

// A regular meeting of the Council of the City of Lynchburg was held on the 8th day of April, 2008, at 7:30 P.M. in the Council Chamber, City Hall, Joan F. Foster, President, presiding. Council Member Johnson gave the Invocation, followed by the Pledge of Allegiance. The following Members were present:

Present: Garrett, Gillette, Helgeson, Johnson, Foster 5

Absent: Dodson, Seiffert 2

// Lynch's Landing Executive Director Angela Hamilton announced that the City has received the Virginia Main Street Private Investment Award.

// City Council recognized and presented a proclamation to the Lynchburg Fire Department in recognition of its 125th anniversary.

// Copies of the minutes of the March 18, 2008 meeting, having been previously furnished Council, reading was dispensed with, and on motion of Council Member Helgeson, seconded by Council Member Garrett, Council by the following recorded vote approved the minutes as presented:

Ayes: Garrett, Gillette, Helgeson, Johnson, Foster 5

Noes: 0

Absent: Dodson, Seiffert 2

// In the matter of Police - General, Resolution #R-08-037 amending the FY 2008 General Fund and appropriating \$5,000, fully reimbursable, for the purchase of personal protective equipment in the Police Department, laid over from the March 25, 2008 meeting, was again presented and read, and on motion of Council Member Helgeson, seconded by Council Member Garrett, Council by the following recorded vote adopted the Resolution:

Ayes: Garrett, Gillette, Helgeson, Johnson, Foster 5

Noes: 0

Absent: Dodson, Seiffert 2

// In the matter of Community Planning - Zoning Amendments, a public hearing was held regarding City Council Report #3 outlining the petition of the Lynchburg Regional Chamber of Commerce to rezone approximately 1.9 acres at 310 and 312 Border Street from B-3C, Community Business District (conditional) to B-3C, Community Business District (conditional) to amend previously approved proffers and allow the use of an existing building, as well as two future additions, for B-3 uses. City Planner Tom Martin provided a brief summary regarding the petition. Gary Case, of Gary Case & Company, representing the petitioner, outlined the request and asked for approval. There was no one else present who wished to speak to this item, and the public hearing was closed. On motion of Council Member Garrett, seconded by Council Member Helgeson, Council by the following recorded vote adopted Ordinance #0-08-041, as presented, granting the rezoning petition:

Ayes: Garrett, Gillette, Helgeson, Johnson, Foster 5

Noes: 0

Absent: Dodson, Seiffert 2

// In the matter of Community Planning - Zoning, a public hearing was held regarding City Council Report #4 outlining the petition of Cornerstone Community Church for a Conditional Use Permit (CUP) to allow

the construction of 18,200 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. City Planner Tom Martin provided a brief summary regarding the petition. Mr. Martin did note that based on subsequent review, the City's Transportation Engineer has determined that the condition for the right-turn lane is no longer warranted and that staff is recommending that City Council consider amending condition #4 by deleting the right-turn lane and adding language that would require 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. Mr. Robert Walker, WW Associates, representing the petitioner, outlined the request and asked for approval. Mr. Walker explained that the petitioner agrees with the change to condition #4. Two individuals spoke in support of the petition. There was no one else present who wished to speak to this item, and the public hearing was closed. On motion of Council Member Helgeson, seconded by Council Member Johnson, Council by the following recorded vote adopted Resolution #R-08-042, as amended to reflect the change to condition #4 recommended by staff, granting the Conditional Use Permit:

Ayes: Garrett, Gillette, Helgeson, Johnson, Foster	5
Noes:	0
Absent: Dodson, Seiffert	2

