

**LEXINGTON PLANNING COMMISSION****September 22, 2022 - 5:00 P.M****Rockbridge County Administrative Offices – First Floor Meeting Room  
150 South Main Street, Lexington, VA 24450****AGENDA**

- 1. CALL TO ORDER**
- 2. APPROVAL OF THE AGENDA**
- 3. APPROVAL OF MINUTES**  
Minutes from August 25, 2022\*
- 4. CITIZENS' COMMENTS ON MATTERS NOT ON THE AGENDA**
- 5. NEW BUSINESS**
  - A. CUP 2022-06: An application by Hugh Latimer of Washington & Lee University for approval of a Conditional Use Permit to allow a the building located at 200 General's Lane (Tax Map #NM 19) to be used as a student health center.
    - 1) Staff Report\*
    - 2) Applicant Statement
    - 3) Public Comment
    - 4) Commission Discussion & Decision
  - B. CUP 2022-07: An application by Lee Merrill for a Conditional Use Permit to allow a portion of the first floor of an existing building at 10 South Randolph Street (TM #23-12-7B) to be used as a residential dwelling unit.
    - 1) Staff Report\*
    - 2) Applicant Statement
    - 3) Public Comment
    - 4) Commission Discussion & Decision
  - C. ZOA 2021-04: Annual Zoning Ordinance Amendments. Planned Development-Mixed Use (PD-MU).
    - 1) Staff Report\*
    - 2) Public Comment
    - 3) Commission Discussion & Decision
- 6. OTHER BUSINESS**
  - A. Zoning and Planning Report – If applicable

- B. Catalyst Project Updates – If applicable
  - 1) Bike/Ped Plan: Complete
  - 2) Increase Sidewalk Connectivity: Ongoing
  - 3) Accessory Dwelling Unit Ordinance: Starting soon
  - 4) Jordan’s Point Park Plan Implementation: Ongoing
  - 5) Reprogram Traffic Signals Downtown: Complete
  - 6) Assess Stormwater Fees: Tabled until next year
  - 7) Green Infrastructure Group: Ongoing
- C. Key Annual PC Milestones: Ongoing. Remaining items:
  - 1) Zoning Text Amendments: Ongoing. Remaining items:
    - a. Small Cell
    - b. Planned Unit Development
    - c. Accessory Dwelling Unit
    - d. Cottage Housing
    - e. What else, if any?
  - 2) Comp Plan Review: Ongoing

**7. CITY COUNCIL REPORT**

**8. ADJOURN**

\*indicates attachment

## MINUTES

**The Lexington Planning Commission**  
**Thursday, August 25, 2022 – 5:00 p.m.**  
**Rockbridge County Administrative Offices – First Floor Meeting Room**  
**150 South Main Street, Lexington, VA 24450**

### Planning Commission:

Presiding: Blake Shester, Chair (left 6:30 pm)  
 Present: Nicholas Betts, Vice-Chair  
 Pat Bradley  
 John Driscoll  
 Leslie Straughan, Council Liaison  
 Matt Tuchler

### City Staff:

Arne Glaeser, Planning Director  
 Kate Beard, Administrative Assistant

### CALL TO ORDER

Chair Shester called the meeting to order at 5:00 p.m.

### AGENDA

The agenda was unanimously approved as presented. (N. Betts / L. Straughan)

### MINUTES

The minutes from the August 11, 2022 meeting were unanimously approved as presented. (L. Straughan / N. Betts)

### CITIZENS' COMMENTS ON MATTERS NOT ON THE AGENDA

None

### NEW BUSINESS

**A. CUP 2022-05: An application by Dawson Moody for approval of a Conditional Use Permit (CUP) to allow a portion of the building located at 314 South Main Street (Tax Map #23-4-1), owned by Locher and Company, LLC, to be used as a small restaurant.**

- 1) Staff Report – This is an application for a Conditional Use Permit to allow a portion of the building located at 314 S. Main Street to be used as a small restaurant. The General Donuts business would occupy approximately 800 sf space in the front, right portion of the building. The property is zoned R-LC and a small restaurant is a conditional use in the R-LC zoning district. The properties at 312 and 314 S. Main Street were rezoned to the R-LC zoning district with a number of conditions that continue to travel with the property. Staff recommended approval of the application and suggested the Commission may wish to discuss adding a condition concerning hours of operation. Director Glaeser noted that Flex Fitness, the only business currently in the building, opens at 6:30 am. In response to a question from M. Tuchler, A. Glaeser said City Hall had not received any complaints about the hours of other businesses operating in the building. L. Straughan noted the definition of *small restaurant* states it is “characterized primarily by table service to customers in non-disposable containers,” and asked if the proposed business would adhere to that criteria. A. Glaeser pointed to

the applicant's narrative which proposed the preparation and sale of donuts and drinks and which indicated there would be tables for eat-in customers, while the bulk of sales would likely be for off-site consumption.

- 2) Applicant Statement – The property owner, Baldwin Locher, III, 18 E. Nelson Street, Apt. 202, directed the Commissioners' attention to sketches of the proposed business layout included in a packet he distributed at the meeting (attached as Addendum A). He listed the changes that would need to be made to the building and pledged to seek proper permits for the work. He said the location for the exhaust fan had not yet been finalized, but the intent was to place it under the roofline, to the rear of the building if possible. He acknowledged neighbors' concerns about odors, noise from the exhaust fan, increased traffic and trash and stated the business owner has indicated there would be minimal trash produced, no need for dedicated trash or grease receptacles, and the exhaust would be toward the cemetery. He stated there is parking at the rear of the building for approximately 12 cars and that, should a larger trash receptacle ever be required, one or two of those spaces could be used. P. Bradley questioned whether the property would retain the requisite additional parking if that were the case and A. Glaeser confirmed the requirement was for 10 spaces for the entire property addressed as 312 and 314 S. Main. Responding to a question from J. Driscoll, Mr. Locher said he anticipated the rear parking will be better used once he has hardware installed on the rear door to make it available as an entrance to the building. He confirmed there would be 3 businesses in the building.

Addressing the parking concern, the business owner, Dawson Moody, 609 Graham Lane, said he believed the vast majority of parking associated with the business would be for very brief periods as he anticipated most of the sales would be take-out. Answering the Commissioners' questions, Mr. Moody said he would likely begin cooking between 2:00 and 2:30 am and open at a time that would allow people to stop in on their way to work or school, with proposed business hours of 6:00 am to 2:00 pm. He said he would probably have 2-3 tables and a maximum capacity of 14. Because he would be using a small fryer which would require a relatively small hood, he anticipated minimal noise from the exhaust fan which would be in use between the hours of 2:30 am and 6:00 am. There is currently one outdoor table, provided by Flex Fitness, and there are restrooms in the building available to customers.

- 3) Public Comment –

Bob Hopkins, 317 S. Main Street – Directing attention to photographs he provided (attached as Addendum B), he stated his home is directly across the street from the subject property and his bedroom is approximately 100 feet from the front of the building. He noted the historic nature of the homes in his neighborhood which are in the Residential Historic Conservation District and read from the section of the zoning ordinance concerning the Intent of the district. He said the 2012 proffered conditions were meant to exclude excessive noise, limit a business's closing time, and prevent businesses that might emit odors. He argued the proposed business would certainly emit odors and would likely be offensively noisy. He requested the Commission deny the application.

Pam VanMeter, 319 S. Main Street – said her main concern had to do with the parking as she has no off-street parking option and believed parking would be inadequate for the area with the addition of the proposed business. She also expressed concern that a business selling donuts was insufficiently reverent, given the close proximity to the cemetery. She said she sleeps with her window open and implied the scent of donuts would be problematic. She requested the Commission deny the application.

Charlie Hallock, 321 S. Main Street – expressed frustration with the number of times applications related to the subject building have been reviewed by the City. He maintained the property is not located in a retail block, but rather in the first real residential block on Main Street, and therefore is not an ideal place to locate a business. He said parking on both sides of the street is full in the morning during Flex Fitness classes and he worried the short, in-and-out parking associated with General Donut would not mix well with the hour long parking for the fitness classes. He added that the parking behind the building is used far less than it was before the driveway was changed making it harder to access. He requested the Commission deny the application for business reasons.

