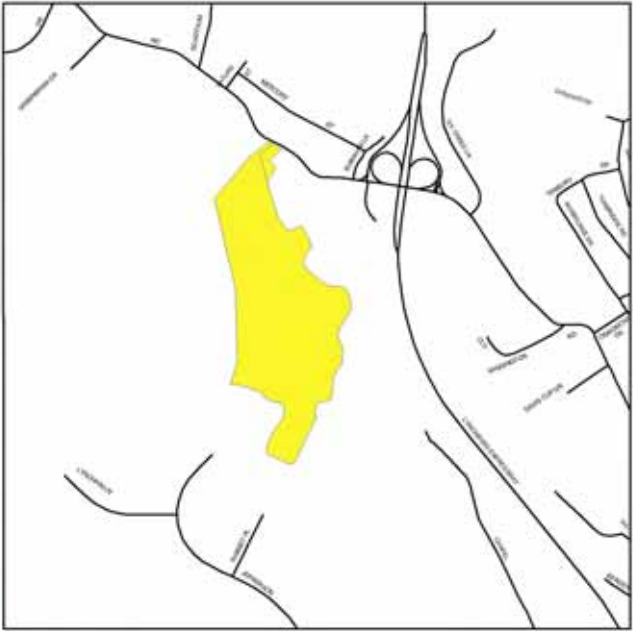
It was not necessary to make a motion on the conditional use permit petition, since the rezoning was not passed.

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**PARK PLACE**  
903, 903A Wigginton Road  
Map # 222-03-008, 011  
Rezoning from I-3 to R-3C  
Conditional Use Permit Request  
Petitioner: Tom DeWitt

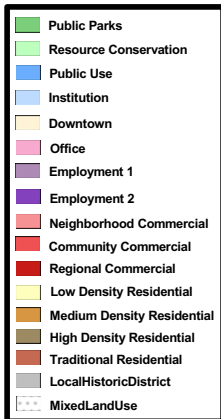
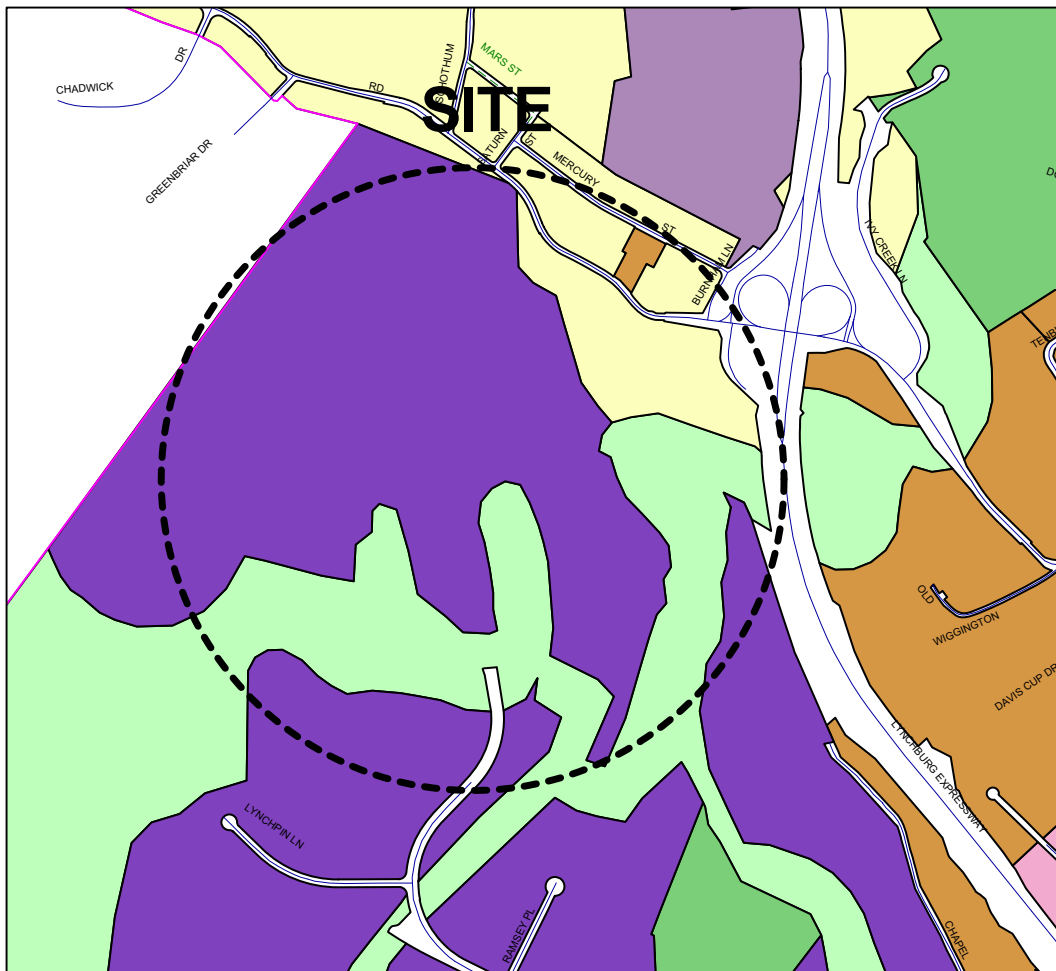
MAP PREPARED BY  
THE DEPARTMENT OF COMMUNITY DEVELOPMENT

   
Proposed Rezoning  
Subject Property  
200 ft Radius



**PARK PLACE REZONING/CUP ADJOINING OWNERS**

| PIN            | OWNER                                | LOCADDR                  |
|----------------|--------------------------------------|--------------------------|
| 21704005       | COVINGTON JUDSON B                   | 905 MERCURY ST           |
| 21704006       | COVINGTON JUDSON B                   | 903 MERCURY ST           |
| 21704007       | KENDRICK SHIRLEY M                   | 901 MERCURY ST           |
| 21704009       | FORTUNE LORETTA A R &                | 906 WIGGINGTON RD        |
| 22112026       | INDUSTRIAL DEVELOPMENT AUTHORITY     | 799 WIGGINGTON RD        |
| 22112027       | INDUSTRIAL DEVELOPMENT AUTHORITY     | 789 WIGGINGTON RD        |
| 22202005       | GANTT PROPERTIES INC                 | 824 WIGGINGTON RD        |
| 22202008       | RUSS FREEMAN C JR                    | 832 WIGGINGTON RD        |
| 22203002       | KEYSTONE AMERICA INC                 | 811 WIGGINGTON RD        |
| 22203003       | GOFF GARLAND L & J MARGUERITE        | 815 WIGGINGTON RD        |
| 22203004       | FEARS CARLTON E & JANICE C           | 825 WIGGINGTON RD        |
| 22203007       | VALENTINE DAVID A & CHRISTINE H      | 833 WIGGINGTON RD        |
| 22203008       | HARSHMAN REGINA A                    | 903 WIGGINGTON RD        |
| 22203009       | INDUSTRIAL DEVELOPMENT AUTHORITY     | 909 WIGGINGTON RD        |
| 22203010       | INDUSTRIAL DEVELOPMENT AUTHORITY     | 915 WIGGINGTON RD        |
| 22203011       | HARSHMAN REGINA A                    | 903 A WIGGINGTON RD      |
| 22203012       | INDUSTRIAL DEVELOPMENT AUTHORITY     | 331 CHAPEL LN            |
| 22204001       | INDUSTRIAL DEVELOPMENT AUTHORITY     | 929 WIGGINGTON RD        |
| 22205001       | INDUSTRIAL DEVELOPMENT AUTHORITY     | 921 WIGGINGTON RD        |
| 22501006       | SIMPSON RANDALL F & RHONDA           | 110 RAMSEY PL            |
| 22501007       | DANVILLE AUTOMATION HOLDINGS LLC DBA | 109 RAMSEY PL            |
| 22501008       | RIVERSEDGE FURNITURE CO INC          | 314 JEFFERSON RIDGE PKWY |
| 22501010       | INDUSTRIAL DEVELOPMENT AUTHORITY     | 309 JEFFERSON RIDGE PKWY |
| Owner          | HARSHMAN REGINA A                    |                          |
| Petitioner     | TOM DEWITT                           |                          |
| Representative | RUSS ORRISON/PERKINS & ORRISON       |                          |



# **PARK PLACE** **903, 903A WIGGINGTON ROAD** **LAND USE PLAN**

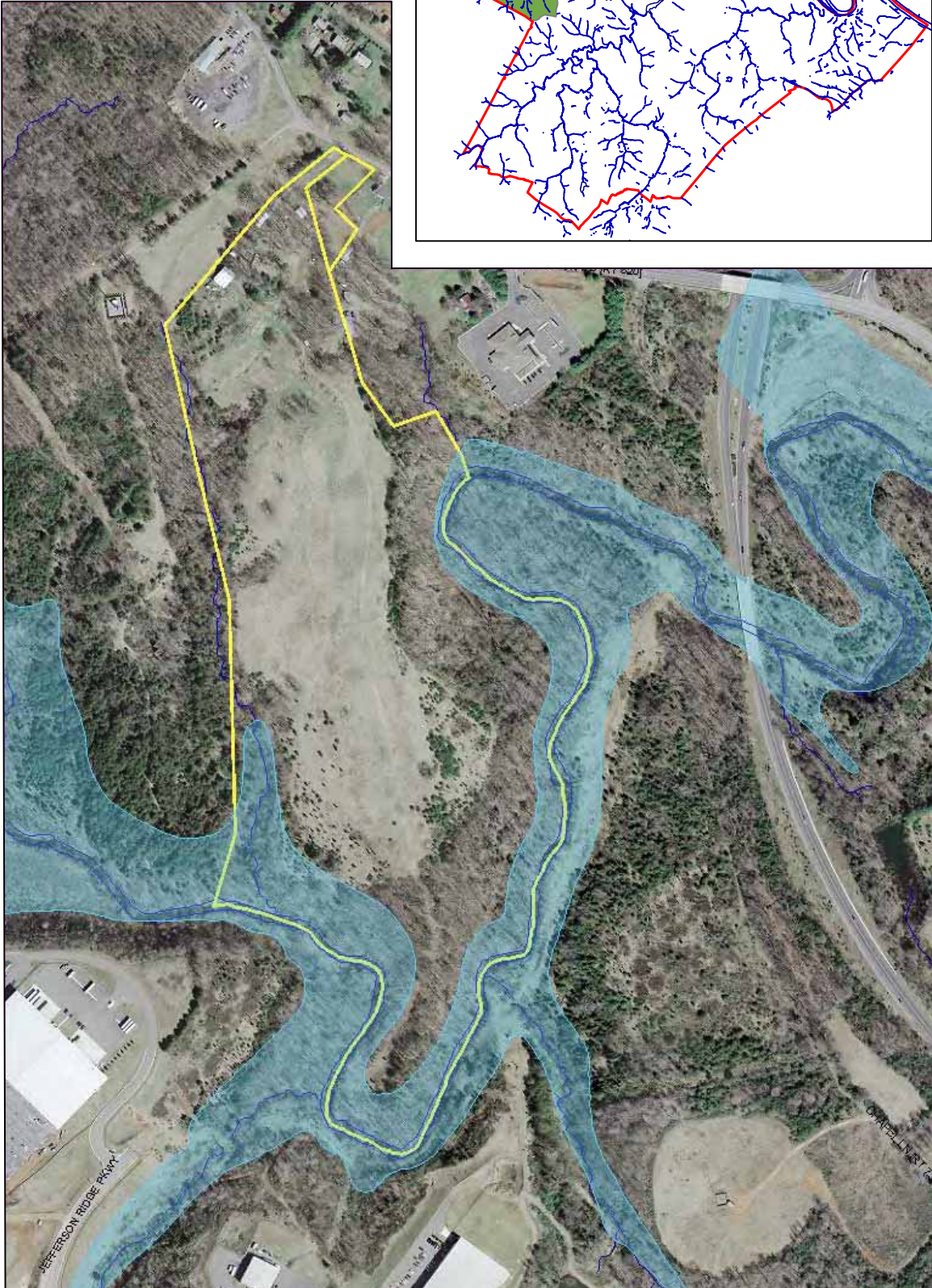
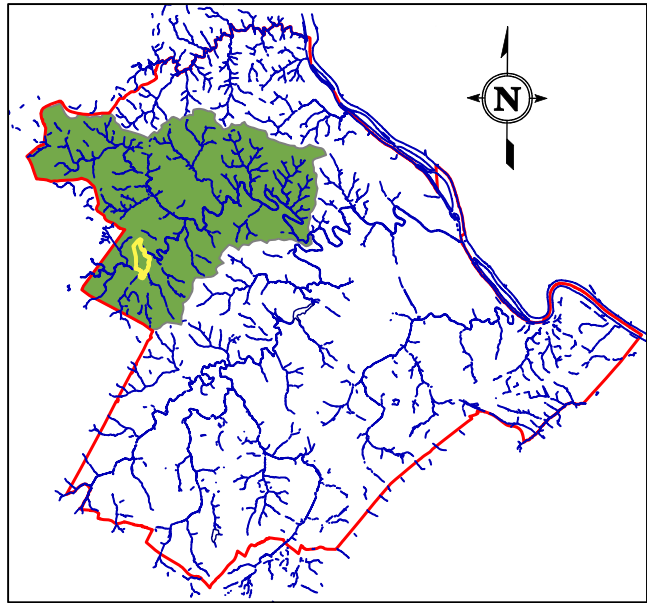




**Park Place  
Watershed Location Map**

Legend

-  Project Site
-  Corporate Limit
-  Ivy Creek Watershed
-  FEMA 100-year Floodplain





1. This plan has been prepared without the benefit of a site report and does not necessarily balance all uncertainties on the present.

2. The boundary shown herein has been taken from available records and Part 8 of Chapter 6, Ordinance, and does not necessarily represent the true boundary.
3. The property address herein is located at 1 public utility site, and the assessment parcel 222-03-009 and 222-03-011, and consists of 21.43 acres and is currently zoned U.S.
4. The proposed site is 30' Conditional, Unimproved industrial district (C-3); Townhouse residential development. The development will be served by public water, public sewer, and private water.
5. Applicant: Tom Dineen, 10151 Timberlake Road, 1 public utility, VA 24151
6. Owner: Virginia Freshwaters, 10001 Church Hill Road, Myerstown, MD 21770
7. All lighting shall be controlled so that no direct illumination will reflect toward the nearest property line.
8. Walkways will be provided from all units to public and common areas.
9. A deed restriction must be recorded that requires the groups are then being submitted to living space.
10. Townhouse units shall comply with the standards of living. Operations and building material standards will be submitted prior to the issuance of building permits.
11. Common areas: Walkways must be provided that such area to public or common areas with this project and

**Project Area:** B.3.C. Madison, Healthy Residential Districts, Low Density - Conventional.  
**Section 21.5.21, Item:** These districts are intended to provide for residential and other appropriate uses in medium density to areas with a high level of road access and other public and commercial services and with topography and soils suitable for such development.

**Conditional Use Permit:** Townhouse units for sale. For applicable regulations see Section 23.3.14 of the zoning ordinance. Townhouse units for sale to an R-3 district shall not exceed the maximum lot density permitted in an R-3 district.

**8.4 - General regulations - Density Calculations:**  
Maximum wet density (pneumatically applied) = 10.29  
Cure Time Area = 17.46 acres  
Area to be grown from 12% = 1.61 acres  
Net Site Area = 15.85 acres

Area is the 100 year flood plain - 11 acres  
Maximum Allowable Net Density - 94% Timberland units  
Densified - 100 Timberland Units

|                                           |    |
|-------------------------------------------|----|
| Maximum first year (Statistical Boundary) | 10 |
| Maximum side year (Statistical Boundary)  | 8  |
| Maximum rear year (Statistical Boundary)  | 10 |

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Minimum required (minimum) Lot Area: 1,200 SF  
Minimum required unit width: 10'  
Minimum lot area: 10' without parking in front yard & 15' with parking in the front yard  
Minimum side yard: 10' at the end of each group of units  
Minimum rear yard: 2.7' for each unit (not to be shared)  
Landscape requirements: For every three (3) townhouse units to be attached to a group, 1 landscape tree must be planted in the front yard. It should be noted that each townhouse unit must have the same front yard setback.

**Section 75.1 (2) - Off street parking and loading requirements**  
**Residential** One 2.8 space per dwelling unit required + 4 TI total number of parking spaces required

110 units will have a 1 car garage + 1 parking space in the driveway = 120 spaces  
8 units will have a 2 car garage without any outdoor parking = 16 spaces  
40 units will have a 1 car garage + 1 parking space in the driveway = 132 parking spaces  
6 units will have a 1 car garage with no outdoor parking = 6 spaces  
Off street parking total: 220 parking spaces  
815 parking spaces reserved

### Language Cultivation

**Section 35.3.35.3.7 - Parking Area Landscaping**  
 1 shade tree required for every 6 parking spaces, planted within landscape islands, reasonably dispersed so that no more than 15 to 20 parking spaces exist between the landscape islands. The end of each parking row must be topped with a shade tree.  
 1 medium shrub required for every 1 parking space shall be planted within the landscape islands surrounding the required row.

**Section 90.1 (2)(1.7) - Parking Area covering**  
In all locations where parking areas are allowed in public or private streets, a space with a minimum height of 7' at the time of installation shall be provided along the entire length of the parking area exclusive of driveways and entrances. The minimum clearance width for the space shall be 6'.

**Section 15.1-15.1.6 - Residential Street Tree Landscaping**

Section 55.1.25.1.6: Foundation Footings: required on all areas of earth body, residential or industrial building

**Section 301.25.1.9 - Safety and Javelin Screening**  
 Intermediate management ponds, IVAs, septage, waste water, HSP devices or other electrical items will be assessed from view of any public or private owner or mechanical development in accordance with the landscape assessment and will be shown on the site development plans.

**Soils:** 2A, 2B, 11 - buffering  
 Buffer yields not required per the contract  
 Preferred condition: A natural vegetated buffer will be installed along Fry Creek and the Southwesterly and Southwesterly  
 property lines as shown on the plan.

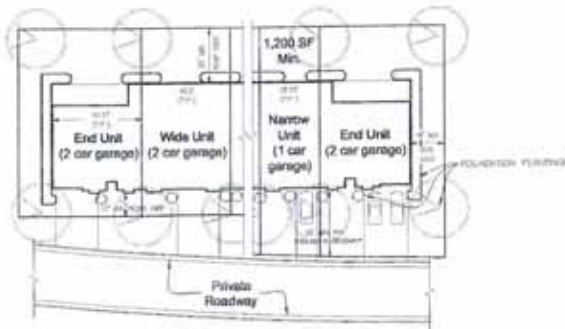
#### Section 25.1.25.1.2 - Free Currency Requirements

Table 9-3C  
Rate of rise versus 80-88 hours, low humidity and fluctuating, to be applied to one category = 0.97 area

**Section 30.1.20.1.A (4) - General Requirements**  
All disturbed areas not used for operations, including steep slopes, shall be backfilled to the next of forestry (20%) trees per acre. Approximately 32 acres are proposed to be landfilled. The developer shall make every attempt to satisfy this requirement by preserving the existing woods, and providing supplemental new plantings as required by the landscape ordinance. The goal for limits of clearing and limits of clearing with supplemental plantings of large shade trees. Rippled areas may be an accumulation of debris or overgrown and may be placed to create groupings.

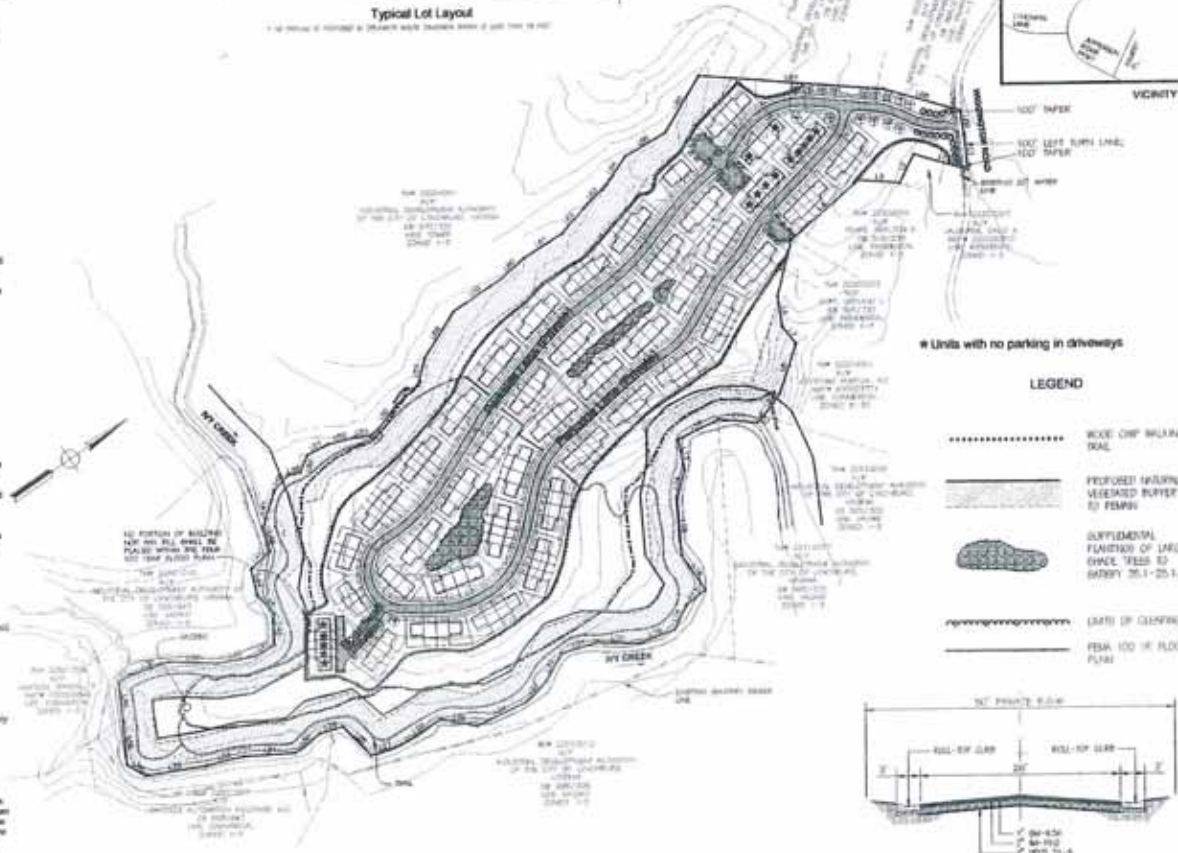
If retaining walls are proposed, as determined by the site development plan, they will comply with the regulations in Section 22.5.21.1.4 of the City Landmarks Ordinance.