// In the matter of Community Planning - Zoning Amendments, a public hearing was held regarding City Council Report #5 outlining the petition of Tom DeWitt to amend the Future Land Use Map (FLUM) 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 (CUP) to allow the construction of 190 townhouses (for sale) with associated parking and amenities at 903 and 903A Wiggington Road. City Planner Tom Martin provided a brief summary regarding the petition, explaining that FLUM recommends a combination of Resource Conservation, Low Density Residential and Employment 2 uses for the subject property. Mr. Martin went on to say that the proposed Medium Density Residential land use is incompatible with adjacent land use designations and zoning and the City's Economic Development Office and the Industrial Development Authority agree that the property has the potential for office and industrial development. Mr. Martin went on to say that the Planning Commission is recommending denial of the FLUM amendment, the rezoning and the conditional use permit requests. Mr. Martin did note that on April 4 the petitioner presented an additional proffer for consideration by Council – "We hereby proffer that the final plat for this project will show a twenty (20) foot wide pedestrian and recreational use easement. This easement will generally follow the walking trail, in the "RC" zone along Ivy Creek, as shown on the site plan for this property by Perkins and Orrison, dated March 6, 2008. This plat and other appropriate instrument(s) to be recorded will note that this easement is for pedestrian and recreational use by Parkside Villas Property Owners and the City of Lynchburg or its assigns. This proffer shall not prevent the developer from installation of walking trails, establishing stormwater management facilities and utilities as required." In response to questioning, City Attorney Walter Erwin stated that the State Code does allow additional proffers to be offered after the Planning

Commission meeting as long as the proffer is not a substantial change to the petition. Mr. Tom DeWitt along with Mr. Russ Orrison provided an overview regarding the petition, explaining that the proposed townhomes would be a good use for this property. Mr. Ken McBride, Project Manager for Parkside Villas, Mr. Richard Moose, representing the owner of the property to be rezoned, and Dr. Tom Shahady of Lynchburg College spoke in support of the petition. Mr. Freeman Russ, Jr., representing some of the adjoining property owners, spoke in opposition to the petition citing concerns regarding increased traffic, speeding, hazardous roadway/driveway to this property, and the negative effect to properties if this portion of Wiggington Road is widened. There was no one else present who wished to speak to this item, and the public hearing was closed. Some Council Members commented that this is an extensive project and due to the vast amount of documentation and information presented at tonight's public hearing, that they would like more time to consider the rezoning request. Council Member Garrett stated that he did have some questions, but that he would like to have all members of Council present to hear the answers. Council Member Gillette made a motion, seconded by Council Member Johnson, to continue the discussion of this issue to May 13, and Council by the following recorded vote approved the motion:

Ayes: Garrett, Gillette, Helgeson, Johnson, Foster	5
Noes:	0
Absent: Dodson, Seiffert	2

// In the matter of Community Planning - Zoning Amendments, a public hearing was held regarding City Council Report #6 outlining the 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. City Planner Tom Martin provided a brief summary regarding the petition. Mr. Martin explained that the petition is to rezone 1.66 acres and for a conditional use permit to allow fill within the one hundred year floodplain for the construction of an access road that would provide access to Timber Ridge Apartments, Phase II. Mr. Martin stated that the petition agrees with the Zoning Ordinance in that fill is permitted within the limits of the one hundred floodplain with approval of a conditional use permit by City Council. Mr. Martin went on to say that 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 one hundred year floodplain. Mr. Tom Crowe of PEDCOR stated that since City Council's original approval in February 2007, the petitioner has looked at different ideas regarding access to Timber Ridge Apartments, Phase II, in lieu of the proposed bridge that would connect Phase I to Phase II. Mr. Crowe explained that although they have a legal right to utilize the access to Phase II through the parking lot between Bethlehem Lutheran Church and Timberlake Funeral Home for construction and for their permanent means of ingress/egress, it was their intent to find something less objectionable to both of those business uses. Mr. Crowe went on to say that the petitioner feels that the proposed road mitigates the environmental impacts along Dreaming Creek

since they are reducing deforestation because the bridge proposal required taking down trees and the access road will not, and that the access road will also have less impact on wetlands, the existing intermittent stream and on the base flood elevation. Dr. Tom Shahady of Lynchburg College urged City Council to be mindful of the environmental impact that the proposed road would have on the existing stream and wetlands. There was no one else present who wished to speak to this item, and the public hearing was closed. Council Member Helgeson stated that he could not support the request to fill in the floodplain and adding an additional access point onto an already heavily traveled Timberlake Road, and made a motion to deny the petition. Council Member Garrett seconded the motion. Council Members discussed the pros and cons of an access road versus construction of a bridge to connect Phase I and Phase II. Council Member Garrett expressed concerns regarding having two separate access points onto Timberlake Road and stated that he would prefer the original proposal that would allow for joint access between the two phases and only one ingress/egress on Timberlake Road. In response to questioning, City Traffic Engineer Gerry Harter stated that the original intent was to try and provide joint access between the two properties so that if and when a traffic signal does go up at Dreaming Creek and Roundelay Road, that both the Vistas and Timber Ridge would have access. Mr. Harter explained that PEDCOR was willing to do this, but that the Vistas were not ready to participate. Mr. Martin also noted that the proposed bridge would be located in a floodway and if the bridge was closed, then access to the residents living in Phase II would be cutoff, not only for vehicular traffic but also for emergency vehicles. Council Member Johnson made a substitute motion, seconded by Council Member Gillette, to approve the rezoning request, and Council by the following recorded vote adopted Ordinance #0-08-043, as presented, rezoning 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):