Debbie Pollard, 5 Jordan Street – reiterated the fact that the subject property is in, and is surrounded by, Lexington’s historic districts. She argued that a food business is not needed in a residential historic district and the proposed business would not bring foot traffic to any of the businesses further down the street. Her concern was how the noise, traffic and odor would affect the neighboring residential properties. She requested the Commission deny the application.

- 4) Commission Discussion & Decision – L. Straughan expressed enthusiasm for the business but indicated an R-LC zoned property might not be the best location. She added that a business anticipating 95% take-out sales does not qualify as a *small restaurant* as defined in the City Code and which is the only type of restaurant allowed in the R-LC. N. Betts expressed reservations about the “unknowns,” specifically the location of the exhaust fan and level of noise associated with it. Responding to a question from M. Tuchler, A. Glaeser stated he has not received complaints about noise or odor associated with Pure Eats. He suggested the Commission could consider a condition that the fan must exhaust to the rear of the building. There was brief discussion of the history of the property’s zoning and how the current conditions came to be adopted. J. Driscoll noted that restaurant use was included in the conditions and questioned what type of restaurant would be appropriate. He added that while the noise and odor might be mitigated by the fan’s placement, he believed the parking situation could not be mitigated or tolerated. B. Shester observed that he has never had difficulty parking when visiting the property, even when it was fully occupied by three businesses, and believed the parking concerns to be speculative. There was additional discussion about the potential impact the proposed business would have on traffic and parking on Main Street, as well as whether it would qualify as a *small restaurant* and why restaurant use was limited in the R-LC. A. Glaeser noted that, were it not for the fryer, the business would have qualified as a *specialty food shop* – a by-right use on the subject property. **L. Straughan moved to deny Conditional Use Permit number**

**CUP 2022-05 to allow a small restaurant at 314 South Main Street. N. Betts seconded.** B. Shester expressed reservations about the distinction being made between table service and take-out, especially given the changes seen in the restaurant industry since the pandemic. **The motion passed (4-2).**

**AYES: L. Straughan, J. Driscoll, N. Betts, P. Bradley**

**NAYS: B. Shester, M. Tuchler**

**B. ZOA 2022-01: Annual Zoning Ordinance Amendments. Planned Development – Mixed Use (PD-MU)**

- 1) Continued discussion of PD-MU text amendment – J. Driscoll asked if there were any items from the work session that the Commission felt had not been addressed. He said he was uneasy that text does not include some indication of density, and as an example suggested that density should match the carrying capacity of the area infrastructure. P. Bradley pointed out that language addressing that issue existed in the text. He said he would like to hear other reasons for Commissioner Driscoll’s concern because his understanding is that the intent of the ordinance is to allow greater density in these areas. Following additional discussion, Commissioner Driscoll said he was uncomfortable there were no strong mechanisms in place to evaluate whether density is correct and a development is appropriate, however a majority of the Commission appeared to feel the text contained sufficient checks on density and to be comfortable with the flexibility allowed.

Chair Shester had to leave the meeting early and Vice-Chair Betts presided over the remainder of the meeting.

L. Straughan suggested removing flagpoles from the list of exempted structures in the Height of buildings section. After some discussion, there seemed to be general agreement that changes to building height standards to encourage peaked roofs, and added regulations concerning the shading of parking lots ought to be addressed on a City-wide basis and not within the PD-MU ordinance. J. Driscoll asked if the text should include minimum tree canopy requirements and there appeared to be agreement that such a requirement would not be necessary. L. Straughan said she thought paragraphs C & G in the Application for rezoning section did a good job addressing the property owners’ association issue discussed during the work session. J. Driscoll asked if the use of solar should be added to item K in the Character of development section. Following discussion there was general agreement to add language such as “with on-site energy generation” or “relying on renewable energy” after “energy efficiency of buildings.” There was agreement that the text could be advertised for a public hearing with that change.

- 2) Public Comment - None

**OTHER BUSINESS**

A. Zoning and Planning Report – Director Glaeser reported the following:

- He attended a focus group meeting for the regional housing study.

- Staff inspected 3 new short term rentals. There are now 28 registered in the City.
- Staff continues to find new, unregistered short term rentals being advertised.
- Staff met with W&L representatives at the University Chapel to discuss the proposal to separate the chapel from the museum.
- The Building Official is researching the state allowed exemptions to obtaining a building permit without being licensed.

#### **CITY COUNCIL REPORT -**

L. Straughan reported that City Council had not met since the last Planning Commission meeting, however, there were two items that might be of interest. First, effective August 1, Arne Glaeser became an employee of the City of Lexington rather than the Berkley Group. Second, at next week's Council meeting, there would be an agenda item to consider assisting Rockbridge Area Habitat for Humanity with the development of the McCoy Park Subdivision (near the S. Main Street entrance corridor) with the development of 7 affordable home for qualifying area residents. The City is being asked to make repairs to the road and waive connection fees and permit fees

#### **ADJOURN**

The meeting was adjourned at 7:03 pm with unanimous approval. (J. Driscoll / P. Bradley)

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B. Shester, Chair, Planning Commission

## Conditional Use Permit Discussion

Building Address:	314 South Main Street
Building Size:	Approximately 4,600 square feet
Building Const:	Type II - Limited Combustible
Zoning:	Residential – Light Commercial
Parking:	Business owners and patrons can utilize the rear parking area that encompasses ten parking spaces as required by proffers (Figure 1).
Space:	800 square feet with partition walls
Business:	General Donuts
Use Requested:	Small Restaurant
Operation:	General Donuts would operate 5-6 days per week opening at 6am and closing at 2pm or earlier (sales dependent).
Alterations:	<ul style="list-style-type: none"> <li>- The business would require installation of a food preparation and cooking area to include a deep fryer. A hood system would be installed to exhaust air to the outside of the building with our intention for the exhaust vent to be placed on the rear or behind the front roofline of the building (Figure 2).</li> <li>- Partition walls would be built in order to separate the kitchen from the sales area and common areas of the building (Figure 3). No existing partitions would be moved or removed.</li> <li>- Pressurized water would be routed from the janitor's closet and the sink would be tied into an existing floor drain with an in line grease trap.</li> <li>- Necessary electrical circuits would be added to the existing panel in Suite A which has adequate capacity.</li> </ul>
Opposition:	<ul style="list-style-type: none"> <li>- The city has received one letter in opposition to the conditional use request (Figure 4). Caroline Donnelly opines that the exhaust fan and increased traffic from patrons and garbage collectors would cause excess noise. Additionally, she believes that the operation would negatively impact Flex Fitness patrons. Notably, she lives two blocks away on Jordan Street and even more notably, her son recently approached me about renting the space in question for a different use (potential conflict of interest).</li> <li>- One of the owners of Flex Fitness (who is indifferent to the proposed business), mentioned she has heard several rumblings from gym goers.</li> <li>- The business owner of General Donuts approached two neighbors across the street and one (Glady Hopkins) is opposed because of the potential smell and increased traffic. She was also opposed to the bicycle repair shop because of the potential smell of oil.</li> </ul>
Rebuttal:	<ul style="list-style-type: none"> <li>- A small business at the top of Main St would likely not increase the traffic so significantly as to be noticeable.</li> <li>- The exhaust would be pointed towards the cemetery.</li> <li>- There would be no oil collection container and trash production from the business would be limited to one to two bags per day.</li> </ul>
Benefits:	<ul style="list-style-type: none"> <li>- Benefits include increased tax revenue to the City of Lexington and having an additional business in Lexington that draws patrons downtown.</li> <li>- Projected gross daily income of \$2,400 would generate between \$3,000 and \$3,500 monthly in meals tax revenue.</li> </ul>



# Proffers

(Ref. Section 420-80)

1. If *residential*, maximum 3 unrelated persons per unit.
2. If *stores or shops*, no appliance or auto related uses.
3. If *personal services*, no dry cleaning / laundry, printing, shoe repair, or tailoring.
4. If *studios*, no manufacturing.
5. If *restaurants*, public closure by 9 pm; outdoor service, if offered, to cease at earlier of nightfall or 8 pm; no outside music to be provided.\*
6. No *public utility* uses.
7. If *repair shops*, not for appliances etc., except tech / computers.
8. Parking: a minimum of 10 offstreet spaces will be maintained.\*
9. Regarding change to height, R-1 standard of 35' applies. Also, front of middle section between wings limited by proffer to approximately 25'.\*
10. Original 1824 wing to remain R-1 with grandfathered office use.\*