Section 30.3.2.2.1. *L. sativum*, ssp. *resistant* \_\_\_\_\_  
 1. seed/germ source: \_\_\_\_\_  
 2. sowing: \_\_\_\_\_  
 3. sowing and tillage practices and details shall be thoroughly reviewed the day of planting and that will be reviewed every 7 days through the first growing year. When significant seedling mortality occurs to the soil, watering for that period can be delayed until the next 7 day cycle.  
 4. watering: \_\_\_\_\_  
 5. fertilization or weeding will be required by on-site conditions and the needs of the planted trees and shrubs.  
 6. Irrigation should be done in early spring or late fall, and a water budget/irrigation (WBI) is recommended as the plants will be used as a natural soil and water test and/or as a basis for the ground water.  
 7. The fertilizer shall have the soil tested for pH prior to installation and determine the correct fertilizer for the specified

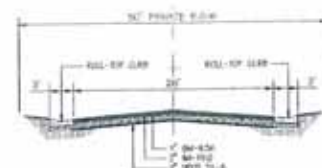


### Typical Lot Layout

© 2006 Blackwell Publishing Ltd, *Journal of Internal Medicine* 260: 103–110



TYPICAL PRIVATE ROADWAY SECTION



|     | 1981-1982 |        |
|-----|-----------|--------|
| 100 | 39-21     | 39-21  |
| 101 | 39-22     | 39-22  |
| 102 | 39-23     | 39-23  |
| 103 | 39-24     | 39-24  |
| 104 | 39-25     | 39-25  |
| 105 | 39-26     | 39-26  |
| 106 | 39-27     | 39-27  |
| 107 | 39-28     | 39-28  |
| 108 | 39-29     | 39-29  |
| 109 | 39-30     | 39-30  |
| 110 | 39-31     | 39-31  |
| 111 | 39-32     | 39-32  |
| 112 | 39-33     | 39-33  |
| 113 | 39-34     | 39-34  |
| 114 | 39-35     | 39-35  |
| 115 | 39-36     | 39-36  |
| 116 | 39-37     | 39-37  |
| 117 | 39-38     | 39-38  |
| 118 | 39-39     | 39-39  |
| 119 | 39-40     | 39-40  |
| 120 | 39-41     | 39-41  |
| 121 | 39-42     | 39-42  |
| 122 | 39-43     | 39-43  |
| 123 | 39-44     | 39-44  |
| 124 | 39-45     | 39-45  |
| 125 | 39-46     | 39-46  |
| 126 | 39-47     | 39-47  |
| 127 | 39-48     | 39-48  |
| 128 | 39-49     | 39-49  |
| 129 | 39-50     | 39-50  |
| 130 | 39-51     | 39-51  |
| 131 | 39-52     | 39-52  |
| 132 | 39-53     | 39-53  |
| 133 | 39-54     | 39-54  |
| 134 | 39-55     | 39-55  |
| 135 | 39-56     | 39-56  |
| 136 | 39-57     | 39-57  |
| 137 | 39-58     | 39-58  |
| 138 | 39-59     | 39-59  |
| 139 | 39-60     | 39-60  |
| 140 | 39-61     | 39-61  |
| 141 | 39-62     | 39-62  |
| 142 | 39-63     | 39-63  |
| 143 | 39-64     | 39-64  |
| 144 | 39-65     | 39-65  |
| 145 | 39-66     | 39-66  |
| 146 | 39-67     | 39-67  |
| 147 | 39-68     | 39-68  |
| 148 | 39-69     | 39-69  |
| 149 | 39-70     | 39-70  |
| 150 | 39-71     | 39-71  |
| 151 | 39-72     | 39-72  |
| 152 | 39-73     | 39-73  |
| 153 | 39-74     | 39-74  |
| 154 | 39-75     | 39-75  |
| 155 | 39-76     | 39-76  |
| 156 | 39-77     | 39-77  |
| 157 | 39-78     | 39-78  |
| 158 | 39-79     | 39-79  |
| 159 | 39-80     | 39-80  |
| 160 | 39-81     | 39-81  |
| 161 | 39-82     | 39-82  |
| 162 | 39-83     | 39-83  |
| 163 | 39-84     | 39-84  |
| 164 | 39-85     | 39-85  |
| 165 | 39-86     | 39-86  |
| 166 | 39-87     | 39-87  |
| 167 | 39-88     | 39-88  |
| 168 | 39-89     | 39-89  |
| 169 | 39-90     | 39-90  |
| 170 | 39-91     | 39-91  |
| 171 | 39-92     | 39-92  |
| 172 | 39-93     | 39-93  |
| 173 | 39-94     | 39-94  |
| 174 | 39-95     | 39-95  |
| 175 | 39-96     | 39-96  |
| 176 | 39-97     | 39-97  |
| 177 | 39-98     | 39-98  |
| 178 | 39-99     | 39-99  |
| 179 | 39-100    | 39-100 |
| 180 | 39-101    | 39-101 |
| 181 | 39-102    | 39-102 |
| 182 | 39-103    | 39-103 |
| 183 | 39-104    | 39-104 |
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| 189 | 39-110    | 39-110 |
| 190 | 39-111    | 39-111 |
| 191 | 39-112    | 39-112 |
| 192 | 39-113    | 39-113 |
| 193 | 39-114    | 39-114 |
| 194 | 39-115    | 39-115 |
| 195 | 39-116    | 39-116 |
| 196 | 39-117    | 39-117 |
| 197 | 39-118    | 39-118 |
| 198 | 39-119    | 39-119 |
| 199 | 39-120    | 39-120 |
| 200 | 39-121    | 39-121 |



VICINITY MAP - NTIS



**PERKINS  
&  
ORRISON**  
ENGINEERS • PLANNERS • SURVEYORS

PO BOX 1007 11 W. HOLLAND STREET LONDON, WINDSOR, WY  
PHONE: 0444 400 001 FAX: 0444 400 000  
E-MAIL: [enquiries@peterjohnson.co.uk](mailto:enquiries@peterjohnson.co.uk)

CHENG & TANTU



RECEIVED  
MAR 4 2004  
COMPTON  
DEVELOPMENT

REZONING PLAN  
PARKSIDE VILLAS  
CITY OF LYNCHBURG, VIRGINIA

CLIENT: TOM DEWITT

|                  |         |                    |
|------------------|---------|--------------------|
| 2                | 2/6/95  | EDGAR PUBLIC WORKS |
| 1                | 2/24/95 | FOR CITY WORK      |
| MMF:             | DATE    | DESCRIPTION        |
| ISSUE:           |         | 1/30/              |
| CONTOUR REPAIRS: |         |                    |
| DEIGNED BY:      |         |                    |
| DRAWN BY:        |         |                    |
| CHECKED BY:      |         |                    |

SHEET TITLE:

REZONING PLAN



\_\_\_\_\_

|       |   |   |
|-------|---|---|
| 07248 | 1 | 2 |
|-------|---|---|



CONSULTANTS:



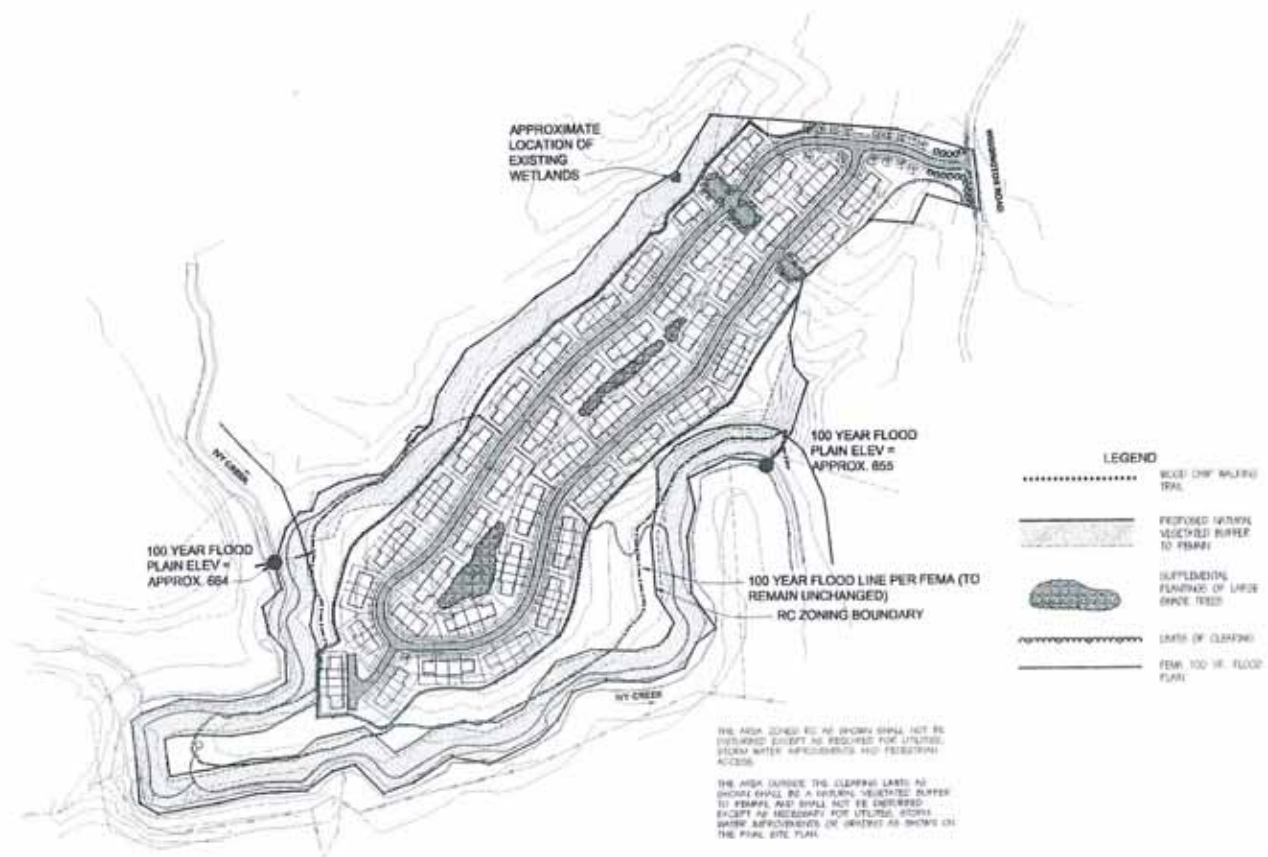
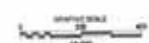
JOB:  
**REZONING PLAN  
 PARKSIDE VILLAS  
 CITY OF LYNCHBURG, VIRGINIA**

CLIENT:  
**TOM DEWITT**

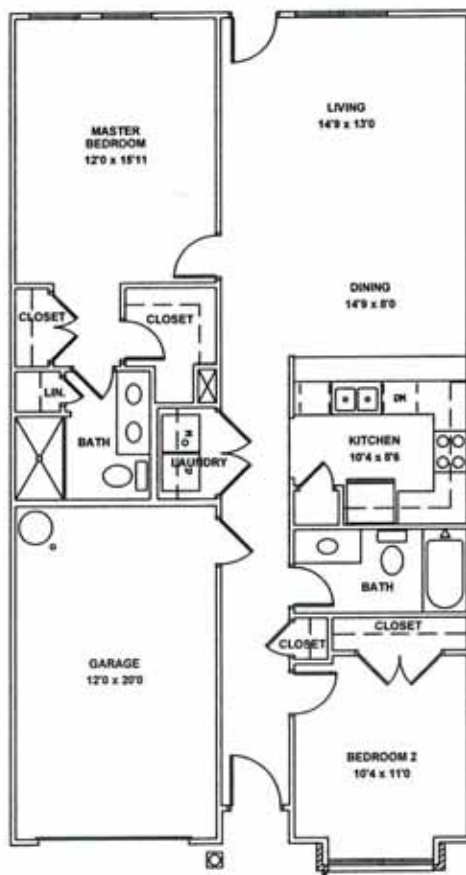
|      |         |             |                 |
|------|---------|-------------|-----------------|
| DATE | 1/20/08 | REVISION    | REVISION        |
| DATE | 1/20/08 | BY          | PER CITY REVIEW |
| DATE | 1/20/08 | DESCRIPTION |                 |
| DATE | 1/20/08 | BY          | PER CITY REVIEW |
| DATE | 1/20/08 | DESCRIPTION |                 |

SHEET TITLE:

**ENVIRONMENTAL  
 PLAN**



# The Erie



Marketed By

DeWitt Real Estate

Claude Coates: 434-444-1325

Gwen Elliott: 434-944-4936

**BEDROOMS:** 2

**BATHS:** 2

**GARAGE:** 1 CAR

**GROSS SQ FT:** 1385

**HEATED SQ FT:** 1133

Lakewalk Villas



# The Ontario

## Universal



Marketed By:  
DeWitt Real Estate  
Claude Coates: 434-444-1325  
Gwen Elliott: 434-944-4936



BEDROOMS: 2  
BATHS: 2  
GARAGE: 1 CAR

GROSS SQ FT: 1687  
HEATED SQ FT: 1426

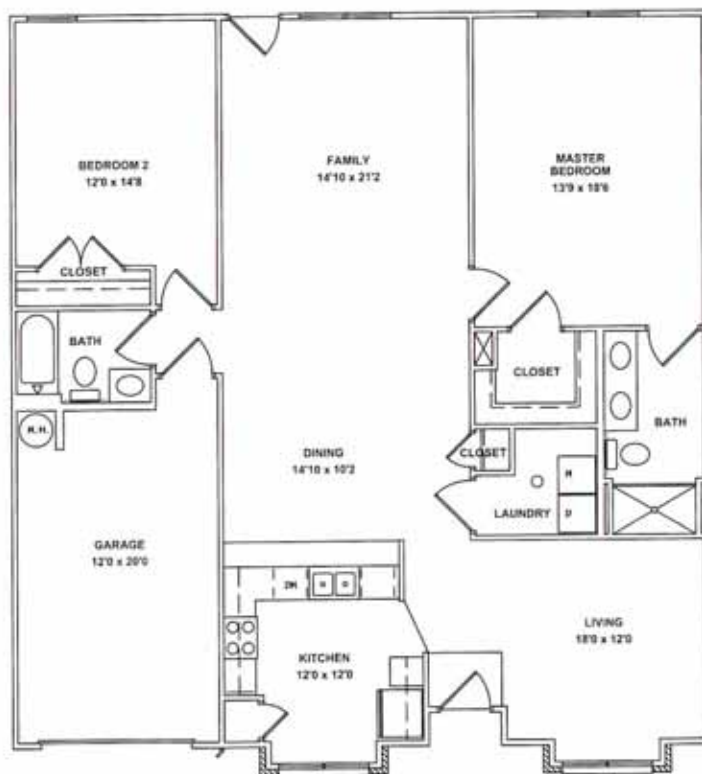
Lakewalk Villas

# The Ontario 44

## Universal



Marketed By:  
DeWitt Real Estate  
Claude Coates: 434-444-1325  
Gwen Elliott: 434-944-4936



BEDROOMS: 2  
BATHS: 2  
GARAGE: 1 CAR

GROSS SQ FT: 1852  
HEATED SQ FT: 1591

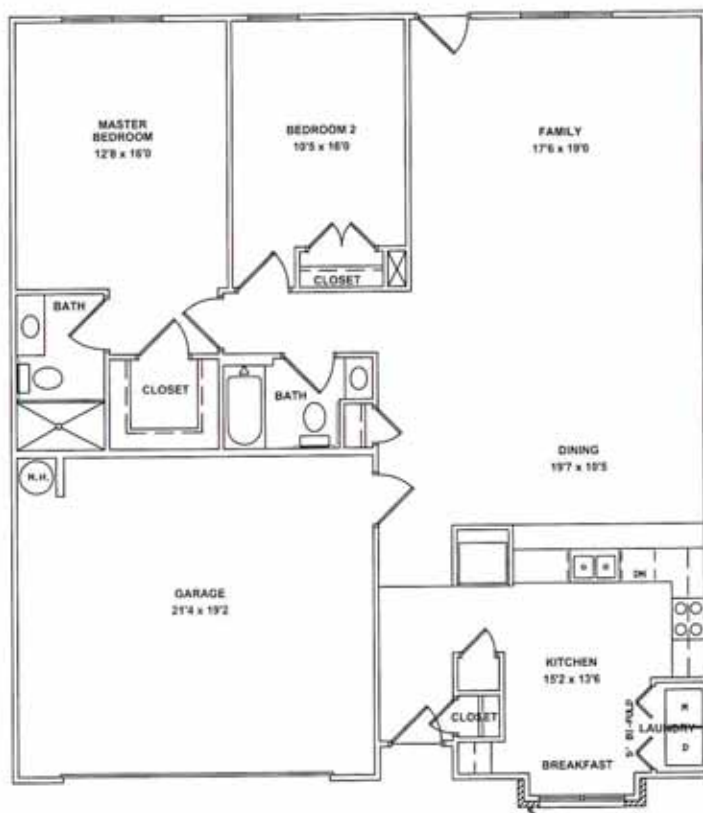
Lakewalk Villas

# The Superior

## Universal



Marketed By:  
DeWitt Real Estate  
Claude Coates: 434-444-1325  
Gwen Elliott: 434-944-4936



BEDROOMS: 2  
BATHS: 2  
GARAGE: 2 CAR

GROSS SQ FT: 1925  
HEATED SQ FT: 1500

Lakewalk Villas

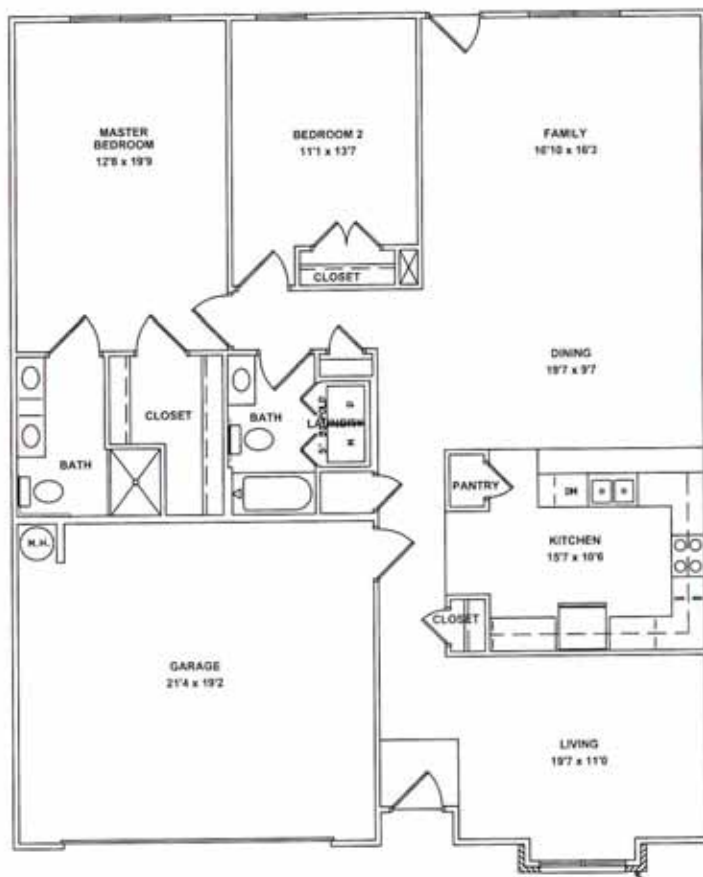


# The Tahoe

Universal



Marketed By:  
DeWitt Real Estate  
Claude Coates: 434-444-1325  
Gwen Elliott: 434-944-4936



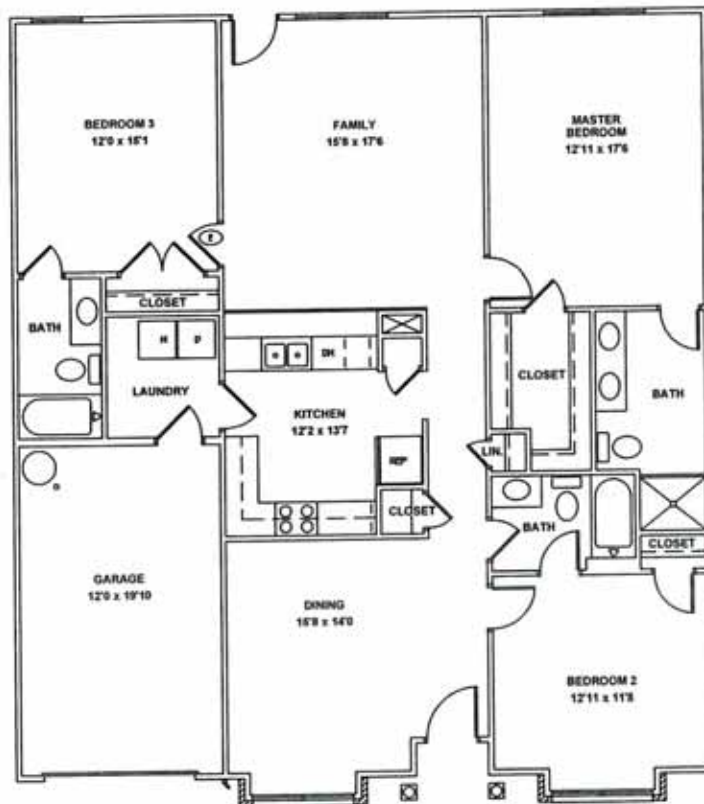
BEDROOMS: 2  
BATHS: 2  
GARAGE: 2 CAR

GROSS SQ FT: 2093  
HEATED SQ FT: 1669

Lakewalk Villas



# The Michigan



Marketed By

DeWitt Real Estate

Claude Coates: 434-444-1325

Gwen Elliott: 434-944-4936

**BEDROOMS:** 3  
**BATHS:** 3  
**GARAGE:** 1 CAR

**GROSS SQ FT:** 1935  
**HEATED SQ FT:** 1686

Lakewalk Villas

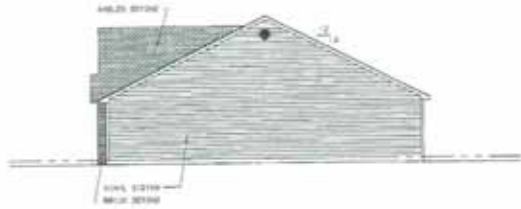




COMBINED SOUTH (FRONT) ELEVATIONS  
1/8"=1'-0"



WEST ELEVATION  
1/8"=1'-0"



EAST ELEVATION  
1/8"=1'-0"



COMBINED NORTH (REAR) ELEVATIONS  
1/8"=1'-0"



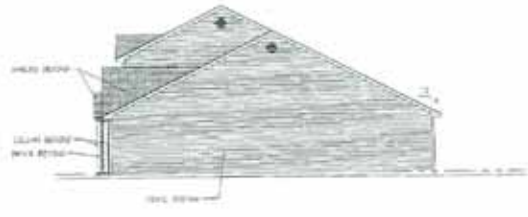
20185 Timberlake Road • Lynchburg, VA 24502



**COMMON SOUTH FRONT ELEVATION**  
135'-0"



**WEST ELEVATION**  
135'-0"



**EAST ELEVATION**  
135'-0"



20185 Timberlake Road • Lynchburg, VA 24502

Park Place Villas  
Property of Regina A. Harshman  
903, 903-A Wiggington Road  
Map #222-3-008, 011  
Application #'s (Rez 0802-0001)  
(CUP 0802-0001)

RECEIVED  
FEB 29 2008  
COMMUNITY  
DEVELOPMENT

**\*NARRATIVE JUSTIFICATIONS\***

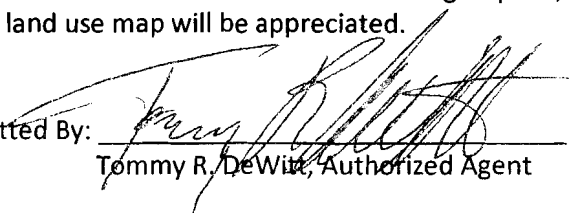
We feel the following are justifications for the zoning classification change requested, amending of the future land use map and approval of the conditional use permit for this project.