Ayes: Gillette, Johnson, Foster	3
Noes: Garrett, Helgeson	2
Absent: Dodson, Seiffert	2

On motion of Council Member Gillette, seconded by Council Member Johnson, Council by the following recorded vote adopted Resolution #R-08-044, as presented, granting the conditional use permit to fill within the 100-year floodplain to allow the construction of an access road for an apartment complex:

Ayes: Gillette, Johnson, Foster	3
Noes: Garrett, Helgeson	2
Absent: Dodson, Seiffert	2

// In the matter of Community Planning – Zoning/City Code, a public hearing was held regarding City Council Report #7 regarding amending Section 35.1-17, Amendments, of the Zoning Ordinance to remove the requirement that the Planning Commissions recommendations regarding rezoning petitions shall be submitted within thirty (30) days of the Planning Commission's hearing to the City Council. City Planner Tom Martin provided a brief summary regarding the request, explaining that when rezoning petitions are scheduled for the second Planning Commission meeting of each month, the thirty day requirement results in the petition having to be scheduled for the next City Council meeting. Mr. Martin went on to say that the

proposed amendment as recommended by the Planning Commission would change the thirty day requirement to sixty days. City Manager Kimball Payne did note that there is no time requirement for conditional use permits. There was no one else present who wished to speak to this item, and the public hearing was closed. Several Council Members commented that removal of the time limit would allow time for the Planning Commission minutes to be approved before being forwarded to Council with the rezoning petitions. Council Member Garrett stated that he would still like to keep some reasonable amount of time requirement included in the zoning ordinance. Following discussion, and on motion of Council Member Helgeson, seconded by Council Member Gillette, Council by the following recorded vote adopted Ordinance #O-08-045, as amended, amending Section 35.1-17 of the City Code to remove the requirement that the Planning Commissions recommendations shall be submitted within thirty days of the hearing to the City Council:

Ayes: Gillette, Helgeson, Johnson, Foster	4
Noes: Garrett	1
Absent: Dodson, Seiffert	2

// In the matter of City Code/Water/Sewer, a public hearing was held regarding City Council Report #8 regarding adoption of an Ordinance to amend the City Code relating to water and sewer rates. Utilities Director Tim Mitchell provided a brief summary regarding the request. There was no one else present who wished to speak to this item, and the public hearing was closed. On motion of Council Member Gillette, seconded by Council Member Johnson, Council by the following recorded vote adopted Ordinance #O-08-046, as presented, amending the City Code relating to water and sewer rates:

Ayes: Garrett, Gillette, Johnson, Foster	4
Noes: Helgeson	1
Absent: Dodson, Seiffert	2

// Council Member Gillette stated that one of the Committees being considered in the closed meeting is the Central Virginia Community Services Board and since he has a contract with that organization, he plans to excuse himself from participating in the discussion and voting on the appointment to this Board.

// Mayor Foster questioned if City Council wanted to postpone the closed meeting due to the absence of two Council Members. On motion of Council Member Johnson, seconded by Council Member Gillette, Council by the following recorded vote elected not to hold a closed meeting for considering appointments to Council-appointed Boards and Commissions, i.e., Board of Building Code Appeals and Community Services Board:

Ayes: Garrett, Gillette, Johnson, Foster	4
Noes: Helgeson	1
Absent: Dodson, Seiffert	2

// The meeting was recessed at 9:55 P.M. to April 15, at 1:00 P.M., to conduct a work session regarding the FY2009 Budget.

Clerk of Council