*\*Updated v. application*

Figure 2

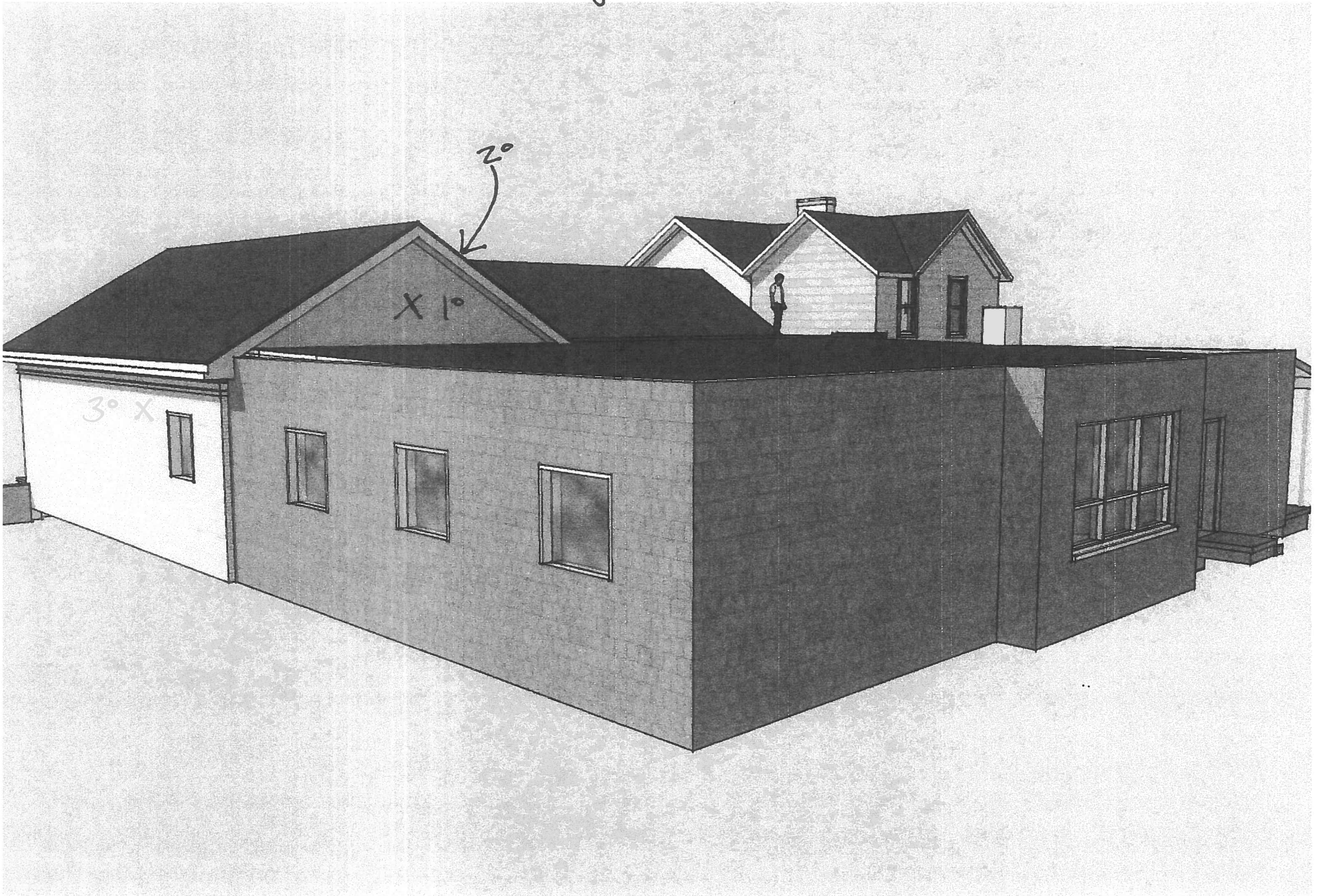
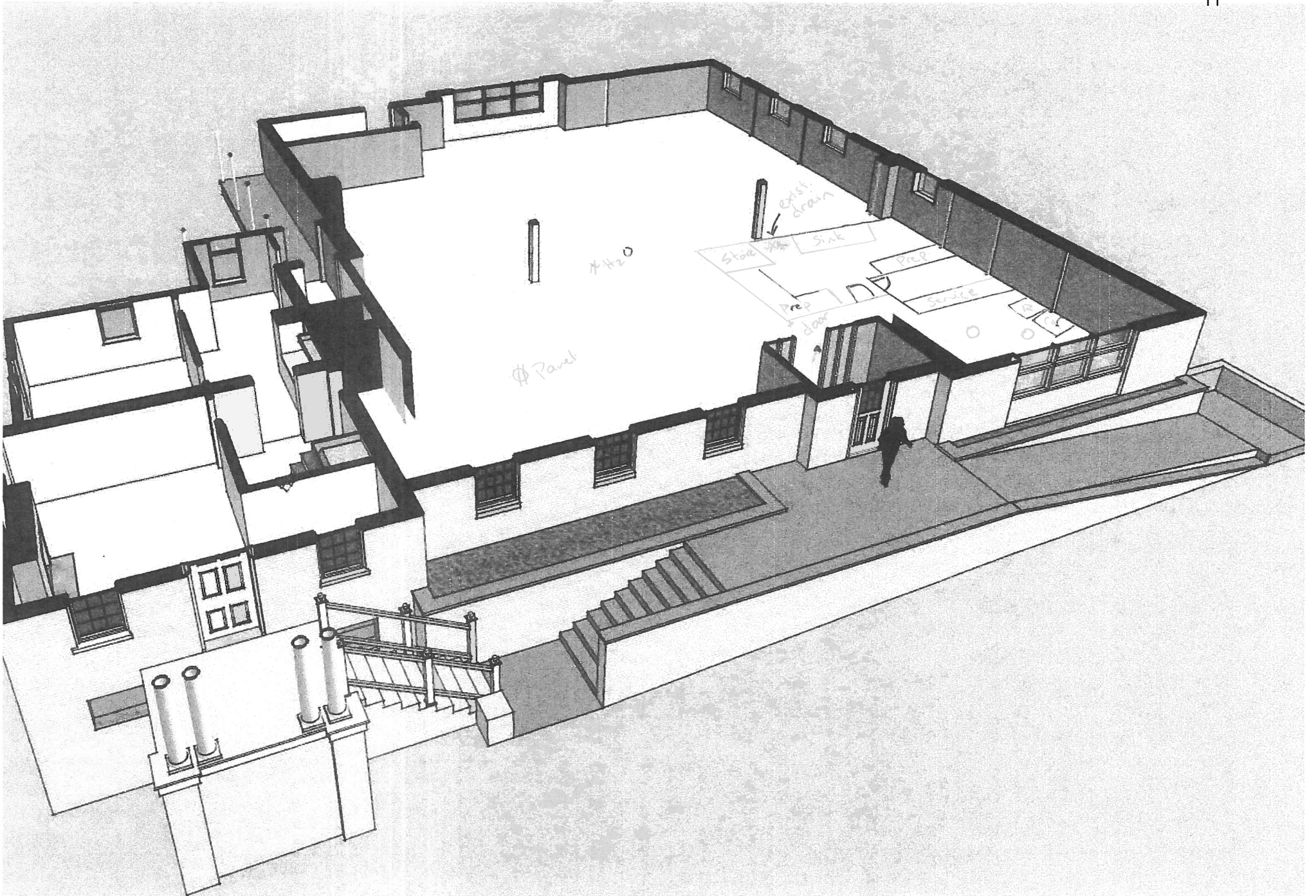


Figure 23





Wynn Locher &lt;baldwin.locher@gmail.com&gt;

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**FW: Plans for former Red Newt Bike Shop**

1 message

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**Arne Glaeser** <aglaeser@lexingtonva.gov>

Thu, Aug 11, 2022 at 9:48 AM

To: "dawson.moody@icloud.com" &lt;dawson.moody@icloud.com&gt;, "baldwin.locher@gmail.com"

&lt;baldwin.locher@gmail.com&gt;

Cc: Kate Beard &lt;kbeard@lexingtonva.gov&gt;

Dawson,

Good morning. Following is the first comment received in response to the advertisement of the Conditional Use Permit request for your donut shop. These comments will be included in the staff packet that will be emailed to you and the Planning Commission on August 19<sup>th</sup> for the August 25<sup>th</sup> Planning Commission public hearing. We will continue to forward all comments to you as they are received and please let me know if you have any questions.