- **New Neighborhood** – Upon completion, this project will result in the creation of a convenient, attractive and harmonious new Wiggington Road neighborhood.
- **Target Market** – The “empty nester” home owner is the target market for this project. Careful consideration has been given to their needs and active lifestyle. This segment of today’s population is rapidly increasing and factors such as home design, accessibility, low maintenance, quality construction and pricing have all been considered.
- **Increased Tax Base** – When completed this project will add \$40 - \$50 million dollars to the city real estate tax base.
- **School System Impact** – Homeowners in Park Place Villas will not cause an undue burden on the city school system.
- **Low Density Development** – Less than 200 homes are proposed for this property. The density formula for this property allows for over 500 homes.
- **Private Streets** – Park Place Villas will be served by private streets. Thusly, additional city services for road maintenance and clearing during inclement weather will not be required.
- **Public Utilities** – Needed public utilities are readily available for this property.
- **Protective Services** – This property is located in an area where adequate police, fire and emergency services can easily be provided.
- **Traffic Impact** – This project will impact travel and transportation on vicinity streets. However, many homeowners will be single car families and retirees. Thusly, they will not routinely add to peak “am” and “pm” traffic use periods. They typically try to avoid these traffic periods.

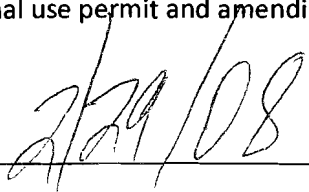
- **Vicinity Character** – Unlike many of the less desirable industrial uses currently permitted by right or conditional use, this project will not change the prevailing residential and light commercial character of Wiggington Road.
- **Environmental Impact** – This project will be more environmentally friendly than would be typically expected of an industrial use. Topography changes will be minimal to allow for home sites, roads, etc., and much of the existing natural vegetation will remain in tact. Code requirements and proffered conditions will protect other natural resources of this property.
- **Recreational and Community Facilities** - Additional city services for recreational and community facilities will not be required. The close proximity and availability of Peaks View Park, The Sports Racket, The Templeton Senior Center, The Fraternal Order of Police Lodge and the on –site walking trail are well suited for the needs of the target market.
- **Historical Preservation** - This project will not destroy or encroach on historical areas.
- **Employment Opportunities** – This project will provide desirable employment opportunities during and after construction.
- **Future Land Use Map** – During the past 30 years Wiggington Road has enjoyed steady residential and light commercial growth. It has not become an industrial growth corridor or industrial development area like the Lynchpin area south of Ivy Creek. This property's designation as an "employment 2" area and current "I-3" zoning clearly are not consistent with the development history of the area or the prevailing vicinity land uses. Changing the future land use map to a "medium density" designation would be consistent with the project and the vicinity land uses.

Your favorable consideration of the rezoning request, conditional use permit and amending of the future land use map will be appreciated.

Submitted By:

  
Tommy R. DeWitt, Authorized Agent

Date:



## **VI. Other Considerations**

The future land use map indicates that the project site is in an area designated as “employment”. This designation would accept light and heavy industrial uses. It is notable that the applicant’s proposed use will generate less traffic, and less truck / industrial type traffic than if developed per the future land use map.

By comparison, an industrial site of 57.48 acres would be expected to generate approximately 3000 daily trips and 400 hourly trips during both peak periods (per the ITE Trip Generation Manual). This would also include a higher percentage of heavy truck traffic.

## **VII. Conclusions**

The following summarizes the analyses, principal findings and conclusions:

- Site Entrance
  - Egress – provide a single egress lane
  - Ingress – provide a left turn lane (75’ storage and 150’ taper)
- Study Intersections
  - No physical improvements are recommended for the Burnham Lane or US 501 Ramps intersections



RECEIVED

MAR 11 2008

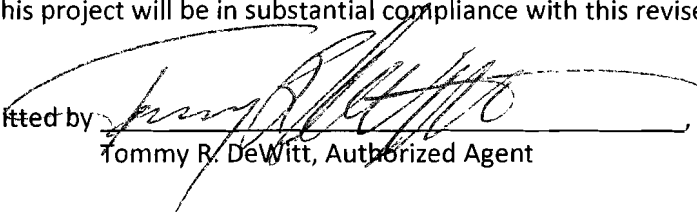
COMMUNITY  
DEVELOPMENT

Parkside Villas  
(Originally Submitted as Park Place Villas)  
Property of Regina A. Harshman  
Map #222-3-008, 011  
Application #'s (REZ 0802-0001)  
(CCP 0802-0001)

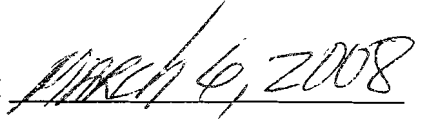
RE: Site Plan Proffer

Per the revised site plan by Perkins & Orrison for this project, dated March 6, 2008, we hereby proffer that this project will be in substantial compliance with this revised site plan.

Submitted by

  
Tommy R. DeWitt, Authorized Agent

DATE

  
March 6, 2008

RECEIVED

FEB 29 2008

COMMUNITY  
DEVELOPMENT

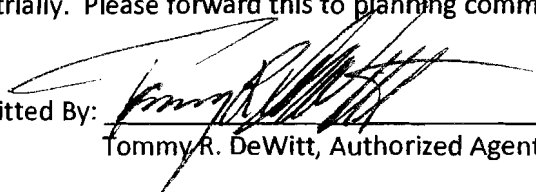
Park Place Villas  
Property of Regina A. Harshman  
903, 903-A Wiggington Road  
Map #222-3-008, 011  
Application #'s (REZ 0802-0001)  
(CUP 0802-0001)

RE: Turn Lane Proffer

As identified in the "Traffic Impact Analysis" for this project by Renaissance Planning Group, dated February 28, 2008, we hereby proffer construction of the left hand turn land noted in this report. A copy of this analysis was submitted to the City Traffic Engineer's Office on February 29, 2008.

Also, attached is a page from this analysis addressing traffic impact if this property is developed industrially. Please forward this to planning commissioners and council members.

Submitted By:

  
Tommy R. DeWitt, Authorized Agent

Date:

2/29/08

February 4, 2008

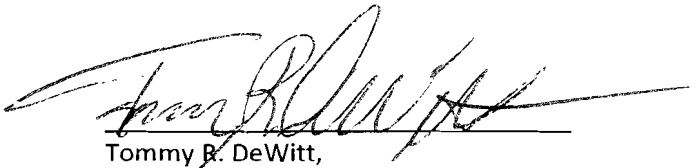
Regina A. Harshman Property  
Wiggington Road

RE: Proffers for "Park Place"  
Tax Map 222-3-8 & 222-3-11

Proffers for I-3 to R-3 Conditional

- a) This site will be developed into one level attached dwellings for sale (sometimes referred to as patio homes or villas), configured generally as shown on the submitted preliminary plan.
- b) A natural vegetated buffer will be retained along Ivy Creek and the Southeasterly and Southwesterly property lines as shown.
- c) All areas shown outside the limits of work on the submitted preliminary plan will remain undisturbed except for installation of walking trails, stormwater management facilities, and utilities as required.
- d) A 5' wood chip walking trail will be constructed generally as shown as coordinated with the Department of Parks and Recreation, within 6 months of the first dwelling being occupied.
- e) An approximately 150 Sq. Ft. gazebo will be constructed for the use of the homeowners within 6 months of the first dwelling being occupied.

Submitted By,



Tommy R. DeWitt,  
Authorized Agent

**INDUSTRIAL DEVELOPMENT AUTHORITY  
OF THE  
CITY OF LYNCHBURG, VIRGINIA**

828 MAIN STREET, 10TH FLOOR  
LYNCHBURG, VA 24504

TEL (434) 455-4490  
FAX (434) 847-2067

March 3, 2008

City of Lynchburg Planning Commission  
c/o Ms. Laura Hamilton, Chairperson  
900 Church Street  
Lynchburg, VA 24504

Dear Members of the Planning Commission:

This letter is written on behalf of the Lynchburg Industrial Development Authority (LIDA) to express our opposition to the rezoning of the parcel located at 903 A Wiggington Road from I-3 to Residential. Rezoning this property would require an amendment to both the Comprehensive Plan and Future Land Use Map.

The parcel is currently zoned Industrial 3 and is located between two parcels owned by the Lynchburg Industrial Development Authority which are also zoned Industrial 3. The rezoning would negatively impact LIDA's future development plans. The LIDA is also concerned about the loss of 57 acres of industrially zoned property with the potential to support the expansion and/or attraction of new industrial or office development.

Thank you for considering this request. If you have any questions, please contact Marjette Glass, Director of Economic Development at 455-4492.

Sincerely,



Massie G. Ware, Jr.  
Chairman  
Lynchburg Industrial Development Authority

cc: Tom Martin, City Planner  
Marjette L. Glass, Office of Economic Development

---

Memo to: Planning Commission

From: Tom Shahady, Associate Professor of Environmental Science Lynchburg College

Re: Rezone for Parkside Villas

In consideration of this rezone I would like to offer the following observation for consideration. I have walked the property with the developer on two occasions. The property is very unique in that Ivy Creek defines the outer boundaries and meanders significantly from entry to exit from the property. Additionally, this property is located in very close proximity to Peaks View Park creating the potential join Ivy Creek natural area and trail with this property. It is currently zoned industrial and this proposed use jeopardizes the potential for future citizens to ever enjoy the natural features of this portion of Ivy Creek. Additionally, industrial use presents not only stormwater impacts to the stream but toxics not otherwise found in a residential development.

With all of this in mind I support the suggested rezone with additional proffers to adequately develop the riparian buffer along the Ivy Creek corridor. I have suggested potential stream restoration, buffer plantings and development of both a walking and biking trail through the property. Ivy Creek buffer zone must remain as RC with this request. Well maintained and established buffers with stream restoration will offer levels of protection from development, enhance water quality and provide Lynchburg with increased natural areas. This offers the city much more than any potential industrial development sometime in the future.

Thank you for this consideration.

---





**LYNCHBURG CITY COUNCIL**  
**Agenda Item Summary**

|                                                                                                                                                                                                                                   |              |                                   |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------|-----------------------------------|
| MEETING DATE: April 8, 2008                                                                                                                                                                                                       |              | AGENDA ITEM NO.: 6                |
| CONSENT:                                                                                                                                                                                                                          | REGULAR: X   | CLOSED SESSION:<br>(Confidential) |
| ACTION: X                                                                                                                                                                                                                         | INFORMATION: |                                   |
| <u>ITEM TITLE:</u> REZONING – R-C, Resource Conservation District and R-3, Medium Density Two-Family Residential District to R-4(C), Medium-High Density, Multi-Family Residential District (Conditional) at 7426 Timberlake Road |              |                                   |
| CONDITIONAL USE PERMIT (CUP) – Fill within the one hundred (100)-year floodplain at 7426 Timberlake Road                                                                                                                          |              |                                   |

RECOMMENDATION: Approval of the requested rezoning and conditional use permit petitions.

SUMMARY: M.B. Long is petitioning to rezone one and sixty-six hundredths (1.66) acres of the subject property and for a conditional use permit to allow fill within the one hundred (100)-year floodplain for the construction of an access road to future apartment buildings. The remaining two and thirty-three hundredths (2.33) acres of this property is not included as part of these petitions and no work is proposed on this portion of the property. Planning Commission recommended approval of these petitions because:

- The Lynchburg *Comprehensive Plan* recommends Medium Density Residential and Resource Conservation uses for this property; High Density Residential uses are also designated within the area. The proposed road would provide access to ninety-six (96) apartments (Timber Ridge Apartments, Phase II), part of which were approved by City Council as part of a rezoning and conditional use permit petition on February 13, 2007. Given existing zoning and adjacent land use patterns, the proposed access road is suitable for the property.
- Petition agrees with the *Zoning Ordinance* in that access roads to multi-family dwellings or apartment complexes are allowed in an R-4, Medium-High Density Multi-Family Residential District.
- Petition agrees with the *Zoning Ordinance* in that fill is permitted within the limits of the one hundred (100)-year floodplain with approval of a conditional use permit by City Council. The Federal Emergency Management Agency (FEMA) will require that the flood model section for Dreaming Creek be updated and submitted as a Letter of Map Revision for any phase of the project that requires fill within the 100-year floodplain. Staff recommends that conditions be placed on the CUP that would allow the construction of the access road only if it can be located outside of the floodway zone and that the petitioner submit a model to demonstrate that the fill will provide no net increase in the stream's one hundred (100)-year flood elevation prior to approval of the site plan for the second phase of Timber Ridge apartments.
- Staff offered a concern for an alternate emergency vehicle entrance in the event that flooding closed the proposed access road; this is similar to that expressed when the bridge was originally proposed as the primary access for the second phase of the project (as part of the original conditional use permit petition, approved by City Council on February 13, 2007). Staff maintains their previous recommendation that a condition be applied to the CUP requiring a secondary means of ingress and egress to the apartments when the second phase of the apartment complex is constructed at 7424 Timberlake Road and the City Manager determines such an access is feasible.

PRIOR ACTION(S):

March 12, 2008: Planning Division recommended approval of the rezoning and conditional use permit petitions.

Planning Commission recommended approval (5-1, with 1 absent, Sale) of the rezoning with the following voluntarily submitted proffers:

1. The portion of the property that is being rezoned will only be used for an access road to an apartment community in accordance with the attached Zoning and CUP Exhibit.

Planning Commission recommended approval (5-1, with 1 absent, Sale) of the CUP with the following conditions:

1. The property shall be developed in substantial compliance with the concept plan received by the Department of Community Development on March 3, 2008.
2. A flood study shall be approved by the Department of Community Development prior to site plan approval. The study shall include, at a minimum, the existing limits of the one hundred (100)- year floodplain, the proposed limits of the one hundred (100)- year floodplain, the floodway boundary, notes detailing the water surface elevation at the upstream and downstream boundaries of the property line and an electronic copy of the Hydrologic Engineering Computation (HEC) model.
3. The petitioner shall obtain a Letter of Map Revision from the Federal Emergency Management Agency for the proposed revisions to the floodway zone. The LOMR shall demonstrate that the access road shall be located outside the limits of the floodway zone for Dreaming Creek.
4. The petitioner shall obtain a Letter of Map Revision from the Federal Emergency Management Agency for the subject fill within the one hundred (100)- year floodplain.
5. Once Phase 2 of the Timber Ridge apartments are constructed on the property at 7424 Timberlake Road and when determined feasible by the City Manager, a secondary means of ingress and egress to the property shall be provided to facilitate emergency vehicle access in case of flooding. Under no circumstances shall access be constructed to a single-family subdivision.
6. The petitioner will provide accommodations for emergency vehicle access subject to the review and approval of the City's Fire Marshal.

FISCAL IMPACT: N/A

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

ATTACHMENT(S):

Resolution  
Ordinance  
PC Report  
PC Minutes  
Vicinity Zoning Pattern  
Vicinity Proposed Land Use  
Watershed Location Map  
Site Plan  
Optional Entrance Design – Emergency Vehicle Lane  
Speaker Sign-Up Sheet

REVIEWED BY: lkp

## ORDINANCE

AN ORDINANCE CHANGING A CERTAIN AREA LOCATED AT 7426 TIMBERLAKE ROAD FROM R-C, RESOURCE CONSERVATION DISTRICT AND R-3, MEDIUM DENSITY, TWO-FAMILY RESIDENTIAL DISTRICT TO R-4C, MEDIUM-DENSITY, MULTI-FAMILY RESIDENTIAL 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 35.1-76.\_\_\_\_ which section shall read as follows:

Section 35.1-76.\_\_\_\_. Change of a certain area at 7426 Timberlake Road from R-C, Resource Conservation District and R-3, Medium Density Two-Family Residential District to R-4(C), Medium-High Density, Multi-Family Residential District (Conditional).

The area embraced within the following boundaries ...

BEGINNING AT A POINT ON THE RIGHT-OF-WAY OF TIMBERLAKE ROAD MARKED "P.O.B.": THENCE WITH NEW LINES TO FARLEY BRANCH AS FOLLOWS; S5°16'29" W 38.01' TO A POINT, S39°43'31" E 61.79' TO A POINT, S45°33'56" W 129.22' TO A POINT, S50°16'29" W 24.28' TO A POINT, S18°46'52" E 57.12' TO A POINT, S14°13'42" E 88.95' TO A POINT, S23°34'02" E 92.46' TO A POINT, S31°57'40" E 58.17' TO A POINT. AND S59°15'34" E 48.40' TO A POINT IN FARLEY BRANCH; THENCE ALONG FARLEY BRANCH; S78°44'08" W 36.07' TO A POINT, S71°49'16" W 26.8' TO A POINT, S79°06'21" W 41.94' TO A POINT, S66°19'36" W 56.06' TO A POINT AND N73°49'08" W 19.45' TO A POINT AT THE INTERSECTION OF FARLEY BRANCH AND DREAMING CREEK; THENCE ALONG DREAMING CREEK; N18°45'12" W 56.90' TO A POINT, N30°16'47" W 165.19' TO A POINT, N04°51'15" E 50.57' TO A POINT, N15°32'57" W 62.82' TO A POINT, AND N15°41'46" W 37.85' TO A POINT AT THE INTERSECTION OF DREAMING CREEK AND TIMBERLAKE ROAD: THENCE ALONG TIMBERLAKE ROAD, N61°28'04" E 30.89' TO A POINT, AND N38°52'03" E 84.72' TO A POINT; THENCE WITH A CURVE HAVING A RADIUS OF 2831.79', LENGTH OF 176.98'. DELTA OF 3°34'51" SUBTENDED BY A CHORD BEARING AND DISTANCE OF N 53°04'28" E 176.95' TO THE POINT OF BEGINNING. THIS PARCEL ENCOMPASSES AN AREA OF 1.655 ACRES.

... is hereby changed from R-C, Resource Conservation District and R-3, Medium Density Two-Family Residential District to R-4(C), Medium-High Density, Multi-Family Residential District (Conditional) subject to the conditions set out hereinbelow which were voluntarily proffered by the owner, namely M.B. Long, to wit:

1. The portion of the property that is being rezoned will only be used for an access road to an apartment community in accordance with the attached Zoning and CUP Exhibit.

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

Adopted:

Certified:

\_\_\_\_\_  
Clerk of Council

045L1

## RESOLUTION

A RESOLUTION GRANTING A CONDITIONAL USE PERMIT TO FILL WITHIN THE LIMITS OF THE ONE HUNDRED YEAR FLOODPLAIN LOCATED AT 7426 TIMBERLAKE ROAD.

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF LYNCHBURG that the petition of M.B. Long for a Conditional Use Permit for use of the properties at 7426 Timberlake Road to allow fill within the one hundred year floodplain to allow the construction of a road to an apartment building be, and the same is hereby, approved subject to the following conditions:

1. The property shall be developed in substantial compliance with the concept plan received by the Department of Community Development on March 3, 2008.
2. A flood study shall be approved by the Department of Community Development prior to site plan approval. The study shall include, at a minimum, the existing limits of the one hundred (100)-year floodplain, the proposed limits of the one hundred (100)-year floodplain, the floodway boundary, notes detailing the water surface elevation at the upstream and downstream boundaries of the property line and an electronic copy of the Hydrologic Engineering Computation (HEC) model.
3. The petitioner shall obtain a Letter of Map Revision from the Federal Emergency Management Agency for the proposed revisions to the floodway zone. The LOMR shall demonstrate that the access road shall be located outside the limits of the floodway zone for Dreaming Creek.
4. The petitioner shall obtain a Letter of Map Revision from the Federal Emergency Management Agency for the subject fill within the one hundred (100)-year floodplain.
5. Once Phase 2 of the Timber Ridge apartments are constructed on the property at 7424 Timberlake Road and when determined feasible by the City Manager, a secondary means of ingress and egress to the property shall be provided to facilitate emergency vehicle access in case of flooding. Under no circumstances shall access be constructed to a single-family subdivision.
6. The petitioner will provide accommodations for emergency vehicle access subject to the review and approval of the City's Fire Marshal.

Adopted:

Certified:

\_\_\_\_\_  
Clerk of Council

045L2

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

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**To:** Planning Commission

**From:** Planning Division

**Date:** March 12, 2008

**Re: REZONING: R-C, Resource Conservation District and R-3, Medium Density Two-Family Residential District to R-4C, Medium-High Density Multi-Family Residential District (Conditional) at 7426 Timberlake Road**  
**CONDITIONAL USE PERMIT [CUP]: Fill within the limits of the 100-year floodplain.**

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**I. PETITIONER**

M. B. Long, 7426 Timberlake Road, Lynchburg, VA 24502-2321

**Representative:** Bruce Hagan, Pedcor Investments, One Pedcor Square, 770 3<sup>rd</sup> Avenue S.W., Carmel, IN 46032

**II. LOCATION**

The subject property is located at 7426 Timberlake Road, and totals approximately three and ninety-nine hundredths (3.99) acres.

**Property Owner:** M. B. Long, 7426 Timberlake Road, Lynchburg, VA 24502-2321

**III. PURPOSE**

The purpose of these petitions is to rezone one and sixty-six hundredths (1.66) acres of the subject property and for a conditional use permit to allow fill within the one hundred (100)-year floodplain for the construction of a road to an apartment building. The remaining two and thirty-three hundredths (2.33) acres of this property is not included as part of these petitions and no work is proposed on this portion of the property.

**IV. SUMMARY**

- The *Comprehensive Plan* recommends Medium Density Residential and Resource Conservation uses for this property; High Density Residential uses are also designated within the area.
- Petition agrees with the *Zoning Ordinance* in that access roads to multi-family dwellings or apartment complexes are allowed in an R-4, Medium-High Density Multi-Family Residential District.
- Petition agrees with the *Zoning Ordinance* in that fill is permitted within the limits of the one hundred (100)-year floodplain with approval of a conditional use permit by City Council.

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

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**V. FINDINGS OF FACT**

2. **Comprehensive Plan.** The Lynchburg *Comprehensive Plan* recommends Medium Density Residential and Resource Conservation uses for this property. Medium Density Residential uses are characterized by small-lot single-family detached houses, duplexes, and townhouses at densities up to twelve (12) units per acre. **(5.5)** Resource Conservation Areas are planned to remain as vegetated open space with development limited to passive recreation facilities and infrastructure that must be located in stream valleys. **(5.2)**

The *Future Land Use Map [FLUM]* is not intended to be parcel specific. The *FLUM* also indicates High Density Residential uses in the immediate area. The proposed road would provide access to ninety-six (96) apartments (Timber Ridge Apartments, Phase II), part of which were approved by City Council as part of rezoning and conditional use permit petition on February 13, 2007. Given existing zoning and adjacent land use patterns, the proposed access road is suitable for the property.

The Natural Systems chapter of the Lynchburg *Comprehensive Plan* recommends limiting new development in the floodplain, since the Federal Emergency Management Agency (FEMA) 100-year floodplain maps are no longer accurate. **(12.3)** FEMA will require that the flood model section for Dreaming Creek be updated and submitted as a Letter of Map Revision for any phase of the project that requires fill within the 100-year floodplain. In addition, the Department of Community Development recommends that the petitioner submit a model to demonstrate that the fill will provide no net increase in the stream's 100-year flood elevation prior to approval of the site plan for the second phase of Timber Ridge apartments to ensure protection of the residents of the apartments, as well as that of downstream property owners.

3. **Zoning.** The subject property was annexed into the City in 1976. The existing R-3, Medium Density Two-Family Residential Zoning was established in 1978 with the adoption of the *Zoning Ordinance*.
4. **Proffers.** The petitioner voluntarily submitted the following proffer with the rezoning application:
  1. The portion of the property that is being rezoned will only be used for an access road to an apartment community in accordance with the attached Zoning and CUP Exhibit.
5. **Board of Zoning Appeals (BZA).** The Zoning Official has determined that no variances will be needed for the project as proposed.
6. **Surrounding Area.** There have been several items requiring City Council approval in the immediate area:
  - On February 13, 2007, City Council approved James Higgenbotham's petition to rezone five and six tenths (5.6) acres at 7424 Timberlake Road from R-3, Medium Density, Two-Family Residential District to R-4, Medium-High Density, Multi-Family Residential District and a conditional use permit to allow fill within the limits of the one hundred (100)-year floodplain to allow the construction of two (2) apartment buildings, totaling forty-eight (48) units, with associated parking and recreational areas as part of a two (2)-phase, eight (8) building, one hundred and ninety-two (192) unit apartment complex at 7500 and 7424 Timberlake Road.
  - On February 13, 2007, City Council approved Southeastern Site Acquisitions, LLC's petition to rezone fourteen and thirty-four hundredths (14.34) acres at 7308 Timberlake Road from R-3, Medium Density, Two-Family Residential District to R-4C, Medium-High Density, Multi-Family Residential District (Conditional) to allow construction of six (6) apartment buildings, totaling one-hundred and forty-four (144) units, with associated parking and recreational areas.
  - On March 14, 2006, City Council approved LTD Properties, LLC's conditional use permit petition to allow for construction of thirty-five (35) townhomes for sale at 548 and 550 Leesville Road.
  - On April 9, 2002, City Council approved Lynchburg Computer Systems, Inc.'s petition to rezone approximately forty-seven hundredths (0.47) of an acre at 7605 Timberlake Road from B-1, Limited Business District to B-3(C), Community Business District (Conditional) to allow the use of an existing building for sale and repair of computers.
  - On January 9, 2001, City Council approved Heritage United Methodist Church's conditional use permit petition to allow for construction of a multi-purpose building at 582 Leesville Road.
  - On September 12, 2000, City Council approved the Lynchburg Elk's Lodge #321's request for a temporary conditional use permit for a circus at 7306 Timberlake Road.
  - On April 9, 1996, City Council approved the Lynchburg Elk's Lodge #321's request for a temporary conditional use permit for a circus at 7306 Timberlake Road.
  - On February 14, 1996, City Council approved the petition of C. Donald Childress and Edward R. Walker to rezone three and eight-tenths acres (3.8) at 7316 and 7320 Timberlake Road from R-3, Two-Family Residential District, to B-5C, General Business District (Conditional), and B-3



Community Business District, to allow the construction of mini-storage warehouses and speculative commercial use.

- On July 11, 1995, City Council approved Lowe's Investment Corporation's petition to rezone thirteen (13) acres at 7401 Timberlake Road from B-5C, General Business District (Conditional), to I-2C, Light Industrial District (Conditional) to allow for the manufacturing and assembly of machinery and equipment.
- On April 25, 1995, City Council approved the Lynchburg Elk's Lodge #321's request for a temporary conditional use permit for a circus at 7306 Timberlake Road.
- On December 13, 1994, City Council approved Heritage United Methodist Church's conditional use permit petition to increase the number of children in an existing day care to 125 at 582 Leesville Road.
- On April 12, 1994, City Council approved the Lynchburg Elk's Lodge #321's request for a temporary conditional use permit for a circus at 7306 Timberlake Road.
- On March 9, 1993, City Council approved the Lynchburg Elk's Lodge #321's request for a temporary conditional use permit for a circus at 7306 Timberlake Road.
- On March 10, 1992, City Council approved the Lynchburg Elk's Lodge #321's request for a temporary conditional use permit for a circus at 7306 Timberlake Road.
- On June 8, 1991, City Council approved Heritage United Methodist Church's conditional use permit petition to allow for construction of a preschool center at 582 Leesville Road.
- On April 9, 1991, City Council approved the Lynchburg Elk's Lodge #321's request for a temporary conditional use permit for a circus at 7306 Timberlake Road.
- On April 10, 1990, City Council approved the Lynchburg Elk's Lodge #321's request for a temporary conditional use permit for a circus at 7306 Timberlake Road.
- On April 14, 1989, City Council approved the Lynchburg Elk's Lodge #321's request for a temporary conditional use permit for a circus at 7306 Timberlake Road.
- On August 9, 1989, City Council approved E.F. Baldwin's conditional use permit petition to allow for construction of multi-family townhouses at 542 Leesville Road.
- On April 11, 1989, City Council approved the Lynchburg Elk's Lodge #321's request for a temporary conditional use permit for a circus at 7306 Timberlake Road.
- On February 14, 1989, City Council approved the rezoning of property along Timberlake Road from B-3C, Community Business (Conditional), I-1, Restricted Industrial, B-2, Local Neighborhood Business, R-2, Low-Medium Density Single-Family Residential, and R-3, Medium Density Two-Family Residential to B-3, Community Business, as part of the Timberlake Road Corridor Study.
- On April 12, 1988, City Council approved the Lynchburg Elk's Lodge #321's request for a temporary conditional use permit for a circus at 7306 Timberlake Road.
- On September 8, 1987, City Council approved Milton and Neal's conditional use permit petition to allow for construction of a Cluster Commercial Development of five (5) office townhouse units for sale at 7331-7335 Timberlake Road.
- On May 13, 1986, City Council approved Heritage United Methodist Church's conditional use permit petition for a master plan for a new church complex at 582 Leesville Road.
- On April 8, 1986, City Council approved the Lynchburg Elk's Lodge #321's request for a temporary conditional use permit for a circus at 7306 Timberlake Road.

- On April 8, 1986, City Council approved Milton and Neal's conditional use permit petition to allow for construction of a Cluster Commercial Development of twelve (12) office townhouse units for sale at 7331-7335 Timberlake Road.
  - On April 8, 1985, City Council approved the Lynchburg Elk's Lodge #321's request for a temporary conditional use permit for a circus at 7306 Timberlake Road.
  - On February 12, 1985, City Council approved Memorial United Methodist Church's conditional use permit petition to allow for construction of a new sanctuary, education building and parking lot at 594 Leesville Road.
  - On February 14, 1984, City Council approved the petitioner's request for a temporary conditional use permit for a circus at 7306 Timberlake Road.
  - On February 14, 1984, City Council approved Persinger, Reynolds and Padget's petition to rezone three and thirteen hundredths (3.13) acres at 7312 Timberlake Road from R-3, Medium Density Two-Family Residential District, and B-2, Neighborhood Business District to B-5C, General Business District (Conditional) to allow the use of an existing residential building for a contractor's office with outside storage and office space for lease and retail sales.
  - On June 8, 1983, City Council approved Bethlehem Evangelical Lutheran Church's conditional use permit petition to allow for construction of a child day-care center at 7336 Timberlake Road.
7. **Site Description.** The subject property currently includes a single-family home. The property is bound to the north by commercial properties, to the east by commercial properties and multi-family apartments (Legacy at Linden Park, currently under construction), to the south by vacant land and a residential neighborhood and to the west by multi-family residential apartments (Timber Ridge Phase I, currently under construction).
8. **Proposed Use of Property.** The purpose of the rezoning request is to allow construction of an access road to ninety-six (96) apartments, as part of the two (2)- phase, eight (8) building, one hundred and ninety-two (192) unit Timber Ridge apartment complex at 7500 and 7424 Timberlake Road, respectively. A portion of this development was approved as part of rezoning request on February 13, 2007 which permitted two (2), forty-eight unit apartment buildings and a conditional use permit to allow fill within the one hundred (100)- year floodplain for the construction of a bridge; the remainder of the properties were zoned R-4 Medium-High Density Multi-Family Residential that permitted the construction of the other apartments as a "by right" use.

The construction of the road would provide access to the ninety-six (96) apartments proposed for the second phase of Timber Ridge at 7424 Timberlake Road. A sidewalk connection would be constructed from the apartments to Timberlake Road along the proposed road and a public sidewalk would be installed along Timberlake Road to connect the Phase I development to the proposed access road. Although not required, the petitioner has agreed to plant a mix of evergreen and hardwood trees along the eastern perimeter of the road (adjacent to the single-family home) to provide a combination of screening for vehicle headlights and street trees. The existing stream buffer adjacent to Dreaming Creek will be preserved to the greatest extent possible, as denoted by the clearing limits on the concept plan.

The access road would also eliminate the need for the bridge that was proposed as part of the original CUP. Although the road would have significantly less impact on the stream channel characteristics than the bridge structure, the Planning Division recommended that the petitioner submit a model to demonstrate that the fill will provide no net increase in the stream's 100-year flood elevation to ensure protection of the residents of the apartments, as well as that of downstream property owners. Staff also recommended that the proposed access road be designed to protect the characteristics of the stream channel and maintain a vegetative buffer adjacent to Dreaming Creek. The petitioner has agreed to submit a floodplain model (known as the Hydraulic Engineering Computation or HEC model) for staff review and a Letter of Map Revision (LOMR) to FEMA for the fill in the floodplain. The petitioner has

also provided limits of clearing that preserve much of the existing stream buffer and maintains an average distance of forty (40) feet from the edge of Dreaming Creek.

9. **Traffic, Parking and Public Transit.** Following his review of the access road, the City's Transportation Engineer noted that there should be another traffic study completed for this new entrance; however, he offered if the applicant would be willing to extend the left turn lane for a length of one hundred fifty (150) feet long with a seventy-five (75) foot taper (which is what the study would likely indicate), a traffic study would not be necessary. The petitioner added a left turn lane adjacent to the median on Timberlake Road and re-aligned the entrance to the access road. The City's Transportation Engineer reviewed the plan and determined that the revisions sufficiently addressed the comments.

There are no parking requirements for the proposed access road.

Public transit is available along Timberlake Road via Route Six (6) of the Greater Lynchburg Transit Company [GLTC]. The closest stop is approximately four hundred (400) feet from the proposed intersection of the access road and Timberlake Road. The petitioner has also agreed to work with GLTC to provide an additional stop and/or bus shelter closer to the Phase I and Phase II apartment units, with access from the public sidewalk on Timberlake Road.

10. **Stormwater and Floodplain Management.** New impervious areas will exceed one thousand (1,000) square feet; as such, a stormwater management plan will be required for the construction. The run-off from the access road will be managed by constructing curb and gutter inlets connecting to underground detention piping, by utilizing pervious pavement or a combination of the two (2) practices. The "best management practices" for the site will include mechanical measures designed to meet the performance or technology based standard requirements and/or quality credits from the proposed pervious pavement. Given the small amount of peak runoff, preliminary engineering analysis demonstrates that either Farley Branch or Dreaming Creek are adequate to receive discharge from the roads detention system. The proposed management strategy is acceptable to the City's Environmental Planner.

Although the petitioner has not determined the exact size or type of crossing for Farley Branch, they are exploring the possibility of a multiple pipe structure, a bottomless steel box culvert, or a precast concrete (i.e. span) type structure. Current maps indicate that the road would be located within the floodway zone of Dreaming Creek. The floodway zone is generally reserved in order to discharge the base flood without cumulatively increasing the water surface elevation; this zone carries the velocity of the flood. The construction of the new access road would also require fill within the one hundred (100)- year floodplain. The floodplain zone is the land areas adjacent to rivers and streams that are subject to recurring inundation. This area allows the flood waters to decrease in velocity and sediment settles onto these floodplains.

The *Zoning Ordinance* states that "transportation and service uses such as streets, bridges..." are a use permitted by-right in a floodway district provided ... "that encroachments, including fill, new construction, substantial improvements and other development within the floodway district shall not result in any increase in flood levels within the community during the occurrence of the base flood discharge." The developer is currently applying for a LOMR to revise the floodway of Dreaming Creek, adjacent to the site. This documentation for this revision will provide a more accurate picture of the channel geometry and will likely show that the floodway zone for this section of stream is narrower than actually shown on the FEMA map. The result of this revision will likely be that the access road is located outside of the floodway zone.

Since the access road would be the primary access to the second phase of the apartment complex and, since the floodway carries the main velocity of the stream during a storm event, the staff had initial concerns about the placement of the road within the floodway along the length of the stream channel. However, following the Environmental Planner's review of the HEC model and the proposed revision to the floodway zone, staff recommends that a condition be applied to the CUP to allow the construction of the access road if map revision provides that the road will be located out of the floodway zone.

11. **Emergency Services.** Following his review of the project, the City's Fire Marshal requested additional information regarding emergency vehicle access to the apartments. The Fire Department's concern is that the proposed entrance alignment to Timberlake Road does not provide a sufficient turn radius for a fire truck. The petitioner and Fire Marshal have explored options for the entrance revision and the petitioner has agreed to provide either a fire lane with "break away" bollards to restrict that lane to emergency vehicles only or to widen the main access to accommodate an emergency vehicle prior to final site plan approval. If the emergency lane option is determined to be more viable, the petitioner would provide a concrete or similar surface to incorporate a wider pedestrian access for the proposed transit stop that will likely be located within this area.

Staff also echoed similar concerns to those expressed when the bridge was originally proposed as the primary access for the second phase of the project; these included the need for an alternate emergency vehicle entrance in the event that flooding closed the proposed access road. Staff maintains their previous recommendation that a condition be applied to the CUP requiring a secondary means of ingress and egress to the apartments when the second phase of the apartment complex is constructed at 7424 Timberlake Road and the City Manager determines such an access is feasible.

The City Police Department had no comments regarding the proposed access road.

12. **Impact.** The construction of the proposed access road to the Phase II of the Timber Ridge apartment complex would have limited impacts on the surrounding neighborhood if the environmental and safety concerns for the project can be addressed. Staff recommends that conditions be placed on the CUP that would allow the construction of the access road only if it can be located outside of the floodway zone. FEMA will require that the flood model section for Dreaming Creek be updated and submitted as a Letter of Map Revision for any phase of the project that requires fill within the 100-year floodplain. In addition, the Environmental Planner recommends that petitioner submit a model to demonstrate that the fill will provide no net increase in the stream's 100-year flood elevation prior to approval of the site plan for that phase to ensure protection of the residents of the apartments, as well as that of downstream property owners.

Staff has also expressed concern about emergency vehicle access to Phase II of the Timber Ridge apartments in the event of flooding; these concerns were similar to those expressed when the original CUP was approved to allow the construction of a bridge to serve those same apartments. Following their discussion with the petitioner, staff maintains its original recommendation that when the Phase II apartments are constructed and the City Manager determines such an access is feasible, a secondary means of ingress and egress to the property will be required to provide emergency access in case of flooding.

13. **Technical Review Committee.** The Technical Review Committee (TRC) reviewed the preliminary site plan on February 19, 2008. Comments related to the proposed plan use were minor in nature and have or will be addressed by the developer prior to final site plan approval.

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## **VI. PLANNING DIVISION RECOMMEND MOTION(S):**

**Based on the preceding Findings of Fact, the Planning Commission recommends to City Council approval of M.B. Long's petition to rezone approximately one and sixty-six hundredths (1.66) acres at 7426 Timberlake Road from R-C, Resource Conservation District and R-3, Medium-Density Two-Family Residential District to R-4C, Medium-High Density Multi-Family Residential District (Conditional), with the voluntarily submitted proffer.**

**Based on the preceding Findings of Fact, the Planning Commission recommends to the City Council approval of M.B. Long's Conditional Use Permit petition for fill within the 100-year floodplain, subject to the following conditions:**

7. **The property shall be developed in substantial compliance with the concept plan received by the Department of Community Development on March 3, 2008.**
8. **A flood study shall be approved by the Department of Community Development prior to site plan approval. The study shall include, at a minimum, the existing limits of the one hundred (100)- year floodplain, the proposed limits of the one hundred (100)- year floodplain, the floodway boundary, notes detailing the water surface elevation at the upstream and downstream boundaries of the property line and an electronic copy of the Hydrologic Engineering Computation (HEC) model.**
9. **The petitioner shall obtain a Letter of Map Revision from the Federal Emergency Management Agency for the proposed revisions to the floodway zone. The LOMR shall demonstrate that the access road shall be located outside the limits of the floodway zone for Dreaming Creek.**
10. **The petitioner shall obtain a Letter of Map Revision from the Federal Emergency Management Agency for the subject fill within the one hundred (100)- year floodplain.**
11. **Once Phase 2 of the Timber Ridge apartments are constructed on the property at 7424 Timberlake Road and when determined feasible by the City Manager, a secondary means of ingress and egress to the property shall be provided to facilitate emergency vehicle access in case of flooding. Under no circumstances shall access be constructed to a single-family subdivision.**
12. **The petitioner will provide accommodations for emergency vehicle access subject to the review and approval of the City's Fire Marshal.**

This matter is respectfully offered for your consideration.

William T. Martin, AICP  
City Planner

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

## **VII. ATTACHMENTS**

- 1. Vicinity Zoning Pattern**
- 2. Vicinity Proposed Land Use**
- 3. Watershed Location Map**
- 4. Site Plan**
- 5. Optional Entrance Design – Emergency Vehicle Lane**



**MINUTES FROM THE MARCH 12, 2008 PLANNING COMMISSIONER MEETING (MINUTES HAVE NOT BEEN APPROVED – NO MARCH 26, 2008 MEETING)**

**a. Petition of M.B. Long to rezone approximately 1.66 acres at 7426 Timberlake Road from R-C, Resource Conservation District and R-3, Medium Density, Two-Family Residential District to R-4C, Medium-High Density, Multi-Family Residential District (Conditional) and for a conditional use permit to fill within the 100-year floodplain to allow the construction of an access road for an apartment complex.**

Mr. White addressed the commissioners with the following comments. This road would provide access to 96 apartments that were approved as part of an original rezoning/conditional use petition approved by City Council on February 13, 2007. The project would provide for fill within the floodplain and floodway. However, the petitioner is submitting models to provide for the removal of this road from the floodway and limit the rise within the floodplain. These models are all considered conceptual by the Federal Emergency Management Agency (FEMA).

Staff's general opinion is that this option would provide for significantly less impact on the stream corridor overall. The original proposal called for a bridge access across Dreaming Creek. The petitioner has provided for the same pedestrian access. Sidewalks will be provided along the access road, the same as they would have been with the bridge. They have also agreed to provide public sidewalk along Timberlake Road as well to provide the connection to the Phase I apartments. This is also what staff likes to call a transit oriented development in that the project would provide for public transit. Currently, that access is about 400 feet from the site, but petitioner is working with GLTC to provide a closer stop and/or shelter, which would serve both phases of the development.

The petitioner has also explored several options for accesses for emergency vehicles. Staff recommends a condition be applied that is similar to the previous one. If at such time the petitioner and staff deems it necessary to provide a secondary access that this could be deemed appropriate. Staff recommends approval of both petitions.

Mr. Tom Crowe of PEDCOR came forward to speak on behalf of the petitioner. He has with him Matt Breen of AMEC. He is the hydraulic engineer for this project and can answer any technical questions. Mr. Crowe explained that both of their requests result from a need to construct an access road to provide ingress and egress to Phase II of the project. He explained that Phase I is west of Dreaming Creek and Phase II is east of Dreaming Creek and is about 300 to 1,000 feet south of Timberlake Road. The two phases are physically separated by Dreaming Creek and Phase II is largely landlocked. He remarked that since City Council's original approval in February 2007, they have seized on a different idea that they feel is advantageous to all parties involved. In large part, this request is in order to mitigate construction traffic and the nuisance factor to the neighbors further to the east. Their only access to Phase II is through the parking lot between Bethel Lutheran Church and Timberlake Funeral Home. Although they have a legal right to utilize that for construction and their permanent means of ingress/egress, it is their intent to find something less objectionable to both of those business uses.

The petitioner feels that this proposal mitigates the environmental impacts along Dreaming Creek. They are reducing deforestation because the bridge proposal required taking down trees and the access road will not. The access road is currently manicured lawn. There will also be less impact on wetlands, the existing intermittent stream and on the base flood elevation. Mr. Crowe concluded with asking for support on this project from the commissioners.

Chair Hamilton asked if there was anyone else to speak in favor of the petition and no one came forward. She asked for anyone present to speak with questions, concerns or in opposition to the petition. Mr. Thomas Milner of 7473 Timberlake Road came forward. He pointed out that Mr. Long lives across from him. Mr. Milner said that he and Mr. Long both see what happens when there is a heavy rain. He

prays that it stops raining because it is really something. Water ponds in that bottom. By filling it in, it will cause him to catch more of the water and get flooded the same way that Timberlake got flooded when that dam broke. They lost three lives that he knows of, maybe more. He has been there since 1952 and he knows what he has had to put up with. His mother and father worked themselves to death to have what they have there. He does not want to see it washed out. He has hauled some rock down there to the bank to keep it from washing out. If you don't believe it, take a ride down there. He has kept it cut and nice looking and does not want his home environment torn up at all. If you put a bridge in there, that will make it worse because it will push every bit of that water under there and when it gets to his side, it will really be a floodplain.