Thanks,

Arne

540.462.3730

**From:** Caroline Donnelly [mailto:carolinedonnelly64@gmail.com]**Sent:** Wednesday, August 10, 2022 2:14 PM**To:** Arne Glaeser <aglaeser@lexingtonva.gov>**Subject:** Plans for former Red Newt Bike Shop

My husband and I live on Jordan Street and walk to Flex Fitness several times a week for our gym classes. We are very concerned that the former bike shop location is being considered for a donut shop.

The proposal would require ventilation systems to control the "HOGS"....heat , odors, grease and steam. A grease trap would be installed and have to be maintained . Garbage collection dumpsters as well as their regular servicing would be required. The amount of traffic and noise from the above equipment and deliveries as well as the extended hours allowing for customer traffic would create a nuisance to the neighboring homes as well as to all the current members of Flex Fitness.

We strongly urge you and the planning commission members to reject the variance request and that permitting be granted to a business more in keeping with the current standards of the location .

Sincerely, Robert and Caroline Donnelly



ATCH. I

Addendum B

Addendum B - submitted at 8/25/2022 Planning Commission meeting



ATCH. 2



1926

1897

1923

1942





*Photograph of 200 General’s Lane*



The building was converted to administrative office use in 2003 and has continued to house the University’s Development/Advancement staff since that time. The staff currently in the building will be relocated to 101 North Jefferson Street later in the year when the renovations are complete. The existing Student Health Center is currently located in Davis Hall which will be demolished in the summer of 2023. The purpose of this request is to allow the subject building to be used as the Student Health Center until a new Student Health and Counseling Center is constructed and opened.

**APPLICABLE ZONING ORDINANCE SECTIONS**

**Article VII. Institutional District I-1**

**§420-7.3. Permitted uses.**

A building and/or land shall be used for the following purposes:

- A. Insofar as uses are generally consistent with the base district, public and private schools, colleges, universities, medical campuses and other educational or research institutions which have been approved as part of a master plan as set forth herein below, and including hospitals and other medically related facilities, dormitory or other student housing, university-administered fraternity and sorority houses, other fraternity and sorority houses with conditional use permits, staff and faculty housing, classroom, library, religious, administrative, recreational, athletic, alumni, parking and service facilities, signs and other accessory uses owned by or operated under the control of such institution.
- B. Facilities such as those set forth in Subsection A of this section, but which have not been approved as a part of a master plan as set forth below, shall require a conditional use permit.

**CONDITIONS OF ISSUANCE OF A CONDITIONAL USE PERMIT**

Section 420-1.11., *Conditional use permits*, in part

C. Conditions of Issuance

- (1) Conditional use permits may be issued for any of the uses for which a conditional use permit is required by the provisions of this chapter, provided that the governing body, upon a recommendation by the Planning Commission, shall find that:
  - (a) The proposed use will not affect adversely the health or safety of persons residing or working in the neighborhood of the proposed use.
  - (b) The proposed use will not be detrimental to the public welfare or unduly injurious to property values or improvements in the neighborhood.
  - (c) The proposed use will not be in conflict with the policies and principles of the City's adopted Comprehensive Plan.
  - (d) Adequate public services, including streets and other trafficways, utilities, police and fire protection, are or reasonably will be available to support the proposed use.
  
- (3) In granting any conditional use permit, the governing body shall give due consideration to factors relevant to the findings required by Subsection C (1) and (2), as well as to any other reasonable land use and zoning considerations as may be required by the nature of the proposed use or as may be otherwise appropriate to effectuate the intent of this chapter, and the governing body shall designate such conditions as it deems necessary to carry out the intent of this chapter. The application for such conditional use permit shall be accompanied by such written and graphic material as may be necessary to enable the Planning Commission and the governing body to make the recommendation and findings set forth above.

**STAFF RECOMMENDATION**

Based on the aforementioned findings, Staff recommends the proposed Conditional Use Permit be **APPROVED**:

**PLANNING COMMISSION RECOMMENDATION**

*Pending*

**SUGGESTED MOTION:**

I move to approve/deny Conditional Use Permit number CUP 2022-06 to allow the building located at 200 General’s Lane, to be used as a student health center.



www.lexingtonva.gov

Planning & Development Department  
300 East Washington Street  
Lexington, Virginia 24450  
Phone: (540) 462-3704 Fax: (540) 463-5310

## APPLICATION FOR CONDITIONAL USE PERMIT

### Applicant<sup>1</sup>

Name: Hugh Latimer Phone: 540-458-8959  
 Company: Washington and Lee University Fax: \_\_\_\_\_  
 Address: 204 W. Washington St. Email: hlatimer@wlu.edu  
 Applicant's Signature: [Signature] Date: 8/29/22

### Property Owner

Name: Washington and Lee University Phone: 540-458-8959  
 Address: 204 W. Washington St. Email: hlatimer@wlu.edu  
 Owner's Signature: [Signature] Date: 8/29/22

### Proposal Information<sup>2</sup> (attach list of properties if request includes multiple properties)

Address (or location description): Development Building 200 General's Lane  
 Tax Map: NM 19 Deed Book and Page #: N/A  
 Acreage: N/A Zoning (attach any existing zoning conditions or proffers): \_\_\_\_\_  
 Description of Proposal<sup>3</sup>: see attached sheet

1. Prior to submitting an application, the applicant is required to meet with staff for a pre-application meeting.
2. Any application deemed incomplete by staff will not be accepted.
3. Please refer to page 3 of this application for the conditions of issuance for all conditional use permit applications. Submitting a sketch plan or other visual detail of your request is highly encouraged.



www.lexingtonva.gov

**Planning & Development Department**  
 300 East Washington Street  
 Lexington, Virginia 24450  
 Phone: (540) 462-3704 Fax: (540) 463-5310

**Notice to Adjacent Property Owners**

The City will give notice of public hearings to be held on the application to those persons who own property, any portion of which abuts the subject property, and all property which is directly across the street from any portion of the subject property, as determined by the City's real property tax records. This notice will give the date, time and place of the hearing, identify the property which is the subject of the application and give a brief description of the proposed action. Notices will be mailed a minimum of ten (10) days prior to the date of the scheduled public hearings.

**Posting of the Property**

The City will place a sign on the subject property which indicates that an action is pending. The sign will be located to be clearly visible from the street.

**THIS SECTION TO BE COMPLETED BY STAFF ONLY**

**Application Fee: \$450** Amount Paid: \$450 Case Number: CUP- 2022 - 06

Date Received: 8/31/2022 Received By: Kate Beard

**Staff Review**

Planning: \_\_\_\_\_ Public Works: \_\_\_\_\_  
 Police: \_\_\_\_\_ Fire/Rescue: \_\_\_\_\_

**Public Hearings**

**Planning Commission**

**City Council**

Legal Ad Dates: \_\_\_\_\_ Legal Ad Dates: \_\_\_\_\_  
 Adj. Property Notifications: \_\_\_\_\_ Adj. Property Notifications: \_\_\_\_\_  
 Public Hearing Date: 9/22/2022 Public Hearing Date: \_\_\_\_\_  
 Action: \_\_\_\_\_ Action: \_\_\_\_\_

## **Conditions of Issuance**

§ 420-11.C of the City of Lexington Zoning Ordinance outlines the conditions under which a conditional use permit may be issued. These conditions are as follows:

- 1) Conditional use permits may be issued for any of the uses for which a conditional use permit is required by the provisions of the zoning ordinance, provided that the governing body, upon a recommendation by the Planning Commission, shall find that:
  - a. The proposed use will not affect adversely the health or safety of persons residing or working in the neighborhood of the proposed use.
  - b. The proposed use will not be detrimental to the public welfare or unduly injurious to property values or improvements in the neighborhood.
  - c. The proposed use will not be in conflict with the policies and principles of the City's adopted Comprehensive Plan.
  - d. Adequate public services, including streets and other trafficways, utilities, police and fire protection, are or reasonably will be available to support the proposed use.
- 2) Where the provisions of this chapter require conditional use permits for certain parking lots and drive-in facilities in the Commercial District (Central Business) C-1, due consideration shall be given in general to the purposes of the C-1 District and specifically to the effect of such parking lot or drive-in facility on the historic pattern of buildings and, in particular, on the maintenance of a compact, efficient and attractive retail facade and arrangement of buildings; on the use of off-street circulation ways, including use of alleys; on the location of access points and relationship to traffic and pedestrian flow; and on the adequacy of off-street waiting area at drive-in facilities.
- 3) In granting any conditional use permit, the governing body shall give due consideration to factors relevant to the findings required by Subsection C(1) and (2), as well as to any other reasonable land use and zoning considerations as may be required by the nature of the proposed use or as may be otherwise appropriate to effectuate the intent of this chapter, and the governing body shall designate such conditions as it deems necessary to carry out the intent of this chapter. The application for such conditional use permit shall be accompanied by such written and graphic material as may be necessary to enable the Planning Commission and the governing body to make the recommendation and findings set forth above.

**Background**

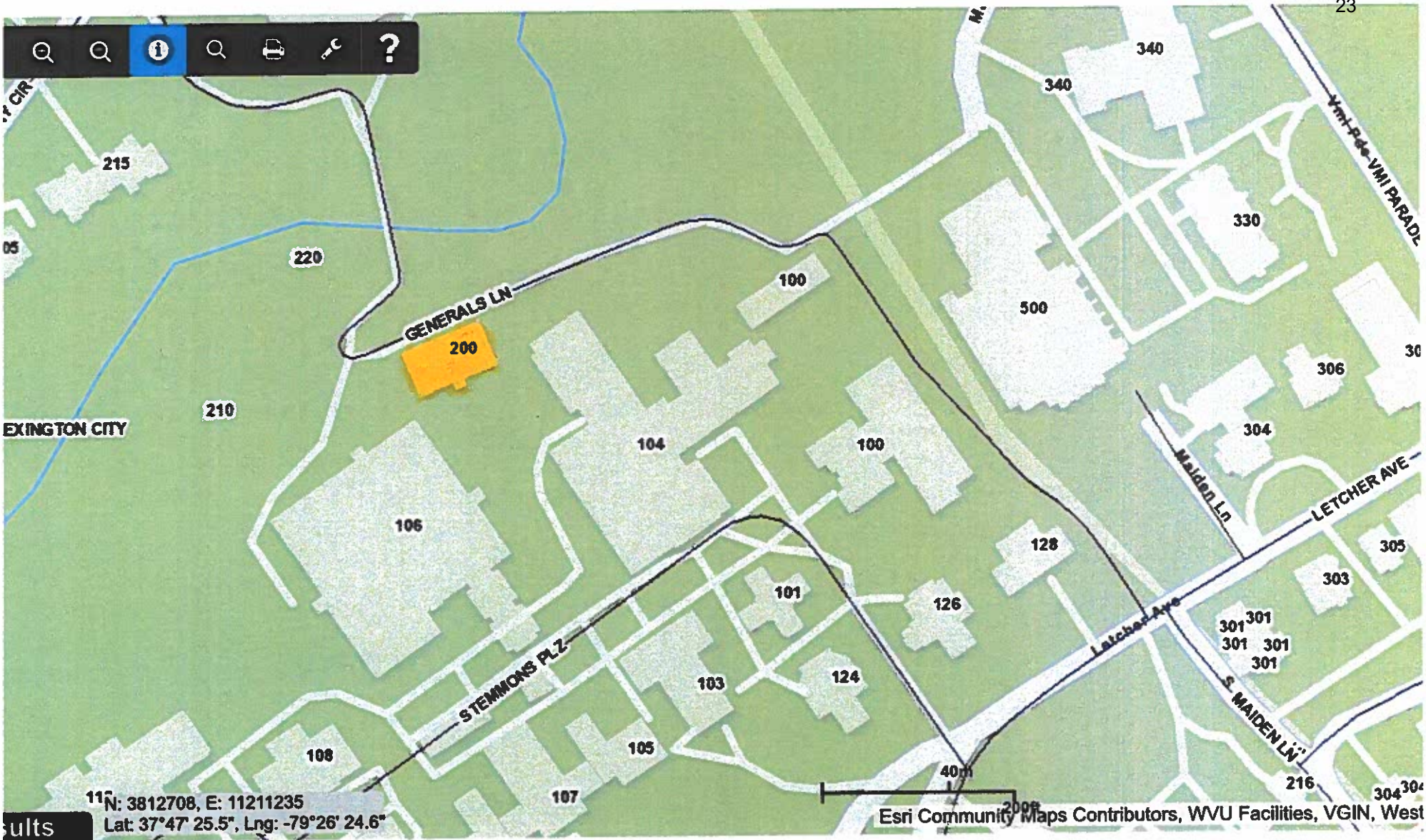
200 General's Way is a two-story building constructed in 1964 as an administrative facility supporting the university's student ROTC programs. In 2003 it was converted to administrative space supporting university Development/Advancement staff. It's use has continued to this time as an administrative building for Development/Advancement staff. All the staff currently housed in this building will be relocated to the 101 North Jefferson Street (Beta House) later in 2022 when renovations are finished.

**Purpose**

The existing Student Health Center currently comprises the lower level of Davis Hall, and this building will be demolished in the summer of 2023. The purpose of this Conditional Use Permit application is to change the university's occupancy of 200 General's Way from an administrative office use to a temporary home for the university's Student Health Center. This temporary use is expected to continue for two years until a new Student Health and Counseling Center is constructed and opened on campus around mid-2025.

Renovation construction of 200 General's Lane is planned for the first half of 2023. Improvements to be undertaken as part of the change in occupancy include the provision of upgraded HVAC and electrical systems. New bathrooms will be constructed and private offices will be refurbished for clinic space or office use, and others renovated for patient rooms.

Emergency vehicle access and service will be provided at the lower level of the facility along General's Lane. The existing parking spaces across General's Lane will continue to serve the building. Reconfiguration of the sidewalk at the front upper level main entry will be undertaken to provide a fully accessible entry.



112 N: 3812708, E: 11211235  
Lat: 37°47' 25.5", Lng: -79°26' 24.6"

Esri Community Maps Contributors, WVU Facilities, VGIN, West

<b>Project Name</b>	Conditional Use Permit at 10 South Randolph Street
<b>Property Location</b>	10 S. Randolph Street, Tax Map #: 23-12-7B
<b>Zoning</b>	C-1 (Center Business), Downtown Historic District
<b>Owner / Applicant</b>	Nancy E. Saylor / Lee Merrill
<b>Applicant's Intent</b>	CUP for dwelling on the first floor in the C-1 District

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*PLANNING COMMISSION RECOMMENDATION: Pending*  
*STAFF RECOMMENDATION: Approval*

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### **OVERVIEW OF REQUEST AND BACKGROUND**

The subject application is a request for a Conditional Use Permit to allow a portion of the first floor of an existing building at 10 S. Randolph Street (TM# 23-12-7B) to be used as a residential dwelling unit. Dwelling units occupying the first floor of any structure in the C-1 zoning district shall only be allowed with a conditional use permit. The first floor residential units should not be visible from a public street, and if the building fronts on a public street, the residential portion of the first floor shall be required to be shielded by office or retail space or a lobby that maintains a commercial appearance per Section 420-11.1.3 of the Zoning Ordinance.