Chair Hamilton thanked Mr. Milner for coming and asked for anyone else to speak in opposition to the petition and no one came forward. She requested Mr. Crowe to come forward to address Mr. Milner's concerns.

Mr. Crowe said that Mr. Milner must have missed the meeting in February 2007 when the bridge was approved. He reiterated that they are not looking to build a bridge. The whole point of this change is to have less of an impact on the base flood elevation than what was approved before. The extent of his concerns should be further alleviated with what they are trying to do rather than heightened.

Chair Hamilton called Mr. Milner to come back if he wished to do so. Mr. Milner said that if you build any bridge where Mr. Long is and it will still throw water over to his side. There will definitely be a flood like the one that happened where three lives were lost. He has worked hard and cleaned the whole bottom and fixed it. He does not care to see his land washed out or destroyed. They have already done enough and he is getting it from all four angles. Just to build a road, he thinks is ridiculous. Chair Hamilton thanked Mr. Milner again and she then closed the public hearing portion of the petition.

Commissioner Barnes said that he would like to hear more about the plans for mitigating the effects on the stream. When he was walking the property, he noticed what they had done on the Phase I side, and there was a large retaining wall, but not much vegetation planted. At this point, it is just grass and he wanted to know if there were plans to do a more substantial vegetative buffer for the stream. Prior to this construction, there were woods there and in terms of mitigating floodwater conditions, something more substantial than grass is necessary.

Mr. Crowe answered that the road is roughly 40 feet off Dreaming Creek. The grass is pretty close to the bank of the creek and they will be 40 feet out and they will continue to manicure the grass as it is now. Commissioner Barnes asked for clarification that there are no plans to do more substantial vegetation along there, and Mr. Crowe said that there are plans to plant trees on the opposite side of the road and that was more to soften the effect of the road and also for Mr. Long. They had not made any other plans. They felt that the soil was being held in check now with the grass.

Ms. Erin Hawkins asked for clarification that Commissioner Barnes is referring to Phase I on the opposite side of Dreaming Creek. Commissioner Barnes said that is what he referring to and if that is an indication of what they are also going to do with this project, then he is a little concerned. Ms. Hawkins said there was a larger buffer on the Phase I side of Dreaming Creek. With their approved plans, they are required to replant per the *Landscaping Ordinance* a certain number of trees per disturbed area. So they will have to establish better substantial coverage than it is now. On the access road side, they are not proposing to touch any of those trees on that side. Commissioner Barnes thanked Ms. Hawkins for those comments. Mr. Crowe did not think that they had taken down anything on the 100 foot conservation area. Commissioner Barnes assured him that the area he is referring to is completely grass and Mr. Crowe reiterated that he is unaware of anything they have done in that area.

Commissioner Barnes said that it seems to him that they are proposing one large retaining wall on one side of this project near the stream and a road on the other side which has a slope. This situation

would tend to channel the water in a flood and he thinks that there needs to be more mitigation to lessen the risk, but he leaves the decision how to handle this up to the professionals. Mr. Matt Breen explained that in normal circumstances, that is absolutely true, you want to keep some sort of native vegetation there to strengthen the soil. In this case, there is also a backwater impact from Timberlake Road and the existing hydraulically limited crossing. Water is backing up there, so velocities are not what you would expect when you are channeling everything. So in a 100-year event, you are not going to get those same erosive velocities. That may be why you are seeing that kind of degradation thusfar. Certainly, though the planned vegetation will help stabilize it.

Chair Hamilton asked how a peak runoff is determined. Is that a model from FEMA? Mr. Breen said that in this case, they are using the effective discharges, which is published in the FEMA flood insurance study and it can be computed any number of ways. In this case, he believes it is supported by an old HEC (HUD Engineering Center) One model with the Army Corps of Engineers. He would have to double check that, but they are not proposing any changes to the discharges. Generally, what they have out there is conservative in nature.

Chair Hamilton asked Mr. Breen to explain in layman's terms why this proposal is environmentally better than the bridge proposal. He said that he could speak in terms of the floodplain. In a normal situation, if you were adding fill, there would be an impact to the water surface elevation, but since this is under backwater control at the Timberlake crossing, you have that backwater effect. If you look at the profile, it is flat in that area. In a 100-year event, it is going to be a ponding area as the water pushes through the crossing and over the top of Timberlake Road. You could put a Wal-Mart there and fill in the entire thing and you are not going to have an impact on the water surface elevation because it is being controlled by Timberlake Road. If it was a natural valley cross-section and you were putting a significant amount of fill, you would expect to see the water surface elevation rise accordingly.

Commissioner Swienton clarified that he said that the water surface would not rise through any change in velocity. Mr. Breen said that he would have to double check. He doesn't believe so because it is going through the bridge crossing over top. There is probably a subtle change in the model because every time you make subtle changes, you are going to expect to see something, but he does not think there would be any significant change in velocity. It is certainly something they could look into in more detail. He had focused more on the horizontal and vertical than the velocity.

Commissioner Swienton read a section from the original Planning Commission report regarding parking. That report said that a road connection should be planned/constructed to the property to the south due to the potential signal location with Roundeley. If the joint access agreement cannot be made, then a stub out connection to the parking lot should be done to accommodate future connection. He asked Mr. Crowe if any of that had been done.

Mr. Crowe asked if the stub out was supposed to be the east and Commissioner Swienton said to the south. That would be connecting to the Vistas at Dreaming Creek. Mr. Crowe said that he did not recall that being something they had discussed. He knew that there was a stub out to the east because they are pretty far away from the Vistas with Phase II. He thought that they were trying to get a stub out to the east, so that eventually the road would be connected without people having to go out to Timberlake. He said that the construction plans do call for a stub out. Commissioner Swienton said that what the previous report is referring to ends up going toward Roanoke, so the direction could be changed to west, if that helped Mr. Crowe any geographically. Commissioner Swienton wanted Mr. Crowe to be certain he is clear before making a statement.

Mr. Crowe said that it is his understanding that to the south, there is a single-family subdivision that has an undeveloped lot that the City did not want them to connect into. Commissioner Swienton clarified that it was his interpretation that there would be a way to take traffic from both phases of the Timber Ridge Apartments and allow for them to come out across from Roundeley Road and to perhaps in the

future have signalization there. Mr. Crowe said that he did not recall that and he said that physically that would have been very difficult because the topography on their western property line, which is the Vistas, probably goes up 60 feet. They have also just recently completed some buildings that flank that property line, so physically you can't get through there. There is also a retention pond there. Mr. Crowe said that frankly he did not recollect this but did recall a requirement in Phase II to stub out on the eastern side. Commissioner Swienton said that he sees that when he went over there. Quite frankly, he was somewhat surprised to see what the intent was and what has occurred for whatever reason. It looks to Commissioner Swienton that what the Traffic Engineer recommended was not done.

At this point, Mr. Gerry Harter came forward. Commissioner Swienton asked him if he was to redesign this between Phase I and Phase II of Timber Ridge and Vistas at Dreaming Creek, how would he design the traffic flow? Could he give a conceptual description of that? Mr. Harter said that there are really two options when you look at something like this. You either try to funnel as much of the traffic through one driveway as you possibly can and provide a traffic signal at that location. If the project has a lot of road frontage, sometimes it works best to spread the access points out. Mr. Harter said that he believed that the original intent was to try and provide that joint access between the two properties so that if and when a traffic signal does go up at Dreaming Creek and Roudoley, that both the Vistas and Timber Ridge would have access. Mr. Harter thought that PEDCOR was willing to do this at the time, but that the Vistas were not ready to participate.

Commissioner Swienton thanked Mr. Harter for that clarification. He said that what he sees is that instead of having one primary ingress/egress on Timberlake Road with a couple of secondary ones, we now have three separate ones and no way to clearly connect any one of those. He sees similar problems to what we have on Wards Road happening on Timberlake Road. He does not want to see Timberlake Road unnecessarily become a traffic nightmare.

Commissioner Swienton asked Mr. Crowe where the pool and playground will be--will that be in Phase II as well or only in Phase I? Mr. Crowe said that it will only be in Phase I. Commissioner Swienton asked Mr. Crowe to visualize a mother pushing a stroller to go to the pool. Now instead of being able to use the bridge where there was no traffic, she now has to come all the way up to Timberlake Road, go on the sidewalk and then cut back up the hill to get to the clubhouse, playground or pool. Mr. Crowe said that is fair commentary. Commissioner Swienton wanted to clarify that from a marketing standpoint, that Mr. Crowe is fine with that. Commissioner Swienton said that from a safety standpoint, he has serious concerns because at the bottom of the hill where the speed limit is 45 mph, gravity changes that to a higher speed. When he sees that narrow span from the asphalt to the edge of the drainage underneath it, he wondered what distance a sidewalk should be from a road with that kind of speed. He wondered if the dirt is there for the pad site to accommodate that.

Mr. White commented that when pedestrian access was explored, city staff wanted to make sure that there was a means for access between the two phases, as well as access to the public transit stop. That was actually staff's primary concern. At that time, city staff contacted PEDCOR to ask them if they would be willing to make that public connection, and they said they would. Generally, these terms are worked out at final site plan stage--how the sidewalk will be developed, how wide, what protective measures would need to be installed would be incorporated into a final site plan. Mr. Harter might be able to give some initial ideas, but until we get into the final site planning phase, Mr. White thinks it would be difficult to work out the specifics.

Mr. Harter said that these were good questions and obviously staff would like some buffering between the sidewalk and the curb. He said that we would not put sidewalk on this road without curb. Maybe the best way to answer Mr. Swienton's question is to give an example of why staff was pushing for it. Many years ago, no one would have thought that you needed sidewalks on Wards Road, and now when you see the Liberty students trying to navigate across Wards Road, now people are asking why there are no sidewalks. Staff is hoping that this is an incremental type process where the City develops

an old rural road and makes it more of an urban road. Staff is trying to be ahead of the game.

Mr. White commented that going back to Commissioner Swienton's comments about the connection at Roundeley, Mr. White thought that it was determined that this would be very difficult to build due to the topography and the detention pond. Mr. White said that there was no condition applied that required this connection. Commissioner Swienton commented that this made him realize that he needs to look at these reports more closely and make sure that Mr. Harter's recommendations are in the report as conditions.

Commissioner Swienton said that he thought he could be more supportive of this if somehow there was some type of pedestrian walkway where the bridge was supposed to go. He sees this as being quite a safety issue for pedestrians. He fully supports eventually linking these sidewalk chunks together. Commissioner Swienton asked Mr. Harter if he had any other comments on his models and what speeds are being used to verify the safety of vehicles. Mr. Harter asked if he was talking about the new entrance plan and Commissioner Swienton said yes. Mr. Harter said that they did factor in a higher speed when looking at the site distance. Because you are looking up the hill at a pretty good distance, you do have adequate site distance and adequate stopping distance even with the greater speeds. Looking to the right as you are coming out, it is flatter and you also have adequate site distance that way as well.

Commissioner Barnes clarified that the new access road does require fill within the 100-year floodplain, however, it does not infringe on the 100-foot buffer. Mr. Crowe said he thinks that it does. They are 40 feet from the creek and typically, 100 feet is the resource conservation area.

Commissioner Swienton asked what the best guesses are for where the public transit stop will be located. Mr. Crowe thought that it would be out there by the access point. There is an access point for residents and another one for emergency vehicles, somewhere in that area is probably his best guess. Commissioner Swienton asked him if he saw busses actually stopping in the travel lanes of Timberlake Road or out of the travel lanes. Mr. Crowe said that request just came to him and he has not given a lot of thought to that. They will be building a deceleration lane and his guess is that a bus would be pulling into the deceleration lane and stopping.

Chair Hamilton asked Commissioner Swienton if he was satisfied that his pedestrian access questions had been answered and he said he was.

Commissioner Hannon asked if the balance of this property that is in the floodplain is also owned by PEDCOR. Mr. Crowe asked him if he was talking about the westerly side of Phase II. Commissioner Hannon said due east of the access road. Mr. Crowe said no that is not. They are buying a piece of property from Dreaming Creek to the east sufficient to put in the access road. Mr. Long is going to continue to live there. Commissioner Hannon asked for clarification that this access road will effectively be a dam--that it will no longer be in the floodplain. Mr. Breen said that the access road itself will be elevated outside of the floodplain but the Farley Branch will be spanned and therefore there will be a connection between the floodplain on the west side of the access road and Mr. Long's property, which will still be mapped in the same 100-year floodplain. That part of Farley Branch is not studied independently by FEMA because it has less than a square mile of drainage area. Mr. Breen said that the access road would not be a dam though. Mr. Breen clarified that in the Farley Branch, there will be two or three pipes. Commissioner Hannon said that it would seem to him that this would take some of the pressure off this ponding effect and Mr. Breen said that is correct.

Mr. Crowe wished to reiterate that this option of an access road came about because they did not want to cause a lot of commotion in the middle of a church parking lot and a funeral home parking lot. They would do some damage to the parking lot and that is really the catalyst for this request. He thinks that one of the benefits that came out of this ended up being environmental mitigation. Mr. Breen stated that from a floodplain standpoint, anytime you are going to put a restriction across a natural valley and

try to force it between a culvert or bridge crossing and you have that really steep cliff on the west side and try to force everything, that had more of a dramatic impact backing up on the water surface elevation than an access road in a backwater area will. The overall impact is lessened as far as the water elevation is concerned. Chair Hamilton asked him by how much and Mr. Breen estimated about six-tenths of a foot or less.

Commissioner Swienton asked him why they did not use what they are proposing today as a construction access road. Mr. Crowe said that was their original intent, but that choice was not available to them. They either had to buy the property or not. If they had to buy the property, they could not afford to build the road.

Commissioner Swienton asked Mr. Harter if either of the current entrances to Phase I are more preferable from a traffic engineering point than this proposed access road. Mr. Harter said that the one that is closest to the Vistas is a secondary entrance and not in the running at all. That leaves the main entrance and the proposed road. The site distances are pretty similar. It would be nice to have that joint access between the two. He would say that they are very similar access points. This new one might have slightly better site distance. Is it also a little further away from everything else and will have less interaction with the Vistas and other traffic coming in and out of Roundeley. Commissioner Swienton thought that there was increased speed and asked Mr. Harter if there is a way to quantify. Mr. Harter said that he did not quantify that. He thinks that the speeds are probably pretty high in both locations. If you look at the speeds versus the actual distances you can see, he thinks that they are both very similar with the new access road having slightly better site distance.

Commissioner Hannon asked him which entrance is preferable to the bus line in his opinion. Mr. Harter said that he had not looked at it in that much detail and did not really want to answer that. Commissioner Hannon asked him if it would be more likely to have a place for the bus to pull off at this location versus the current location. Mr. Crowe said that there will be a deceleration lane and that there is one at the current entrance, but that it is much shorter. Mr. Harter thought that was correct.

Chair Hamilton asked if Phase I residents have to come downhill to the bus stop. Mr. Crowe thought that Phase I had a bus stop uphill as well at the Vistas.

Commissioner Barnes wanted to clarify the condition about the Letter of Map Revision. It is his assumption that if condition three is not met by the Letter of Map Revision, then this road will not be built. Ms. Hawkins said that it is staff's desire that the primary entrance not be located within the floodway. If the Letter of Map Revision is not approved by FEMA, then it would be a discussion between the owners and developers if they want to proceed with this or revert back to the original bridge plan. It was Ms. Hawkins's interpretation that if the Letter of Map Revision is not approved or accepted, that they will revert back to the bridge and Mr. Crowe said that is correct.

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

**"That the Planning Commission recommends to City Council approval of M.B. Long's petition to rezone approximately one and sixty-six hundredths (1.66) acres at 7426 Timberlake Road from R-C, Resource Conservation District and R-3, Medium-Density Two-Family Residential District to R-4C, Medium-High Density Multi-Family Residential District (Conditional), with the voluntarily submitted proffer.**

**Based on the preceding Findings of Fact, the Planning Commission recommends to the City Council approval of M.B. Long's Conditional Use Permit petition for fill within the 100-year floodplain, subject to the following conditions:**

1. **The property shall be developed in substantial compliance with the concept plan received by the Department of Community Development on March 3, 2008.**
2. **A flood study shall be approved by the Department of Community Development prior to site plan approval. The study shall include, at a minimum, the existing limits of the one hundred (100)- year floodplain, the proposed limits of the one hundred (100)-year floodplain, the floodway boundary, notes detailing the water surface elevation at the upstream and downstream boundaries of the property line and an electronic copy of the Hydrologic Engineering Computation (HEC) model.**
3. **The petitioner shall obtain a Letter of Map Revision from the Federal Emergency Management Agency for the proposed revisions to the floodway zone. The LOMR shall demonstrate that the access road shall be located outside the limits of the floodway zone for Dreaming Creek.**
4. **The petitioner shall obtain a Letter of Map Revision from the Federal Emergency Management Agency for the subject fill within the one hundred (100)- year floodplain.**
5. **Once Phase 2 of the Timber Ridge apartments are constructed on the property at 7424 Timberlake Road and when determined feasible by the City Manager, a secondary means of ingress and egress to the property shall be provided to facilitate emergency vehicle access in case of flooding. Under no circumstances shall access be constructed to a single-family subdivision.**
6. **The petitioner will provide accommodations for emergency vehicle access subject to the review and approval of the City's Fire Marshal."**

Before the vote was taken, Commissioner Worthington commented that he sees that this proposal has a lot of issues, but he cannot see a better way. For him, the question is, "What is the alternative?"

Commissioner Barnes commented that he appreciates that this option is better than the previous option. He would like to see a more substantial buffer to create more protection from flooding.

Commissioner Swienton agrees that this proposal better protects the stream and greenspan. But then he looks at the human safety factor. Had there been some type of pedestrian walkway connecting the two phases together, that would have alleviated some concerns for internal ped access. He totally respects the judgment of Mr. Harter, but wonders that although there may be good site distance, would he himself have the reaction to go with good sight. He would rather go with his gut feeling on human safety rather the environmental side.

Mr. Milner wanted to make another comment, and Chair Hamilton told him that they could not take any more comments from the floor.

Commissioner Hannon commented it appears the conditions adequately address the concerns and as far as the safety of pedestrians, he is sure that will be given due consideration at the time of the site plan approval. He supports the petition.

Chair Hamilton agrees that environmentally this is a better plan and she is sure that the developers will, from a marketing aspect, ensure that there is safe pedestrian access.

The vote was then taken and it passed by the following vote:

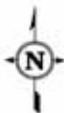


|              |                                                   |   |
|--------------|---------------------------------------------------|---|
| AYES:        | Barnes, Hamilton, Hannon, Oglesby and Worthington | 5 |
| NOES:        | Swienton                                          | 1 |
| ABSTENTIONS: |                                                   | 0 |
| ABSENT:      | Sale                                              | 1 |

March 12, 2008

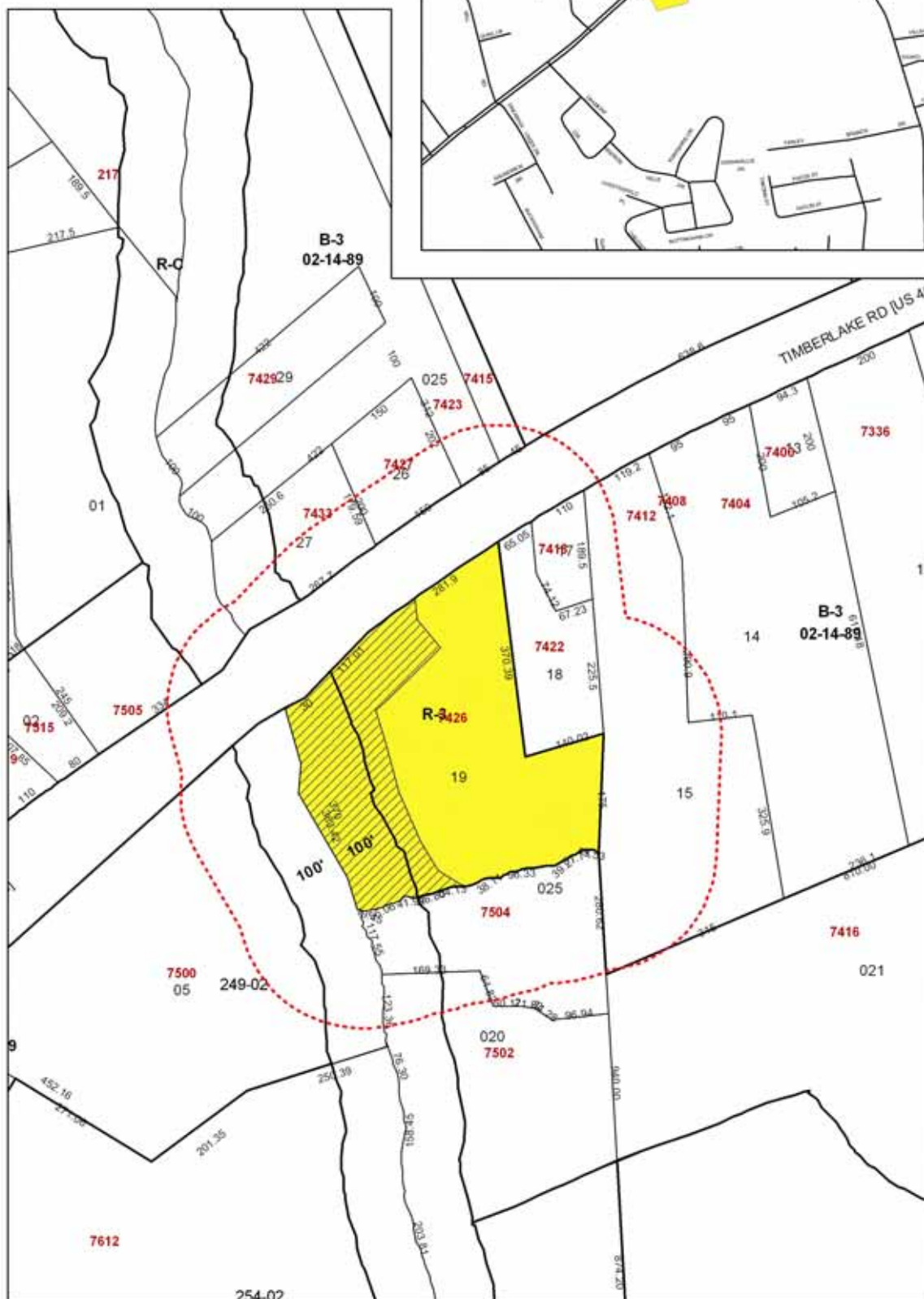
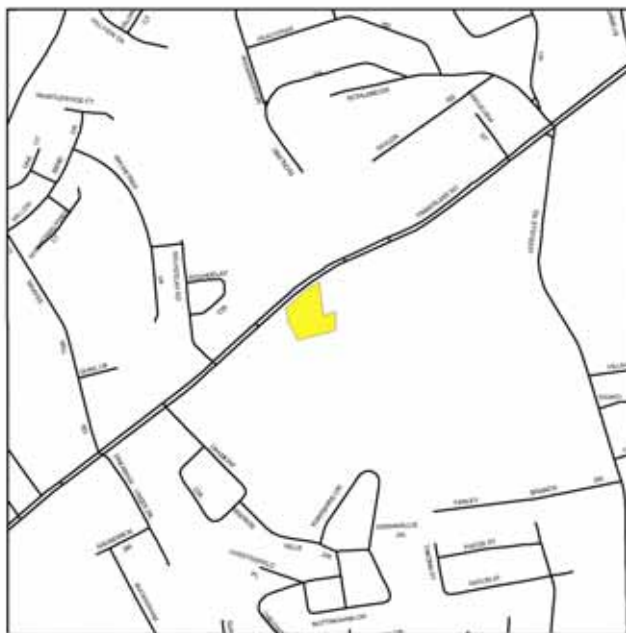
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MAP PREPARED BY  
THE DEPARTMENT OF COMMUNITY DEVELOPMENT