*photograph of 10 South Randolph Street*

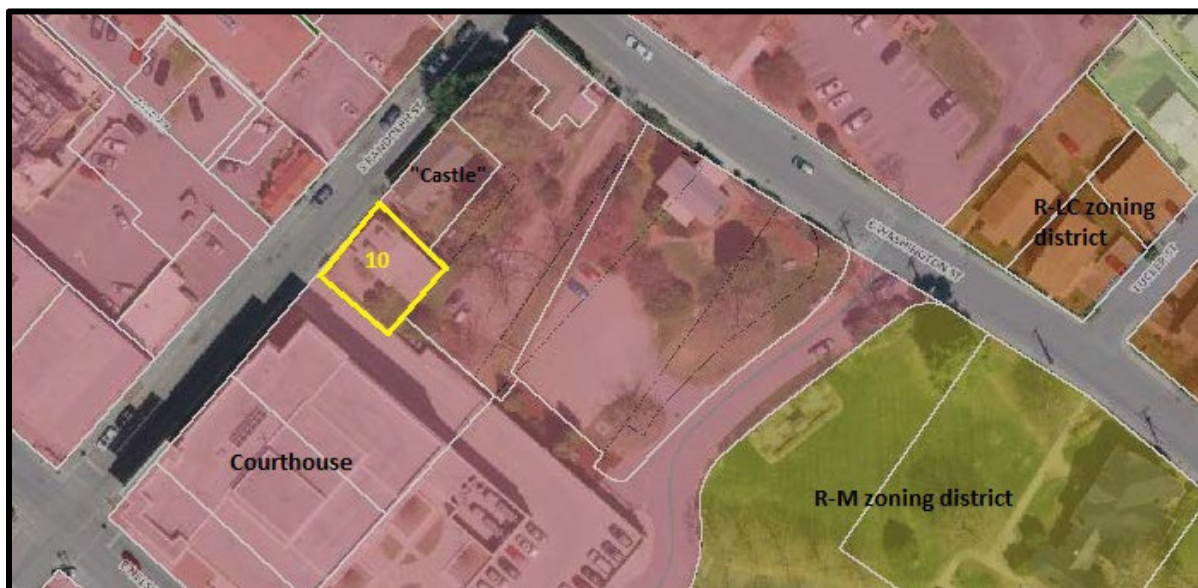






The applicant's proposal envisions reconstructing an original bearing wall across the dance studio space to separate an approximately 400 sf office suite in the front of the building from an approximately 640 sf apartment in the rear. The office area would be accessed through the front porch entry and would occupy the entire width of the part of the building facing Randolph Street. The apartment would be accessed from the building's existing side deck on the north side of the building and would be visible primarily from the garden and parking lots to the rear of the building, between the property line and Varner Lane. There is no off-street parking requirement in the C-1 zoning district.

*location map*



## CONDITIONS OF ISSUANCE OF A CONDITIONAL USE PERMIT

Section 420-1.11., *Conditional use permits*, in part

C. Conditions of Issuance

- (1) Conditional use permits may be issued for any of the uses for which a conditional use permit is required by the provisions of this chapter, provided that the governing body, upon a recommendation by the Planning Commission, shall find that:
  - (a) The proposed use will not affect adversely the health or safety of persons residing or working in the neighborhood of the proposed use.  
*(Staff believes the requested first floor dwelling unit will not adversely affect the health or safety of persons residing or working in the neighborhood of the proposed use.)*
  - (b) The proposed use will not be detrimental to the public welfare or unduly injurious to property values or improvements in the neighborhood.  
*(Staff believes the requested first floor dwelling unit will not be detrimental to the public welfare or unduly injurious to property values or improvements in the neighborhood. Consideration should however be given to the benefit, if any, of the addition of residential units downtown versus the corresponding loss of commercial space.)*
  - (c) The proposed use will not be in conflict with the policies and principles of the City's adopted Comprehensive Plan.  
*(Staff believes the requested first floor dwelling unit would not be in conflict with the policies and principles of the City's adopted Comprehensive Plan. One goal of the Housing Chapter of the Lexington Comprehensive Plan states that the City should stimulate the development of new housing units for both rental and homeownership.)*
  - (d) Adequate public services, including streets and other trafficways, utilities, police and fire protection, are or reasonably will be available to support the proposed use.  
*(Staff believes adequate public services are available to support the requested first floor dwelling unit.)*
- (3) In granting any conditional use permit, the governing body shall give due consideration to factors relevant to the findings required by Subsection C (1) and (2), as well as to any other reasonable land use and zoning considerations as may be required by the nature of the proposed use or as may be otherwise appropriate to effectuate the intent of this chapter, and the governing body shall designate such conditions as it deems necessary to carry out the intent of this chapter. The application for such conditional use permit shall be accompanied by such written and graphic material as may be necessary to enable the Planning Commission and the governing body to make the recommendation and findings set forth above.

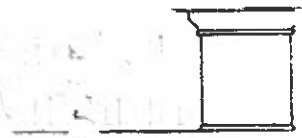
**PLANNING COMMISSION RECOMMENDATION**

*Pending*

**SUGGESTED MOTION:**

I move to approve/deny Conditional Use Permit number CUP 2022-07 to allow a portion of the first floor of the building located at 10 South Randolph Street in the C-1 zoning district to be used as a residential dwelling unit.

29th



Planning & Development Department  
300 East Washington Street  
Lexington, Virginia 24450  
Phone: (540) 462-3704 Fax: (540) 463-5310

www.lexingtonva.gov

### APPLICATION FOR CONDITIONAL USE PERMIT

**Applicant<sup>1</sup>**  
 Name: LEE MERRILL FOR CLIENT <sup>JEANNE HEPLER (LLC)</sup> Phone: 540 460 7204  
 Company: LBE MERRILL ARCHITECTS Fax: \_\_\_\_\_  
 Address: 2 S. RANDOLPH, LEX, VA 24450 Email: merrill@rockbridge.net  
 Applicant's Signature: [Signature] ARCHITECT Date: 8/29/2022  
 Jeanne Hepler  
D4C5C191D139451

**Property Owner**  
 Name: NANCY E. SAYLOR Phone: 540-319-1435  
 Address: 322 COPPER RD, LEX 24450 Email: SAYLOR.NANCYE@gmail.com  
 Owner's Signature: [Signature] Date: 8/29/2022  
DocuSigned by: Nancy E Saylor FC00D08FAA54D6

**Proposal Information<sup>2</sup>** (attach list of properties if request includes multiple properties)  
 Address (or location description): 10 NORTH RANDOLPH ST. LEX 24450  
 Tax Map: #23-12-7B Deed Book and Page #: 010003979 INSTRUMENT #  
 Acreage: .0576 Zoning (attach any existing zoning conditions or proffers): \_\_\_\_\_  
 Description of Proposal<sup>3</sup>: HALESTONE BUILDING ADJACENT TO  
ROCKBRIDGE COUNTY COURTHOUSE AND "CASTLE":  
INSTAL OFFICES AND APARTMENT AT REAR

1. Prior to submitting an application, the applicant is required to meet with staff for a pre-application meeting.
2. Any application deemed incomplete by staff will not be accepted.
3. Please refer to page 3 of this application for the conditions of issuance for all conditional use permit applications. Submitting a sketch plan or other visual detail of your request is highly encouraged.



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## Notice to Adjacent Property Owners

The City will give notice of public hearings to be held on the application to those persons who own property, any portion of which abuts the subject property, and all property which is directly across the street from any portion of the subject property, as determined by the City's real property tax records. This notice will give the date, time and place of the hearing, identify the property which is the subject of the application and give a brief description of the proposed action. Notices will be mailed a minimum of ten (10) days prior to the date of the scheduled public hearings.

## Posting of the Property

The City will place a sign on the subject property which indicates that an action is pending. The sign will be located to be clearly visible from the street.

## THIS SECTION TO BE COMPLETED BY STAFF ONLY

**Application Fee: \$450** Amount Paid: \$450 Case Number: CUP- 2022 - 07

Date Received: 8/31/2022 Received By: Kate Broad

### Staff Review

Planning: \_\_\_\_\_ Public Works: \_\_\_\_\_

Police: \_\_\_\_\_ Fire/Rescue: \_\_\_\_\_

### Public Hearings

#### Planning Commission

#### City Council

Legal Ad Dates: \_\_\_\_\_ Legal Ad Dates: \_\_\_\_\_

Adj. Property Notifications: \_\_\_\_\_ Adj. Property Notifications: \_\_\_\_\_

Public Hearing Date: 9/22/2022 Public Hearing Date: \_\_\_\_\_

Action: \_\_\_\_\_ Action: \_\_\_\_\_

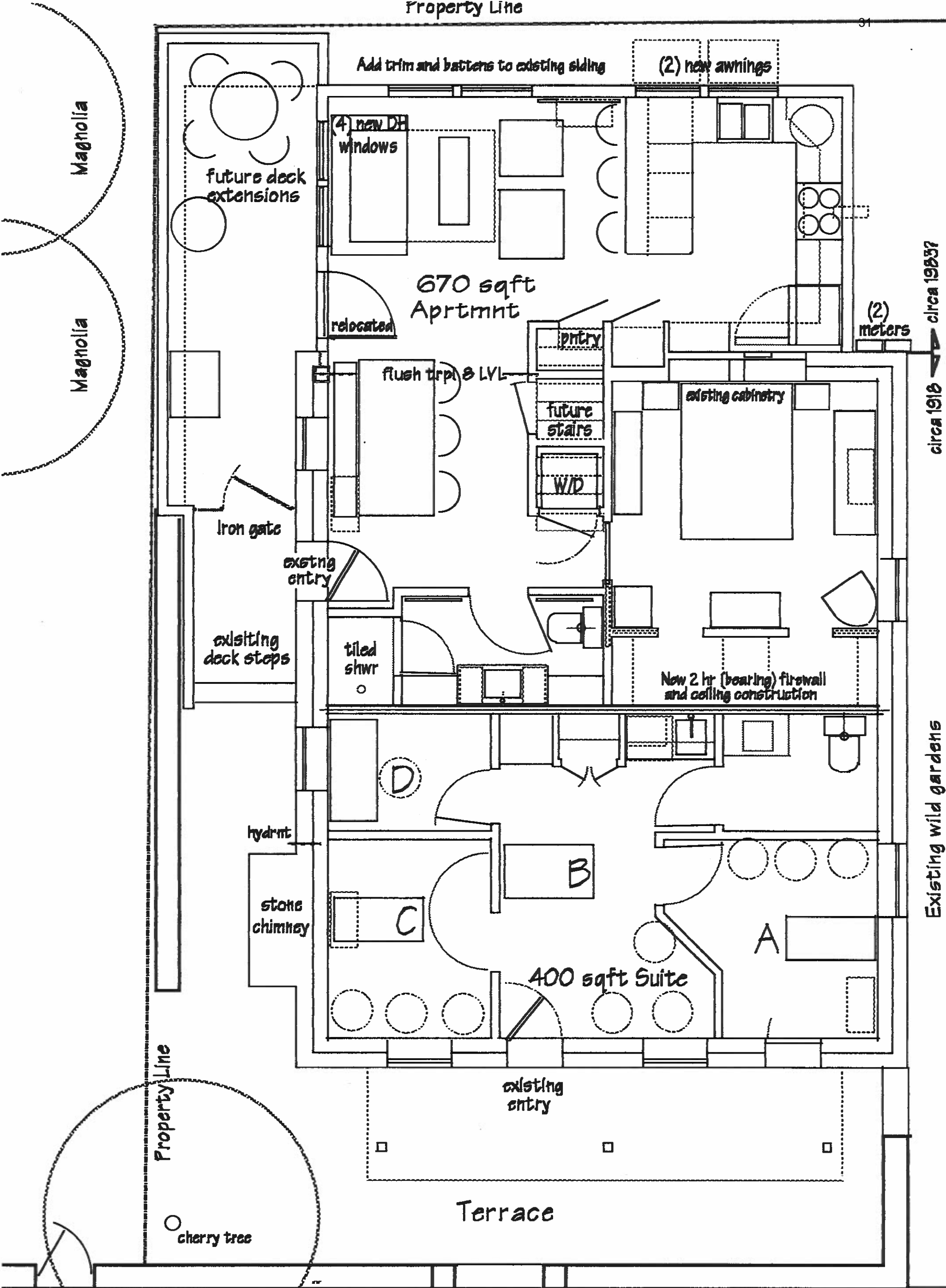
## 10 South Randolph St. "Halestone Cottage" Remodeling Plan 8/31/22

Applicant's submitted Development Plan 8/31/22 re-constructs an original bearing wall across the mid '80's enlarged dance studio space and creates required Code fire separation between a front ~400sqft office suite accessed thru the historic front porch terrace entries and a new~640sqft apartment accessed from the building's existing side deck.

Visible changes to the building's exterior are all in the 1983 vintage T-111 clad rear shed addition by enlarging the existing windows and shifting the deck door's location. Adding fascia banding and positive battens to the existing T-111 siding are planned. No further exterior changes beyond repairs to wood sills, roof edges, and running trim( w. painting) are anticipated.

Historically appropriate replacement windows are being studied vs repairing/maintaining existing aluminum storm window system throughout the 1918 now stone veneered original building.

New Code approved plumbing, power, mini-split HVAC, and communication systems will be installed throughout.



Lee Merrill Architects 2 S. Randolph St. Lexington Va. 24450  
 8/31/2022 merrill@rockbridge.net 540-460-7204

Halestone Cottage Development Plan  
 Scale 1/4" = 12"

South Randolph Street

## Lexington final draft of proposed PD-MU zoning district amendments

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### Article V. Planned Development – Mixed Use District (PD-MU)

#### §420-5.1. Intent and purpose.

The purpose of the Planned Development – Mixed Use District is to promote areas appropriate for office, retail, and residential uses, designed in a unified and cohesive manner in order to create an attractive environment in which to live, work, and recreate. Two or more uses shall be integrated into a mixed use project. The district is intended to be established in areas suitable for redevelopment and identified within the Comprehensive Plan as Opportunity Areas numbered 3 and 5, along E. Nelson Street and S. Main Street respectively, and to provide a process and design criteria that can be used to transition from established uses while accommodating new growth and evolving market trends. Development proposals should incorporate high quality architectural design and provide gradual transitions to surrounding land uses. Vertical combination of uses is encouraged where appropriate and a PD-MU is expected to produce a better design than can be produced through traditional zoning districts.

#### §420-5.2. Character of development.

The goal of a Planned Development – Mixed Use District is to encourage a development form and character that enhances the Lexington community's sense of place and character and is different from conventional suburban development. Lexington's Comprehensive Plan includes Design Principles for Opportunity Areas and for Mixed Use Neighborhoods that should inform the character and development of the proposed project. A proposal for a Planned Development – Mixed Use District must demonstrate consideration of the following characteristics, and in those instances where a development cannot include a characteristic, the PD-MU Narrative must provide written justification why the characteristic cannot be incorporated:

- A. Pedestrian orientation;
- B. Neighborhood friendly streets and paths;
- C. Interconnected streets and transportation networks;
- D. Parks and open space;
- E. Neighborhood centers;
- F. Buildings and spaces of appropriate scale;
- G. Appropriately screened parking;
- H. Electric vehicle and bicycle parking;
- I. Mixture of uses and use types;



- J. Mixture of housing types and affordability;
- K. Environmentally sensitive design, such as energy efficiency of buildings (may include photovoltaic power generation & storage, low carbon building materials, energy efficient mechanicals, and a thermally efficient building envelope), low impact development measures for stormwater, encouragement of public accessibility to parks and open spaces in any new development;
- L. Clear boundaries with any surrounding rural areas; and
- M. Shade trees planted in a large enough pervious area on the property that they will survive to maturity.

An application is not necessarily required to possess every characteristic of the Planned Development – Mixed Use District as delineated in this subsection in order to be approved. The size of the proposed district, its integration with surrounding districts, or other similar factors may prevent the application from possessing every characteristic.

#### §420-5.3. Permitted uses- generally.

In the Planned Development – Mixed Use District, all uses permitted by-right in the residential, commercial, civic, miscellaneous, and industrial districts may be permitted. Additional uses specifically enumerated in the final master plan may be permitted by-right at the discretion of the City. Specific uses may also be excluded.

#### §420-5.4. Permitted uses- with conditional use permit.

One or more uses permitted by conditional use permit in any zoning districts may be permitted in the Planned Development – Mixed Use District if documented in the PD-MU master plan. Any use desired but not documented in the approved PD-MU master plan requires an application to amend the PD-MU master plan.