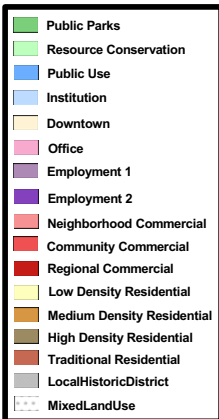
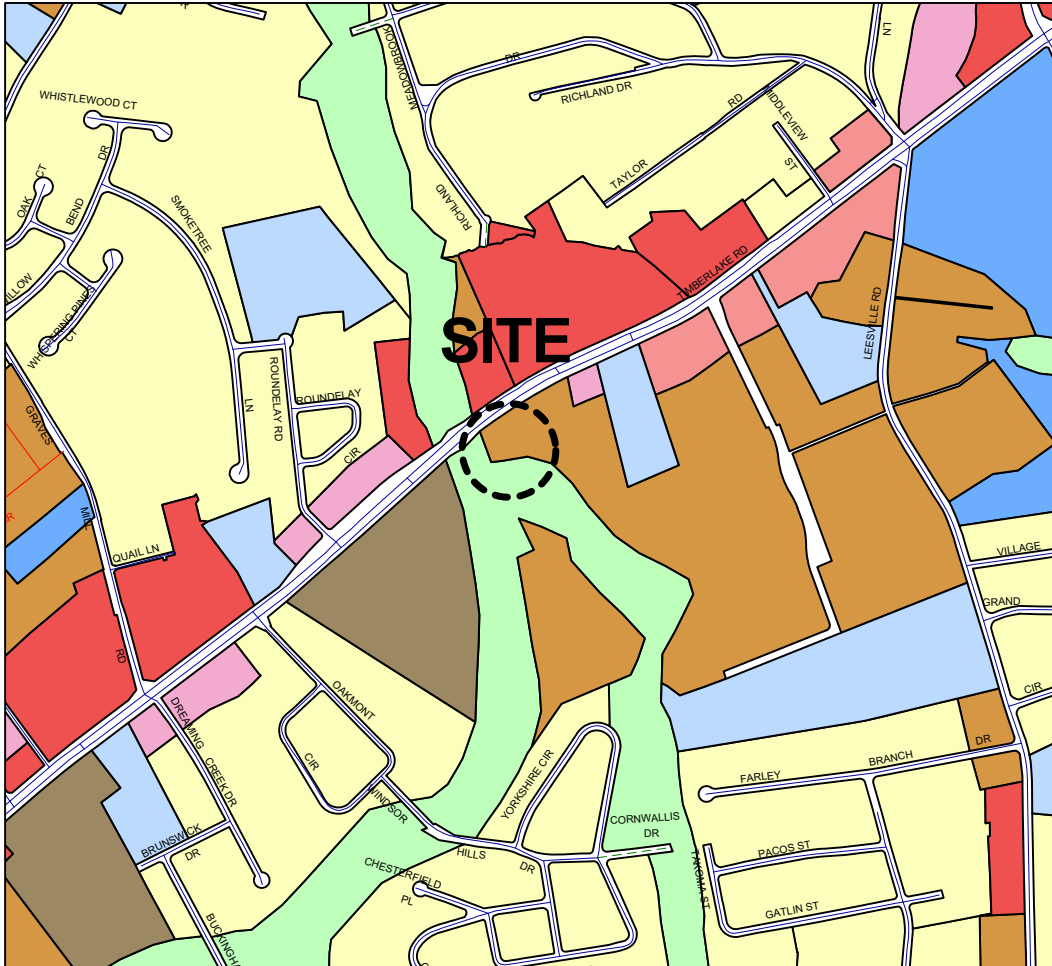
 Subject Property

 200 ft Radius



**PEDCOR REZONING/CUP ADJOINING OWNERS**

| PIN            | OWNER                                               | LOCADDR            |
|----------------|-----------------------------------------------------|--------------------|
| 24806024       | BIOOYA PROPERTIES INC C/O GARY W CASE & COMPANY INC | 7401 TIMBERLAKE RD |
| 24806025       | T C M PROPERTIES INC                                | 7423 TIMBERLAKE RD |
| 24806026       | T C M PROPERTIES INC                                | 7427 TIMBERLAKE RD |
| 24806027       | MILLNER THOMAS H                                    | 7433 TIMBERLAKE RD |
| 24806031       | T C M PROPERTIES INC                                | 7415 TIMBERLAKE RD |
| 24811014       | TIMBERLAKE FUNERAL HOME INC C/O SCI MANAGEMENT CORP | 7404 TIMBERLAKE RD |
| 24811015       | LONG M B                                            | 7412 TIMBERLAKE RD |
| 24811017       | LONG M B                                            | 7418 TIMBERLAKE RD |
| 24811018       | LONG M B                                            | 7422 TIMBERLAKE RD |
| 24811019       | LONG M B                                            | 7426 TIMBERLAKE RD |
| 24811020       | PEDCOR INVESTMENTS-2007-C LP                        | 7502 TIMBERLAKE RD |
| 24811021       | IVEY CREEK FARMS INC                                | 7416 TIMBERLAKE RD |
| 24811025       | PEDCOR INVESTMENTS-2007-C LP                        | 7504 TIMBERLAKE RD |
| 24902001       | CAMPBELL TIMOTHY P                                  | 7505 TIMBERLAKE RD |
| 24902005       | PEDCOR INVESTMENTS-2006-LXXXVII L.P                 | 7500 TIMBERLAKE RD |
| Owner          | LONG M B                                            |                    |
| Petitioner     | LONG M B                                            |                    |
| Representative | LONG M B                                            |                    |



# **PEDCOR ACCESS ROAD 7426 TIMBERLAKE ROAD LAND USE PLAN**

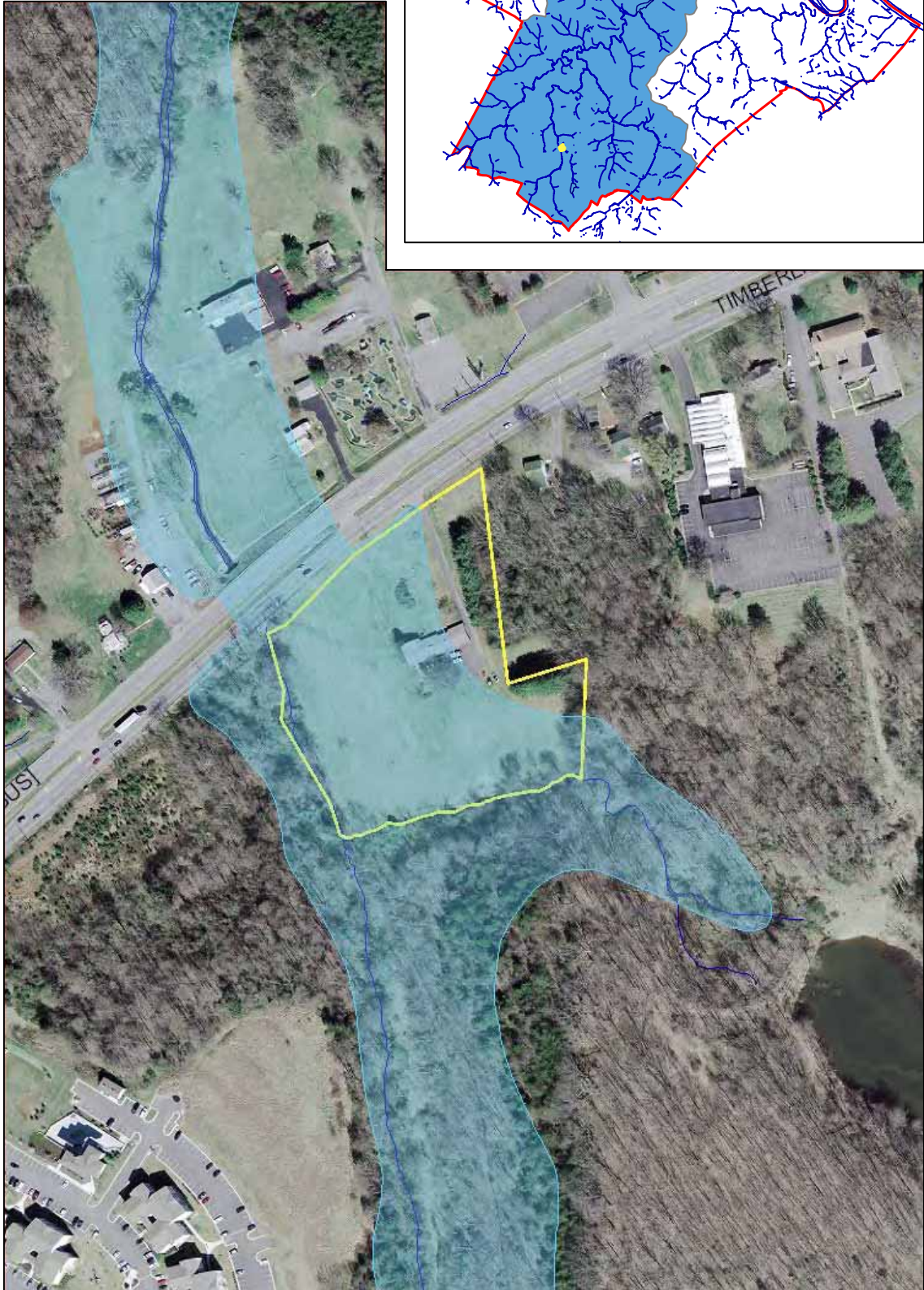
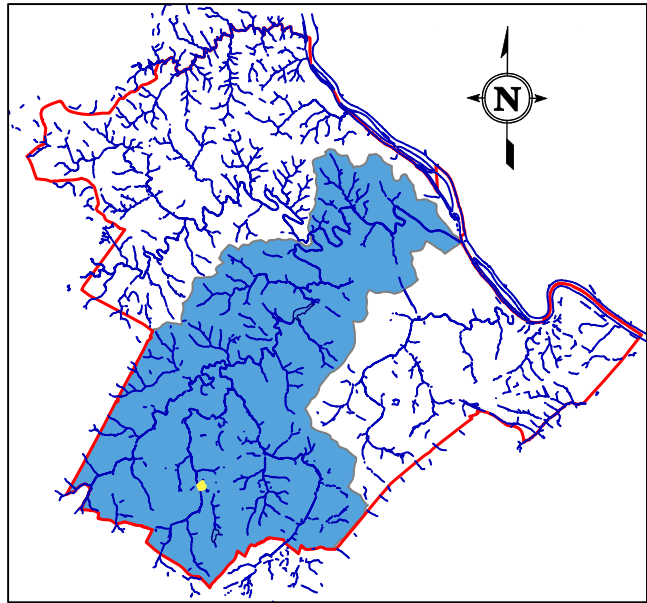




**Pedcor Access Road  
Watershed Location Map**

Legend

-  Project Site
-  Corporate Limit
-  Blackwater Creek Watershed
-  FEMA 100 -Year Floodplain



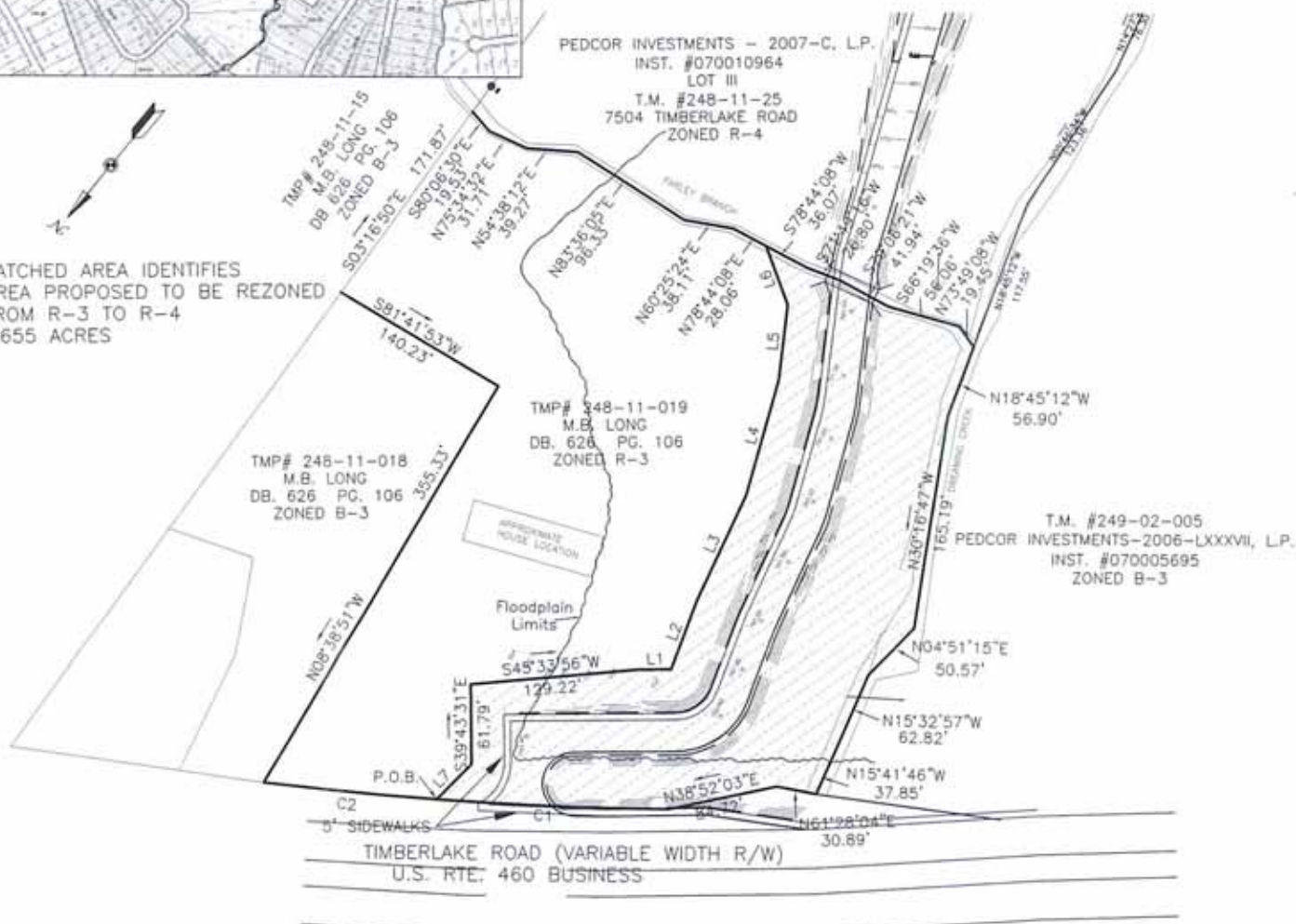




| LINE | LENGTH | BEARING     |
|------|--------|-------------|
| L1   | 24.28' | S50°16'29"W |
| L2   | 57.12' | S18°46'52"E |
| L3   | 88.95' | S14°13'42"E |
| L4   | 92.46' | S23°34'02"E |
| L5   | 58.17' | S31°57'40"E |
| L6   | 48.40' | S59°15'34"E |
| L7   | 38.01' | S05°16'29"W |

| CURVE TABLE |         |         |          |          |             |         |
|-------------|---------|---------|----------|----------|-------------|---------|
| CURVE       | TANGENT | LENGTH  | RADIUS   | DELTA    | CH. BEARING | CHORD   |
| C1          | 88.52   | 176.98' | 2831.79' | 3°34'51" | N53°04'28"E | 176.95' |
| C2          | 66.97   | 133.91' | 2831.79' | 2°42'34" | N56°13'10"E | 133.90' |

HATCHED AREA IDENTIFIES  
AREA PROPOSED TO BE REZONED  
FROM R-3 TO R-4  
1.655 ACRES

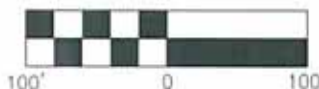


#### METES AND BOUNDS DESCRIPTION:

BEGINNING AT A POINT ON THE RIGHT-OF-WAY OF TIMBERLAKE ROAD MARKED "P.O.B."; THENCE WITH NEW LINES TO FARLEY BRANCH AS FOLLOWS; S5°16'29"W 38.01' TO A POINT, S39°43'31"E 61.79' TO A POINT, S45°33'56"W 129.22' TO A POINT, S50°16'29"W 24.28' TO A POINT, S18°46'52"E 57.12' TO A POINT, S14°13'42"E 88.95' TO A POINT, S23°34'02"E 92.46' TO A POINT, S31°57'40"E 58.17' TO A POINT, AND S59°15'34"E 48.40' TO A POINT IN FARLEY BRANCH; THENCE ALONG FARLEY BRANCH; S78°44'08"W 36.07' TO A POINT, S71°49'16"W 26.8' TO A POINT, S79°06'21"W 41.94' TO A POINT, S66°19'36"W 56.06' TO A POINT AND N73°49'08"W 19.45' TO A POINT AT THE INTERSECTION OF FARLEY BRANCH AND DREAMING CREEK; THENCE ALONG DREAMING CREEK; N18°45'12"W 56.90' TO A POINT, N30°16'47"W 165.19' TO A POINT, N4°51'15"E 50.57' TO A POINT, N15°32'57"W 62.82' TO A POINT, AND N15°41'46"W 37.85' TO A POINT AT THE INTERSECTION OF DREAMING CREEK AND TIMBERLAKE ROAD; THENCE ALONG TIMBERLAKE ROAD, N61°28'04"E 30.89' TO A POINT, AND N38°52'03"E 84.72' TO A POINT; THENCE WITH A CURVE HAVING A RADIUS OF 2831.79', LENGTH OF 176.98', DELTA OF 3°34'51", SUBTENDED BY A CHORD BEARING AND DISTANCE OF N 53°04'28"E 176.95' TO THE POINT OF BEGINNING. THIS PARCEL ENCOMPASSES AN AREA OF 1.655 ACRES.

IF THIS DRAWING IS A REDUCTION GRAPHIC  
SCALE MUST BE USED

SCALE: 1" = 100'



**PEDCOR**  
INVESTMENTS  
A Limited Liability Company

One Pedcor Square  
770 3rd Ave. S.W.

**W**  
**W**  
**ASSOCIATES**  
ENGINEERS  
SURVEYORS  
PLANNERS

TITLE:

EXHIBIT SHOWING  
PROPOSED CONDITIONAL REZONING OF  
PART OF THE PROPERTY OF  
M.B. LONG AND CONDITIONAL USE PERMIT  
CITY OF LYNCHBURG, VIRGINIA

SCALE:  
1" = 100'

DATE:  
2/4/08

DRAWN BY:  
FJB

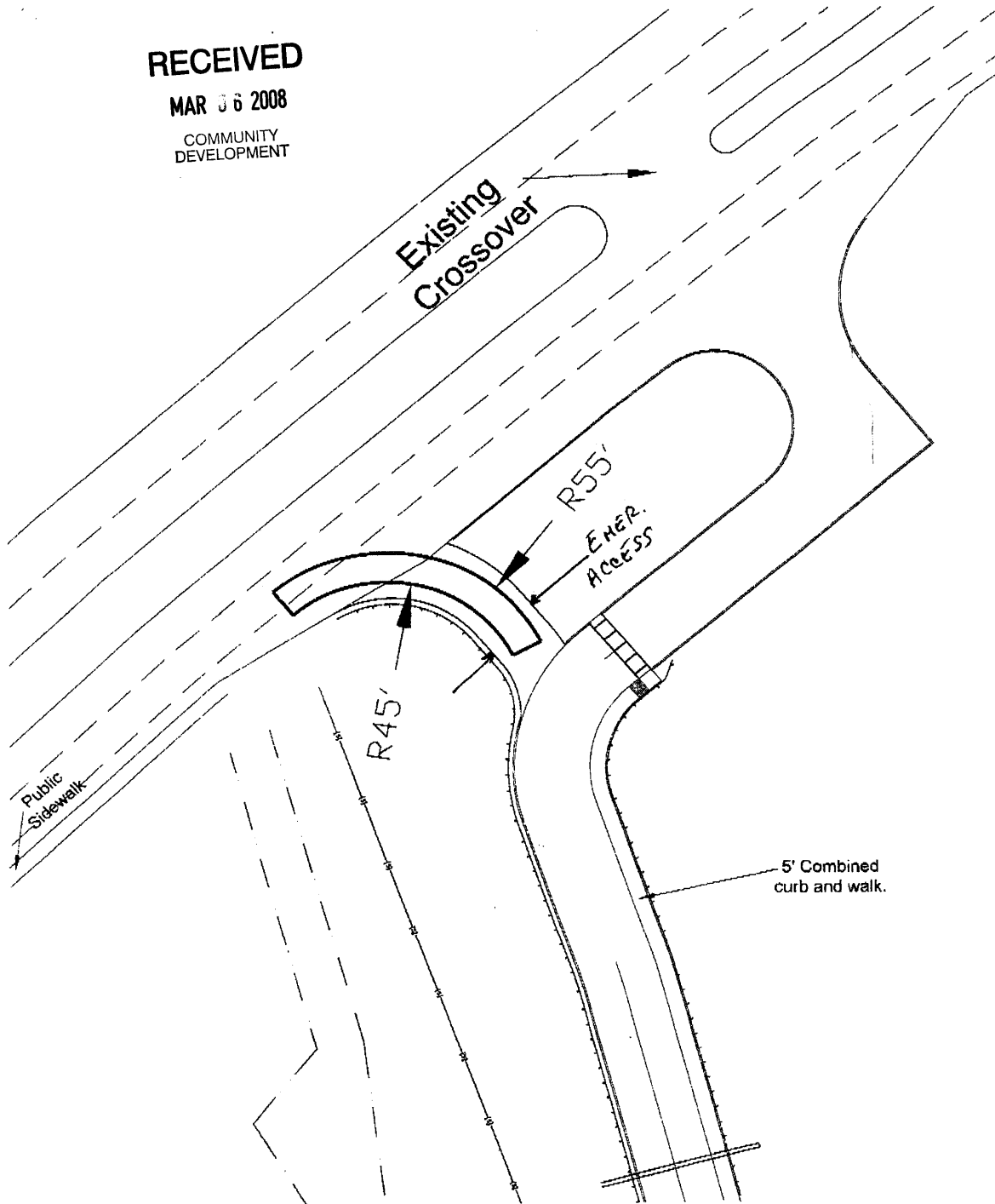
WWA NUMBER:  
207048.06



RECEIVED

MAR 06 2008

COMMUNITY  
DEVELOPMENT



1" = 40'

**LYNCHBURG CITY COUNCIL  
Agenda Item Summary**

MEETING DATE: **April 8, 2008**

AGENDA ITEM NO.: 7

CONSENT:

REGULAR: **X**

CLOSED SESSION:  
(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: **Zoning Ordinance Amendment – Section 35.1-17, Amendments**

RECOMMENDATION: Approval of the Zoning Ordinance Amendment as proposed by the Planning Commission.

SUMMARY: Section 35.1-17, Amendments of the Zoning Ordinance requires that the Planning Commission's recommendations on rezoning petitions be submitted to City Council within thirty (30) days of the Planning Commission public hearing. When rezoning petitions are scheduled for the second Planning Commission meeting of each month, the thirty (30)-day requirement results in the petition having to be scheduled for the next City Council meeting. The proposed amendment as recommended by the Planning Commission would change the thirty (30)-day requirement to sixty (60) days. The Planning Commission recommended approval of the Zoning Ordinance amendment because:

- The Zoning Ordinance amendment would allow additional time for the City Council to review documentation related to rezoning petitions.

PRIOR ACTION(S):

February 27, 2008: Planning Division recommended approval of eliminating the thirty (30) day requirement.

Planning Commission recommended approval (5-0, with 2 members absent, Sale, Hannon) of changing thirty (30) to sixty (60) days.

FISCAL IMPACT: N/A

CONTACTS:

Charlene Montford/ 455-3902

Tom Martin/ 455-3909

ATTACHMENT(S):

Section 35.1-17, Amendments

Speaker Sign-Up Sheet

REVIEWED BY: lkp

## ORDINANCE

AN ORDINANCE TO AMEND AND REENACT SECTION 35.1-17 OF THE CODE OF THE CITY OF LYNCHBURG, AS AMENDED, THE AMENDED SECTION RELATING TO WHEN REZONING PETITIONS ARE HEARD BY CITY COUNCIL.

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 Section 35.1-17 of the Code of the City of Lynchburg, 1981, as amended, be further amended and reenacted as follows:

Sec. 35.1-17. Amendments.

(a) Who may initiate. Any amendment to the text or official zoning map of this ordinance may be initiated by:

(1) The city council.

(2) The planning commission; provided, however, that any resolution or motion by the planning commission or city council proposing the rezoning shall state the public necessity, convenience, general welfare or good zoning practice constituting the public purpose of such rezoning.

(3) Any person directly affected by such an amendment. However, any such applicant not the owner of any property whose zoning district would be changed shall include in his application written permission by each owner of each property so affected.

(b) Procedure for amendments to the zoning ordinance and the official zoning map.

(1) A petition (letter) requesting a zoning amendment must be submitted to the division of planning by the petitioner a minimum of thirty (30) days prior to the public hearing date for the planning commission. The petition shall include the following documentation prior to scheduling the public hearing:

a. Name and address of petitioner;

b. Legal description of property to be rezoned;

c. Metes and bounds description of property to be rezoned;

d. General description of property to be rezoned (location);

e. Existing and proposed zoning classifications;

f. Purpose of proposed change in zone classification, including intentions of petitioner for use of the property.

(2) The petition shall be accompanied by the following:

a. A check payable to the City of Lynchburg in the amount set forth in the fee schedule adopted by city council.

b. A map showing the subject property (preferably a copy of the valuation map available from the department of community development, city hall).

c. A schematic site plan including the documentation specified in Section 35.1-14 and indicating proposed use of the property (except for a PUD or CCD request, which requires the initial submittal of a preliminary site plan, with final approval of the conditional use permit contingent upon approval of a final site plan).

When a proposed amendment of the zoning ordinance involves a change in the zoning classification of twenty-five (25) or less parcels of land, then, in addition to the advertising as above required, the planning division shall notify all property owners, their agent or the occupant, of all property within two hundred (200) feet of the proposed zone change not less than ten (10) days prior to the public hearing before the planning commission. Notification shall be by first class mail to the last known address of such owner as shown on the current real estate tax assessment book, and the cost of this notification shall be taxed to the applicant, unless waived by the city, at the standard postal rate as determined by the United States Postal Service for each written notice. The city planner or his designee shall make written affidavit that the required notifications have been mailed and shall file such affidavit with the papers of the case.

If the hearing is continued, notice shall be re-mailed. Cost of any notice required under this section shall be taxed to the applicant.

At the time an application is filed with the division of planning, a sign shall be posted on the property by the applicant notifying interested persons that a rezoning application has been filed; said sign shall be located within one (1) foot of the right-of-way of a public street or road, upon which said business or proposed use fronts. The sign shall be placed on the property at five hundred (500) foot intervals. The city planner may reduce the required number of signs or approve the relocation of signs in those cases for which the petitioner can present sufficient justification to warrant a deviation, provided the spirit and intent of the notice requirements are observed. Grounds for deviation of the requirements may include such items as a parcel of unusual size or shape, a peculiar location, severe topography, or other extraordinary situation or condition of the property that would make the strict application of these requirements unnecessary or impractical. The justification shall document that a reduction in the number or the relocation of signs would not reduce the effectiveness of the public notice. If the property in question has a five hundred (500) foot or less frontage, one (1) sign shall suffice. Where property does not front on an existing right-of-way, said sign shall be placed within the right-of-way of the nearest street or road. The sign shall read as follows:

|     |                                                                                                                                                                                                                                                                                                                                                                           |
|-----|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 48" | <p style="text-align: center;">NOTICE TO REZONE</p> <p style="text-align: center;">Name of Applicant or Owner:<br/>Telephone No.:<br/>Address of Property:<br/>Present Zoning:<br/>Proposed Zoning:<br/>Proposed Use of Property:</p> <p style="text-align: center;">Additional Information: call Planning Division,<br/>Department of Community Development—455-3900</p> |
|     | 72"                                                                                                                                                                                                                                                                                                                                                                       |

Said sign shall be of wood or metal, at least forty-eight (48) inches by seventy-two (72) inches in size and the lettering thereon shall be black letters on a white background and shall be at least three (3) inches in height. The applicant shall notify the division of planning in writing that the sign has been erected and where located.

The sign shall contain no additional advertisement or words other than that which is specified herein. Said sign shall remain posted until final action has been taken by the city council. After final action has been

taken by the city council, or the petition has been withdrawn, the sign shall be removed within ten (10) calendar days by the petitioner at his expense. If any sign remains posted longer than this ten (10) day period the petitioner shall be deemed in violation of this ordinance and subject to the penalties as set forth in Section 35.1-20 of this ordinance.

The petitioner or his representative shall be present at the planning commission meeting at which the proposed zone change is to be considered. The planning commission's recommendations shall be submitted within ~~thirty (30)~~ sixty (60) days of the hearing to the city council, which shall, after a public hearing under the regulations of Section 35.1-19 of this ordinance, approve or disapprove the proposed amendment. If, in the judgment of council, consideration should be given to changing a greater or lesser area than that proposed in a petition, council, on its own motion, shall refer to the commission, for report and recommendation, a proposal for changing a greater or lesser area than that contained in the petition. It shall be the duty of the city manager, or any official designated by him, to bring to the attention of council such instances where, in his opinion, a greater or lesser area shall be considered for change than that contained in a specific petition, and the planning commission may also recommend to council that a greater or lesser area be changed, or that the zoning be changed in any other respect differently from what was proposed in the petition.

When the council has rejected a petition to amend, supplement or change these regulations, or the boundaries of any district or classification of any property, it may not be required to consider another petition requesting the same change until at least one (1) year has elapsed, except by the favorable vote of five (5) members of city council. No land may be zoned to a more intensive use classification than was contained in the public notice without an additional public hearing after notice as required by Section 35.1-19.

(c) Procedure for comprehensive plan amendments. A proposal for a comprehensive plan amendment can be initiated only by the city council or the planning commission. Such a comprehensive plan amendment shall be submitted first to the planning commission, which shall, after a public hearing under the regulations of Section 35.1-19 of this ordinance, recommend action to the city council. The city council shall hold a public hearing under Section 35.1-19 before taking final action on such amendment; however, the planning commission and the city council hearings may be held jointly.

(d) Affirmative vote. An affirmative vote of at least a majority of all of the members of the city council shall be required to effectuate such change or amendment as regulated by this chapter.

(e) Time of hearing. An application for a zoning amendment shall be submitted at least thirty (30) days before the date of the hearing in order to be considered at the said hearing. Except as specifically authorized by city council, applications for a zoning amendment will be heard by the city council only once a month at the first meeting of the month. Also, except as specifically authorized by the planning commission or city council, zoning applications will be considered to be incomplete and will not be scheduled to be heard by the planning commission or city council until all necessary variances have been obtained from the board of zoning appeals.

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

Adopted:

Certified:

\_\_\_\_\_  
Clerk of Council

042L

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

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**To:** Planning Commission  
**From:** Planning Division  
**Date:** February 27, 2008  
**Re:** **Zoning Ordinance Amendment – Section 35.1-17, Amendments**

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**I. PETITIONER**

City of Lynchburg, Planning Division

**Representative:** Tom Martin, AICP, City Planner, 900 Church Street, Lynchburg, Virginia 24504

**II. LOCATION**

N/A

**Property Owner:** N/A

**III. PURPOSE**

The purpose of this petition is to amend Section 35.1-17, Amendments of the Zoning Ordinance to eliminate the requirement that the Planning Commission's recommendations on rezoning petitions be submitted to the City Council within thirty (30) days.

**IV. SUMMARY**

- Section 35.1-17, Amendments of the Zoning Ordinance requires that the Planning Commission's recommendations on rezoning petitions be submitted to City Council within thirty (30) days of the Planning Commission public hearing.
- When rezoning petitions are scheduled for the second Planning Commission public hearing of each month, the Zoning Ordinance requires that they be sent to the following City Council meeting. Eliminating this requirement would allow the City Council additional time to review documentation related to rezoning petitions.

**The Planning Division recommends approval of the Zoning Ordinance amendment.**

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**V. FINDINGS OF FACT**

1. **Comprehensive Plan.** N/A
2. **Zoning.** N/A
3. **Board of Zoning Appeals (BZA).** N/A
4. **Surrounding Area.** N/A
5. **Site Description.** N/A
6. **Proposed Use of Property.** N/A
7. **Traffic, Parking and Public Transit.** N/A
8. **Storm Water Management.** N/A
9. **Emergency Services.** N/A
10. **Impact.** Eliminating the Zoning Ordinance requirement that rezoning petitions be forwarded to the City Council within thirty (30) days of the Planning Commission public hearing will allow the City Council



additional time to review documentation. Eliminating the requirement does not prevent time sensitive petitions to be reviewed sooner.

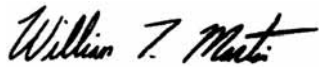
11. **Technical Review Committee.** N/A

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**VI. PLANNING DIVISION RECOMMENDATION**

**Based on the preceding Findings of Fact, the Planning Commission recommends to City Council approval of an amending Section 35.1-17, Amendments to eliminate the requirement that rezoning petitions be forwarded to City Council within thirty (30) days of the Planning Commission public hearing.**

This matter is respectfully offered for your consideration.



William T. Martin, AICP  
City Planner

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

**VII. ATTACHMENTS**

**1. Section 35.1-17, Amendments**

**MINUTES FROM THE FEBRUARY 27, 2008 PLANNING COMMISSION MEETING (MINUTES HAVE BEEN APPROVED):**

**b. A petition to amend Section 35.1-17, Amendments of the Zoning Ordinance to eliminate the requirement that the Planning Commission's recommendations on rezoning petitions be submitted to the City Council within thirty (30) days.**

Mr. Martin addressed the commissioners with the following comments. The request is being brought forward because the current *Zoning Ordinance* is written so that when a petition is heard by the Planning Commission on the fourth Wednesday, there is only a little more than a week prior to it having to be heard by City Council. That is really not giving City Council enough time to review the information. Mr. Martin pointed that a petition heard today, for instance, would have to be heard on March 11<sup>th</sup>. The proposal is to strike this language, but that is not to say that if there was a pressing issue that it could not be heard more quickly.

Chair Hamilton asked for anyone present to speak in favor or with concerns about this petition, and Mr. Gary Case came forward to speak. He said that he understood where this petition was coming from, but he did not like the language being stricken completely. He would not have a problem if it was worded that there was a longer period of days before the petition was heard. He wondered who would decide which matters were pressing because from his point of viewpoint, everything he does is time sensitive. The problem with having it being open ended is that contracts often say that the sale is contingent upon a rezoning petition being approved, and it costs an owner money to hold a property. Mr. Case also pointed out that surrounding counties do not have their ordinances written this way.

Mr. Case further commented that Planning Commission and City Council have the right to put a matter into work session and this can make a petition take longer to go through the process. He really feels that a petitioner and the opposition have the right to know their answer quickly. He thinks that the system we have works, but repeated that he would not have a problem if there was a longer period of days between Planning Commission and City Council than the 30 days currently in the ordinance.

Mr. Rick Read with Coldwell Banker came forward next to speak. He did not want to repeat Mr. Case, but he wanted to point out that he likes how Lynchburg is not like Northern Virginia or Albemarle County where petitions take a long time. If the process has a lot of delays in it, then we lose our competitive edge. He suggested that if a petition can not reasonably be heard at the next City Council, then it should be heard at the one after that.

Chair Hamilton then closed the public hearing portion of the meeting. Commissioner Barnes thought that Mr. Case and Mr. Read had a good point and he suggested putting in a different number of days into the ordinance that would satisfy staff and the petitioners. Mr. Martin pointed out that these are really not his concerns. This is coming to them from the City Manager at Council's request. He understands the point made, but pointed out the conditional use permit process has no set time for them to be heard by Council. Council actually has a year by state code to act on any rezoning or other request. He thinks that the City's policy is always going to be to forward it on to the next convenient time. We really are not doing this to delay petitions.

Chair Hamilton asked Mr. Martin to explain the state code versus the city code. Mr. Martin said that there is nothing in the state code that says a rezoning petition has to be heard within 30 days. That is something that was put in during one of the iterations of the ordinance.

Commissioner Worthington asked if this issue isn't more of an issue for City Council to decide. Chair Hamilton said that they really want the Commission's recommendation though. He asked Mr. Martin how long the old system has been in place. Mr. Martin was not sure. Commissioner Worthington asked what has happened recently to make this change necessary. Mr. Martin said that the number of petitions and the length of the public hearing discussion might be a driving factor.

There was some discussion about how much time Council really has to review the petition. Ms. Lape said that the packets go out to them the Thursday before their meeting. Chair Hamilton pointed out that is the same amount of time they have to review a petition.

Commissioner Swienton pointed out that this change will not change the date they receive their packet. Mr. Martin pointed out that when there is a controversial issue, they know when it has been to Planning Commission and this change would give them extra time to get out and meet people and try and understand the issues more. Commissioner Worthington pointed out that they have the option of putting an issue into work session.

Chair Hamilton thought the meetings were on the web for City Council to see, and Ms. Lape pointed that the Planning Commission meetings are televised now, but not on the web yet.

Commissioner Barnes made the recommendation that the “within 30 days” be changed to “within 60 days.” There was some verbal consensus on this phrase.

Commissioner Swienton commented that he can see how it might seem unfair to some people to change a long standing policy so drastically. He understands the economics and pointed out that Council still has the option to put a matter into work session or even to postpone it indefinitely. This would allow them 60 days to get citizen and developer input.

Commissioner Worthington made the following motion, which was seconded by Commissioner Oglesby, and it passed by the following vote:

**“The planning commission’s recommendations shall be submitted within ~~30~~ 60 days of the hearing to the city council, which shall, after a public hearing under the regulations of Section 35.1-19 of this ordinance, approve or disapprove the proposed amendment.”**

|              |                                            |   |
|--------------|--------------------------------------------|---|
| AYES:        | Barnes, Hamilton, Swienton and Worthington | 5 |
| NOES:        |                                            | 0 |
| ABSTENTIONS: |                                            | 0 |
| ABSENT:      | Hannon and Sale                            | 2 |

February 27, 2008

PLEASE PRINT

[illegible]

# LYNCHBURG CITY COUNCIL

## Agenda Item Summary

MEETING DATE: **April 8, 2008**

AGENDA ITEM NO.: 8

CONSENT:

REGULAR: **X**

CLOSED SESSION:  
(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: **FY 2009 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, 2008.

SUMMARY: At the February 26, 2008 Work Session, City Council considered proposed revisions to water/sewer rates as recommended by the City's Utility staff. The rate strategy for this year continues with the goals to:

- Ensure equitable sharing of water and sewer costs based on actual services provided.
- Ensure rates promote sustainable water and sewer operations and infrastructure.
- Minimize future rate spikes.
- Meet the financial obligations related to the CSO Special Order.
- Meet Council's financial policies.

The proposed increases include a 4% increase in the water volume rate to \$2.05 per hcf, and a 4% increase in the sewer volume rate to \$5.38 per hcf. A complete list of existing and proposed rates is included in Attachment 1.

The 4% increase in the sewer volume rate is primarily driven by the need to maintain compliance with the CSO Special Order which dictates what the minimum sewer rate must be as it relates to the median household income.

The 4% increase in the water volume rate is driven by general increases in expenses such as personnel, power, etc., and the need to increase the capital improvement program to address an aging water infrastructure.

PRIOR ACTION(S): February 26, 2008: City Council Work Session, FY 2009 Water and Sewer Rate Study & Status Report presentation by Department of Utilities staff.

FISCAL IMPACT: An overall increase in revenues for inside City water and sewer sales of approximately 4%.

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 2009 Water and Sewer rates  
Attachment 1 - Rate Comparison Summary

REVIEWED BY: lkp

AN ORDINANCE TO AMEND AND REENACT SECTIONS 34-4, 34-12.1, 39-27, AND 39-54.1 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 34-4, 34-12.1, 39-27, and 39-54.1 of the Code of the City of Lynchburg, 1981, are hereby amended and reenacted as follows:

**Sec. 34-4. General terms, conditions, and provisions applicable to sewer mains extended or installed with city approval.**

(a) Title to any sewer main extensions or service connections within the public right-of-way or requested easements shall vest in the city upon the completion of construction regardless of method of financing.

(b) Where public sewer systems are already installed, replacement or enlargement of the sewer pipes, when deemed necessary by the city, shall be made at the sole cost and expense of the city.

(c) Whenever any person owning property along the line of any sewer main in the city which has been extended, installed or purchased by the city in the preservation of the health and general welfare of the public, or by petition, but without the participation of him or a previous owner of this property, shall desire the sewer service from said main to his premises, he shall be required to do the following:

(1) Fulfill the criteria as outlined under subsection (g) hereof, involving sewer main connections;

(2) Make an additional payment of an availability charge, the purpose of which is to defray in part the cost of providing outfall lines, pumping stations and waste treatment facilities. The availability charges are as follows:

a. Single-family residence:

(i) Where fifty (50) to fifty-nine (59) percent of the potential customers of the project as determined by the city engineer sign petitions requesting such project, the charge shall be nineteen hundred and fifty dollars (\$1,950.00) per connection, for each such petitioner.

(ii) Where sixty (60) to sixty-nine (69) percent of said customers sign such petitions, the charge shall be eighteen hundred fifty dollars (\$1,850.00) per connection, for each such petitioner.

(iii) Where seventy (70) to seventy-nine (79) percent of said customers sign such petitions, the charge shall be seventeen hundred fifty dollars (\$1,750.00) per connection, for each such petitioner.

(iv) Where eighty (80) to eighty-nine (89) percent of said customers sign such petitions, the charge shall be sixteen hundred and seventy-five dollars (\$1,675.00) per connection, for each such petitioner.

(v) Where ninety (90) to ninety-four (94) percent of said customers sign such petitions, the charge shall be fifteen hundred and fifty dollars (\$1,550.00) per connection, for each such petitioner.

(vi) Where ninety-five (95) to one hundred (100) percent of said customers sign such petitions, the charge shall be fourteen hundred and fifty dollars (\$1,450.00) per connection, for each such petitioner.

b. Multifamily structures and mobile home parks where a single connection is made:

(i) For the first five (5) units, nine hundred and eighty dollars (\$980.00) each.

(ii) For the second five (5) units, seven hundred and thirty dollars (\$730.00) each.

(iii) For all additional units, four hundred and ninety dollars (\$490.00) each.

Separate individual connections to each unit of a multifamily structure or mobile home park will require the same availability charge for each unit as a single-family residential unit. Separate connections serving more than one unit will require the availability charge as specified above in Section 34-4(c)(2)b.

c. Commercial service: Up to two thousand (2,000) square feet of floor space, or if a maximum four (4) inch diameter building sewer is used, the charge shall be nineteen hundred and fifty dollars (\$1,950.00). If a connection sewer in excess of four (4) inches in diameter is required, the following charges shall apply:

| Availability Charge:          | Floor Space                    |
|-------------------------------|--------------------------------|
| \$1,950.00                    | 0 to 2,000 square feet         |
| \$2,440.00                    | 2,001 to 10,000 square feet    |
| \$3,640.00                    | 10,001 to 20,000 square feet   |
| \$6,110.00                    | 20,001 to 35,000 square feet   |
| \$9,650.00                    | 35,001 to 99,999 square feet   |
| As determined by city council | 100,000 square feet or greater |

All availability charges for institutional service shall be as determined by city council on a case-by-case basis.

d. Just prior to the conclusion of each fiscal year, the city manager or his designee shall review all availability charges and connection fees, and recommend to council appropriate charges.

e. All extension agreements and service requests not included in original petitions shall be subject to the maximum prevailing availability charges and connection fees which are in effect at the time such agreement or request is approved by council, irrespective of the number of original petitioners.

(d) Whenever any property abutting a street is without a city sewer main, the owner desiring city sewer service shall be required to sign a petition for extension of sewer mains.

(1) Single-family and multifamily structures and mobile home parks: Upon receipt of said petition signed by at least fifty (50) percent of the owners representing properties to be served by the sewer main extension, the city shall prepare an estimate for the installation of a sewer main.

Such estimate shall be prepared on the basis that the location, character and size of the extension, and the plans and specifications for the extension, and the materials used in the installation, replacement, maintenance and repair of the extension shall be as specified by the city.

(2) Commercial service: Where the council has determined the petitioned project to be economically feasible to the city, the availability charges set forth in Section 34-4(c)(2)c. shall be applicable.

Where the council has determined that the petitioned project is not economically feasible to the city, the cost of the project will be apportioned by council between the city and the benefitted property owners. The entire non-city portion shall be apportioned by council between the petitioning property owners as their availability charge. Any nonsigning property owner later petitioning for service shall pay the same proportioned share for each connection as the original signers.

(e) The owner or occupant of a single-family dwelling or a two-family dwelling that did not have access to city sewer lines prior to the extension of the line, may make arrangements to pay the availability charges in paragraph (c)(2)(a) and the connection charges in paragraph (g) of this section in installments. The city's billings and collections division may enter into a water and sewer service availability fee installment agreement with the owner or occupant of a single-family dwelling or a two-family dwelling under the following conditions:



- (1) Only an owner or occupant that actually connects their dwelling to the city's sewer system is eligible to enter into a water and sewer service availability fee installment agreement.
- (2) The availability and connection charges and interest must be paid in full within one year.
- (3) Interest at the rate of five (5) percent per annum or the interest rate the city was charged for its most recent bond issue, whichever rate of interest is higher, will be charged on the unpaid balance of the availability and connection charges.
- (4) Payments will be made on such dates and in such amounts as the billings and collections division, in its discretion, determines are appropriate.
- (5) The unpaid balance of the availability and connection charges may be paid in full at any time without any prepayment penalty.
- (6) The water and sewer service availability fee installment agreement cannot be assigned or assumed without the prior written consent of the billings and collections division.
- (7) If the owners or occupants fail to make payments in accordance with the water and sewer service availability fee installment agreement, the city may discontinue water service to the property until all arrears for availability and connection fee installment payments due the city are paid in full.
- (8) As provided in section 15.2-104 of the Code of Virginia, or any succeeding section, the city will place a lien against the property that is served by the sewer line to secure the payment of the unpaid availability and connection charges.

The installment plan offered by this paragraph is for the benefit of the owners or occupants of single-family dwellings and two-family dwellings and is not available to developers or builders of residential subdivisions, apartments, boarding houses, lodging houses, rooming houses or other multi-family dwellings or to commercial and institutional facilities, or similar housing units.

- (f) Sewer main extensions involving industrial development, residential subdivision development of three (3) or more dwelling units per lot, and/or any other planned unit or special development are excepted from this section.
- (g) In addition to the previous applicable requirements, whenever any person owning property along the line of any sewer main in the city shall desire sewer service into his premises, he shall execute an agreement known as an "Application for Sewer." In addition thereto, the licensed plumber employed by him shall make written application therefor to the city on forms prescribed for that purpose.

Unless the building sewer, or connection, has been previously installed, the plumber or building contractor shall clearly indicate at the premises by a stake or otherwise the exact location of the building sewer. An applicant for any new connection must make an estimate of the size building sewer needed for all lines greater than four (4) inches in diameter for the particular building in order that the proper size building sewer may be installed to satisfy the demand. Upon approval of the application, payment of certain fixed sewer connection fees must be made as follows:

- (1) Four (4) inch diameter house building sewer—~~\$965.00~~ 1,100.00
- (2) Larger than four (4) inch diameter building sewer - cost plus 15%; minimum charge—~~\$1,045.00~~ 1,200.00

Provided, that when any property owner grants to the city free of cost the right to construct and maintain a sewer across said property owner's property, that property owner shall be granted a credit of one hundred dollars (\$100.00) to be applied against the appropriate connection charge for one (1) connection.

The city will then install a building sewer leading from the main in the street to the property line, or install a sewer saddle. This requirement also applies to houses formerly occupied by one (1) family, but which are

converted into two (2) or more apartments, with a separate sewer connection for each apartment unit. When these requirements are complied with, the city will thereupon issue a permit for the plumber named in the application to make connection with the city's sewer. All such connections and all plumbing work shall conform in all respects to the provisions of the plumbing code of the city.

(h) Residential subdivisions of no more than two (2) dwelling units per lot. For all subdivisions located within the city containing no more than two (2) dwelling units per lot, in addition to the construction of the system within the boundaries of the subdivision by the subdivider pursuant to Section 24.1-31(a) of the city's subdivision ordinance, there shall be paid by the property owner to the city at the time of connection to the system a connection fee (without an easement credit) as required by subsection (g) for each connection, and an availability charge, the purpose of which is to defray in part the cost of providing extension lines, pumping stations and waste treatment facilities, the sum of four hundred dollars (\$400.00) per lot; provided, however, that if in any subdivision development any lot is served by a connection directly to lines installed by the city, the availability charges as listed in Section 34-4(c)(2)a, will be paid by the property owner, except, however, that where he or a previous owner of this property participated in the cost of such lines, no availability charge shall be payable.

(i) The owner or occupant of a single-family dwelling or a two-family dwelling that did not have access to city sewer lines at the time it was constructed, may make arrangements to pay the availability charges in paragraph (c)(2)(a) and the connection charges in paragraph (g) of this section in installments. The city's billings and collections division may enter into a water and sewer service availability fee installment agreement with the owner or occupant of a single-family dwelling or a two-family dwelling under the following conditions:

(1) Only an owner or occupant that actually connects their dwelling to the city's sewer system is eligible to enter into a water and sewer service availability fee installment agreement.

(2) The availability and connection charges and interest must be paid in full within one year.

(3) Interest at the rate of five (5) percent per annum or the interest rate the city was charged for its most recent bond issue, whichever rate of interest is higher, will be charged on the unpaid balance of the availability and connection charges.

(4) Payments will be made on such dates and in such amounts as the billings and collections division, in its discretion, determines are appropriate.

(5) The unpaid balance of the availability and connection charges may be paid in full at any time without any prepayment penalty.

(6) The water and sewer service availability fee installment agreement cannot be assigned or assumed without the prior written consent of the billings and collections division.

(7) If the owners or occupants fail to make payments in accordance with the water and sewer service availability fee installment agreement, the city may discontinue water service to the property until all arrears for availability and connection fee installment payments due the city are paid in full.

(8) As provided in Section 15.2-104 of the Code of Virginia, or any succeeding section, the city will place a lien against the property that is served by the sewer line to secure the payment of the unpaid availability and connection charges.

The installment plan offered by this paragraph is for the benefit of the owners or occupants of single-family dwellings and two-family dwellings and is not available to developers or builders of residential subdivisions, apartments, boarding houses, lodging houses, rooming houses or other multi-family dwellings or to commercial and institutional facilities, or similar types of housing units.

#### **Sec. 34-12.1. Schedule of sewer rates.**

- (a) The monthly sewer rates for all consumers within the city shall be ~~\$5.17~~ 5.38 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 ~~\$39.88~~ 41.35. This rate is derived as follows: (monthly volume charge of ~~\$5.17~~ 5.38 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 dollars and forty-six cents (\$18.46) per one hundred (100) pounds.
- (2) For suspended solids concentrations in excess of four hundred (400) milligrams per liter (MG/l), twenty dollars and eighty-eight cents (\$20.88) 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 dollars (\$177.00) up to a limit of 2,500 gallons of capacity and thirty dollars (\$30.00) 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.
- (3) 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. 39-27. General terms, conditions and provisions applicable to water mains extended or installed with city approval.**

- (a) Title to any water main extensions or service connections within the public right-of-way or requested easements shall vest in the city upon the completion of construction regardless of method of financing.
- (b) Where public water systems are already installed, replacement or enlargement of the water pipes, when deemed necessary by the city, shall be made at the sole cost and expense of the city.
- (c) Whenever any person owning property along the line of any water main in the city which has been extended, installed or purchased by the city in the preservation of the health and general welfare of the public, or by petition, but without the participation of him or a previous owner of this property, shall desire the water service from said main to his premises, he shall be required to do the following:
- (1) Fulfill the criteria as outlined under subsection (g) hereof, involving water main connections
- (2) Make an additional payment of an availability charge, the purpose of which is to defray in part the cost of providing transmission mains, booster pumping and distribution storage facilities. The availability charges are as follows:

a. Single-family residence:

1. Where fifty (50) to fifty-nine (59) percent of the potential customers of the project as determined by the city engineer sign petitions requesting such project, the charge shall be one thousand two hundred twenty dollars (\$1,220.00) per connection, for each such petitioner.
2. Where sixty (60) to sixty-nine (69) percent of said customers sign such petitions, the charge shall be one thousand one hundred sixty dollars (\$1,160.00) per connection, for each such petitioner.
3. Where seventy (70) to seventy-nine (79) percent of said customers sign such petitions, the charge shall be one thousand one hundred dollars (\$1,100.00) per connection, for each such petitioner.
4. Where eighty (80) to eighty-nine (89) percent of said customers sign such petitions, the charge shall be one thousand forty dollars (\$1,040.00) per connection, for each such petitioner.
5. Where ninety (90) to ninety-four (94) percent of said customers sign such petitions, the charge shall be nine hundred eighty dollars (\$980.00) per connection, for each such petitioner.
6. Where ninety-five (95) to one hundred (100) percent of said customers sign such petitions, the charge shall be nine hundred twenty dollars (\$920.00) per connection, for each such petitioner.

b. Multifamily structures and mobile home parks where a master meter is used:

1. For the first five (5) units, six hundred ten dollars (\$610.00) each.
2. For the second five (5) units, four hundred sixty dollars (\$460.00) each.
3. For all additional units, three hundred ten dollars (\$310.00) each.
4. Separate individual connections to each unit of a multifamily structure or mobile home park will require the same availability charge for each unit as a single-family residential unit. Separate connections serving more than one (1) unit will require the availability charge as specified above in Section 39-27(c)(2)b.

c. Commercial service: Up to two thousand (2,000) square feet of floor space or if a meter one (1) inch in diameter or smaller is used, the charge shall be one thousand two hundred twenty dollars (\$1,220.00). If a meter in excess of one (1) inch in diameter is required, the following charges shall apply:

| Availability charge           | Floor space                    |
|-------------------------------|--------------------------------|
| \$1,220.00                    | 0 to 2,000 square feet         |
| \$1,530.00                    | 2,001 to 10,000 square feet    |
| \$2,290.00                    | 10,001 to 20,000 square feet   |
| \$3,820.00                    | 20,001 to 35,000 square feet   |
| \$6,110.00                    | 35,001 to 99,999 square feet   |
| As determined by city council | 100,000 square feet or greater |

All availability charges for institutional service shall be as determined by city council on a case-by-case basis.

d. Just prior to the conclusion of each fiscal year, the city manager or his designee shall review all availability charges and connection fees, and recommend to council appropriate changes.

e. All extension agreements and service requests not included in original petitions shall be subject to the maximum prevailing availability charges and connection fees which are in effect at the time such agreement or request is approved by council, irrespective of the number of original petitioners.

(d) Whenever any property abutting a street is without a city water main, the owner desiring city water service shall be required to sign a petition for extension of water mains.

(1) Single-family and multifamily structures and mobile home parks:

a. Upon receipt of said petition signed by at least fifty (50) per cent of the owners representing properties to be served by the water main extension, the city shall prepare an estimate for the installation of a water main.

b. Such estimate shall be prepared on the basis that the location, character and size of the extension and the plans and specifications for the extension and the materials used in the installation, replacement, maintenance and repair of the extension shall be as specified by the city.

(2) Commercial service:

a. Where the council has determined the petitioned project to be economically feasible to the city, the availability charges set forth in Section 39-27(c)(2)c. shall be applicable.

b. Where the council has determined that the petitioned project is not economically feasible to the city the cost of the project will be apportioned by council between the city and the benefitted property owners. The entire noncity portion shall be apportioned by council between the petitioning property owners as their availability charges. Any nonsigning property owner later petitioning for service shall pay the same proportioned share for each connection as the original signers.

(e) The owner or occupant of a single-family dwelling or a two-family dwelling that did not have access to city sewer lines at the time it was constructed, may make arrangements to pay the availability charges in paragraph (c)(2)(a) and the connection charges in paragraph (g) of this section in installments. The city's billings and collections division may enter into a water and sewer service availability fee installment agreement with the owner or occupant of a single-family dwelling or a two-family dwelling under the following conditions:

(1) Only an owner or occupant that actually connects their dwelling to the city's sewer system is eligible to enter into a water and sewer service availability fee installment agreement.

(2) The availability and connection charges and interest must be paid in full within one year.

(3) Interest at the rate of five (5) percent per annum or the interest rate the city was charged for its most recent bond issue, whichever rate of interest is higher, will be charged on the unpaid balance of the availability and connection charges.

(4) Payments will be made on such dates and in such amounts as the billings and collections division, in its discretion, determines are appropriate.

(5) The unpaid balance of the availability and connection charges may be paid in full at any time without any prepayment penalty.

(6) The water and sewer service availability fee installment agreement cannot be assigned or assumed without the prior written consent of the billings and collections division.

(7) If the owners or occupants fail to make payments in accordance with the water and sewer service availability fee installment agreement, the city may discontinue water service to the property until all arrears for availability and connection fee installment payments due the city are paid in full.

(8) As provided in Section 15.2-104 of the Code of Virginia, or any succeeding section, the city will place a lien against the property that is served by the sewer line to secure the payment of the unpaid availability and connection charges.

The installment plan offered by this paragraph is for the benefit of the owners or occupants of single-family dwellings and two-family dwellings and is not available to developers or builders of residential subdivisions, apartments, boarding houses, lodging houses, rooming houses or other multi-family dwellings or to commercial and institutional facilities.

(f) Water main extensions involving industrial development, residential subdivision development of three (3) or more dwelling units per lot, and/or any other planned unit or special development are excepted from this section.

(g) In addition to the previous applicable requirements, whenever any person owning property along the line of any water main in the city shall desire water service into his premises, he shall execute an agreement known as an "application for water." In addition thereto, the licensed plumber employed by him shall make written application therefor to the city on forms prescribed for that purpose.

Unless the service pipe and meter box have been previously installed, the plumber or building contractor shall clearly indicate at the premises by a stake or otherwise the exact location of the proposed meter and service. An applicant for any new service must make an estimate of the size connection needed for all meters greater than five-eighths (5/8ths) inch with a three-fourths (3/4ths) inch service for the particular building in order that the proper size service pipe and meter may be installed to satisfy the demand. Upon approval of the application and payment of certain fixed water connection fees must be made as follows:

(1) 3/4-inch service—5/8-inch meter ~~\$850.00~~ 950.00

(2) 1-inch service—5/8-inch meter ~~\$870.00~~ 1,000.00

(3) 1-inch service—1-inch meter ~~\$1,030.00~~ 1,150.00

(4) Larger than 1-inch service and 1-inch meter - Cost plus 15 %; minimum charge of ~~\$1,030.00~~ 1,150.00;

The city will then install a service pipe leading from the main in the street to the water meter box near the property line and/or install the meter. This requirement also applies to houses formerly occupied by one (1) family, but which are converted into two (2) or more apartments, with a separate water service and meter for each apartment unit. When these requirements are complied with, the city will thereupon issue a permit for the plumber named in the application to make connection with the meter box. All such connections and all plumbing work incident to the introduction of water into the premises shall conform in all respects to the provisions of the plumbing code of the city.

(h) Residential subdivisions of no more than two (2) dwelling units per lot: For all subdivisions located within the city containing no more than two (2) dwelling units per lot, in addition to the construction of the system within the boundaries of the subdivision by the subdivider pursuant to Section 24.1-31(a) of the city's subdivision ordinance, there shall be paid by the property owner to the city at the time of connection to the system a connection fee (without an easement credit) as required by subsection (g) for each connection, and an availability charge, the purpose of which is to defray in part the cost of providing transmission mains, booster pumping and distribution facilities, the sum of three hundred dollars (\$300.00) per lot; provided, however, that if in any subdivision development any lot is served by a connection directly to lines installed by the city, the availability charges as listed in Section 39-27(c)(2)a. will be paid by the property owner except, however, that where he or a previous owner of this property participated in the cost of such line, no availability charge shall be payable.

(i) Residential subdivisions of no more than one (1) dwelling unit per lot: Notwithstanding the conditions of Section 39-27(g) and 24-31(a) city council may, upon request and after having obtained appropriate commitments for development of streets, recreational facilities, and other issues related to providing for affordable housing in the city, enter into a special agreement with subdivision developers, whereas the city would reimburse the developer for 100% of the cost of installing waterlines within the subdivision boundaries provided that: the agreement provides for guarantees from the developer that 80% of the projected revenue from the annual water rates paid by customers connected to the installed waterline within the subdivision boundaries in the first ten years will pay the total cost of the reimbursed amount, within the following ten years. Guarantees may be in the form of liens placed on lots within the subdivision; cash payments; bonds; or other forms of securities satisfactory to the city attorney. Such guarantees shall remain in effect until the full amount

of the security is paid. The director of ~~public works~~ utilities shall review such records relating to the agreement to assure that the projected revenue from the development will recover the cost of the waterline reimbursement over a period of twenty years. The developer shall be responsible for providing all information necessary to assure compliance with the terms of the agreement. The city shall render a bill to the developer after the first 10 years that the agreement is in force for the difference of the amount of projected revenue from the customers connected to the waterlines at that time and the total amount of the reimbursement for the cost for the installation of the waterlines. If any covenants of the agreement are not satisfied, the city shall render a bill immediately relating to the remaining waterline costs.

(j) The owner or occupant of a single-family dwelling or a two-family dwelling that did not have access to city water lines at the time it was constructed, may make arrangements to pay the availability charges in paragraph (c)(2)(a) and the connection charges in paragraph (g) of this section in installments. The city's billings and collections division may enter into a water and sewer service availability fee installment agreement with the owner or occupant of a single-family dwelling or a two-family dwelling under the following conditions:

(1) Only an owner or occupant that actually connects their dwelling to the city's water system is eligible to enter into a water and sewer service availability fee installment agreement.

(2) The availability and connection charges and interest must be paid in full within one year.

(3) Interest at the rate of 5 percent per annum or the interest rate the city was charged for its most recent bond issue, whichever rate of interest is higher, will be charged on the unpaid balance of the availability and connection charges.

(4) Payments will be made on such dates and in such amounts as the billings and collections division, in its discretion, determines are appropriate.

(5) The unpaid balance of the availability and connection charges may be paid in full at any time without any prepayment penalty.

(6) The water and sewer service availability fee installment agreement cannot be assigned or assumed without the prior written consent of the billings and collections division.

(7) If the owners or occupants failed to make payments in accordance with the water and sewer service availability fee installment agreement the city may discontinue water service to the property until all arrears for availability and connection fee installment payments due the city are paid in full.

(8) As provided in Section 15.2-104 of the Code of Virginia, or any succeeding section, the city will place a lien against the property that is served by the water line to secure the payment of the unpaid availability and connection charges.

The installment plan offered by this paragraph is for the benefit of the owners or occupant of single-family dwellings and two-family dwellings and is not available to developers or builders of residential subdivisions, apartments, boarding houses, lodging houses, rooming houses or other multi-family dwellings, or to commercial and institutional facilities.



**Sec. 39-54.1. Schedule of water rates.**

The monthly water rates for all consumers within the city shall be ~~\$1.97~~ 2.05 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.

2. That this ordinance shall become effective on July 1, 2008.

Adopted:

Certified:

\_\_\_\_\_  
Clerk of Council

047L

# ATTACHMENT I

## RATE COMPARISON SUMMARY

The following table provides a comparison of the current monthly water and sewer rates and the rates proposed for City Council approval, effective July 1, 2008.

|                                     | Current  | Proposed | %        |
|-------------------------------------|----------|----------|----------|
|                                     | Rate     | Rate     | Increase |
| <b>Water</b>                        |          |          |          |
| Volume charge/hcf                   | \$ 1.97  | \$ 2.05  | 4.0%     |
|                                     |          |          |          |
| <b>Sewer</b>                        |          |          |          |
| Volume charge / hcf                 | 5.17     | 5.38     | 4.1%     |
| BOD charge / 100 lbs                | 18.46    | 18.46    | 0.0%     |
| TSS charge / 100 lbs                | 20.88    | 20.88    | 0.0%     |
| Septic hauler charge                | 177.00   | 177.00   | 0.0%     |
| Industrial permit fee               | 200.00   | 200.00   | 0.0%     |
| Sewer only                          | 39.88    | 41.35    | 3.7%     |
|                                     |          |          |          |
| <b>Fire Protection</b>              |          |          |          |
| Hydrants & 8" or smaller fire lines | 17.99    | 17.99    | 0.0%     |
| 10" fire lines                      | 32.30    | 32.30    | 0.0%     |
| 12" fire lines                      | 51.25    | 51.25    | 0.0%     |
|                                     |          |          |          |
| <b>Availability Fees</b>            |          |          |          |
| Water                               | 1,220.00 | 1,220.00 | 0.0%     |
| Sewer                               | 1,950.00 | 1,950.00 | 0.0%     |
|                                     |          |          |          |
| <b>Water Connection Fees</b>        |          |          |          |
| 3/4" & 5/8" meters                  | 850.00   | 950.00   | 11.8%    |
| 1" service - 5/8" meter             | 870.00   | 1,000.00 | 14.9%    |
| 1" service - 1" meter               | 1,030.00 | 1,150.00 | 11.7%    |
| Greater than 1" - minimum           | 1,030.00 | 1,150.00 | 11.7%    |
|                                     |          |          |          |
| <b>Sewer Connection Fees</b>        |          |          |          |
| 4" sewer line                       | 965.00   | 1,100.00 | 14.0%    |
| Greater than 4" - minimum           | 1,045.00 | 1,200.00 | 14.8%    |
|                                     |          |          |          |
| <b>Other Charges</b>                |          |          |          |
| Account charge                      | 3.69     | 3.69     | 0.0%     |
| Cut-on charge                       | 15.00    | 15.00    | 0.0%     |
| Cut-off charge                      | 25.00    | 25.00    | 0.0%     |
| Delinquent account fee              | 5%       | 5%       | 0.0%     |