#### §420-5.5. Mixture of uses.

A variety of housing types and non-residential uses is strongly encouraged. The mixture of uses shall be based upon the uses, goals and strategies recommended in the Comprehensive Plan. This mixture may be obtained with different uses in different buildings or a mixture of uses within the same building.

#### §420-5.6. Minimum area for a Planned Development – Mixed Use District.

The minimum area required for the establishment of a Planned Development – Mixed Use District shall be three (3) acres.

Additional area may be added to an established Planned Development – Mixed Use District if it adjoins and forms a logical addition to the approved development. The procedure for the addition of land to the Planned Development - Mixed Use District shall be the same as for an original application, and all requirements shall apply except the minimum lot area requirement as set forth above.

#### §420-5.7. Open Space.

Open space promotes attractive and unique developments that are also environmentally conscious. PD-MUs shall include the following, in keeping with the Comprehensive Plan:

- A. Open space shall be dedicated in a logical relationship to the site and in accordance with any guidance from the Comprehensive Plan regarding significant open space. Open space, and where appropriate, public access and shared use-are strongly encouraged;
- B. Improvements shall be configured to accommodate permitted, accessory and conditional uses in an orderly relationship with one another, with the greatest amount of open space and with the least disturbance to natural features.

#### §420-5.8. Densities.

The gross and net residential densities shall be shown on the approved final master plan by area and for the development as a whole in dwelling units per acre, and shall be binding upon the master plan's approval. The overall gross density so approved shall be determined by the City with reference to the Comprehensive Plan.

Non-residential density shall be expressed in terms of total square footage by area and for the development as a whole. There is no maximum square footage for non-residential uses but the proposed uses should be in proportion to the overall intent and functionality of the planned district concept as set forth in §420-5.1.

#### §420-5.9. Setback regulations.

Within the Planned Development – Mixed Use District, minimum setback ranges shall be specifically established during the review and approval of the PD-MU master plan. Specific setbacks may be approved administratively during the site plan process if they are in conformance with the established ranges, or a modification to the PD-MU master plan will be required if the provided setbacks are not within the established ranges. The following guidelines shall be used in establishing the building spacing and setbacks:

- A. Areas between buildings used as service yards, storage of trash, or other utility purposes should be designed so as to be compatible with adjoining buildings;
- B. Building spacing and design shall incorporate privacy for outdoor activity areas (patios, decks, etc.) associated with individual dwelling units whenever feasible;
- C. Yards located at the perimeter of the Planned Development – Mixed Use District shall conform to the setback requirements of the adjoining district, or to the setback requirements of the PD-MU district, whichever is greater; and
- D. A 30 foot minimum setback is required when abutting a residential zoning district.

In no case shall setbacks interfere with public safety issues such as sight lines and utilities, including other public infrastructure such as sidewalks, open space, etc.

#### §420-5.10. Height of buildings.

In the Planned Development – Mixed Use District, the height regulations shall be:

- A. Single-family residences: 45 feet (maximum).
- B. Banks, office buildings and hotels: 60 feet (maximum).
- C. Apartments, shopping centers, and other permitted buildings: 60 feet (maximum).
- D. Conditional use permits are required for structures exceeding the maximums listed in this section.
- E. These limitations shall not apply to church spires, belfries, cupolas, chimneys, flues, television antennas and radio aerials.
- F. All accessory buildings shall generally be less than the main building in height.

#### §420-5.11. Parking.

Within the Planned Development – Mixed Use District, the applicant shall establish parking regulations for consideration by the City. The proposed regulations should be based on a parking needs study or equivalent data. Such regulations shall reflect the intent of the Comprehensive Plan to decrease impervious cover by reducing parking requirements, considering alternative transportation modes, and using pervious surfaces for spillover parking areas. Shared parking areas, especially with non-residential uses ~~is~~ are encouraged. Parking lots will be interconnected on adjacent parcels whenever possible. Small, landscaped and interconnected parking lots, rather than large, central parking lots, shall be encouraged. Parking lots shall not dominate the image of a site.

#### §420-5.12. Utilities.

All new utility lines, electric, cable television, and other telecommunication lines, etc., shall be placed underground.

#### §420-5.13. Application for rezoning.

- A. The applicant shall file an application for rezoning with the Zoning Administrator. The application shall consist of three primary sections: a narrative, an existing conditions map, and a PD-MU master plan. Prior to submitting an application for rezoning, the applicant is encouraged to hold public meetings to receive public input regarding the proposed project.
  - 1. Narrative
    - i. A general statement of objectives to be achieved by the planned district including a description of the character of the proposed development and the market for which the development is oriented;
    - ii. A list of all adjacent property owners;

- iii. Site development standards including, but not limited to density, setbacks, maximum heights, and lot coverage;
  - iv. Utilities requirement and implementation plan;
  - v. Phased implementation plan;
  - vi. Comprehensive sign plan;
  - vii. Statements pertaining to any architectural and community design guidelines shall be submitted in sufficient detail to provide information on building designs, orientations, styles, lighting plans, etc.; and
  - viii. List of exceptions or differences from the zoning requirements, if any are being requested.
2. Existing Conditions Map
- i. Topography, including steep slopes (>15%);
  - ii. Water features;
  - iii. Roadways;
  - iv. Structures;
  - v. Tree drip lines;
  - vi. Major utilities;
  - vii. Significant environmental features; and
  - viii. Existing and proposed ownership of the site along with all adjacent property owners.
3. PD-MU Master Plan
- The preliminary PD-MU master plan shall be of sufficient clarity and scale to accurately identify the location, nature, and character of the proposed Planned Development – Mixed Use District. At a minimum, the preliminary PD-MU master plan, shall include the following:
- i. Proposed layout of the Planned Development – Mixed Use District including the general location of uses, types of uses, density range of uses, and a landscaping plan;
  - ii. Building heights;
  - iii. Methods of access from existing state-maintained roads to proposed areas of development;
  - iv. General road alignments;
  - v. General alignments of sidewalks, bicycle and pedestrian facilities;

- vi. A general water layout plan indicating the intended size and location of primary lines and the general location of fire hydrants (e.g., one every two blocks, etc.);
  - vii. A general sanitary sewer layout indicating the size and location of primary lines, and the location of pump stations;
  - viii. A general plan showing the location and acreage of the active and passive recreation spaces, parks and other public open areas; and
  - ix. A stormwater management plan detailing both stormwater quantity and quality mitigation measures and best practices.
- B. Additionally, an environmental assessment and a traffic study may also be required to be submitted as part of the application package. The environmental assessment should detail any project impacts on FEMA identified flood areas and slopes greater than 25%. The traffic study should quantify existing and projected traffic levels on all adjacent streets, and at all proposed entrances.
- C. The City Attorney shall review any property owner's or other association's charter and regulations prior to final site plan approval.
- D. The Planning Commission shall review the preliminary PD-MU master plan for the proposed Planned Development – Mixed Use District in light of the goals enumerated in the comprehensive plan, consider it at a scheduled public hearing, and forward its recommendation along with the preliminary PD-MU master plan to the City Council for consideration. The City Council shall hold a public hearing thereon, pursuant to public notice as required by the Code of Virginia, 15.2-2204, after which the City Council may make appropriate changes or corrections in the ordinance or proposed amendment. However, 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 required by the Code of Virginia, 15.2-2204. Such ordinances shall be enacted in the same manner as all other ordinances. The plan and narrative approved by the City Council shall constitute the final PD-MU master plan for the Planned Development – Mixed Use District.
1. The Planning Commission shall approve the master plan when it finds, after reviewing a report from the Zoning Administrator and after holding a public hearing thereon, that the development shown on the master plan is in compliance with the requirements of the Planned Development – Mixed Use District and other applicable provisions of this chapter; that such development will not be detrimental to the public health, safety and welfare or unduly injurious to property values or improvements in the neighborhood and will not be in conflict with the policies and principles of the City's adopted Comprehensive Plan; and that adequate public services are or reasonably will be available. Otherwise, the Commission shall disapprove the plan.
  2. The action of the Commission shall be based upon a finding of fact, which shall be reduced to writing and preserved among its records. The Commission shall submit to

- the Council a copy of its finding and a copy of the PD-MU master plan, together with its recommendations.
3. Amendments to the PD-MU master plan may be accomplished by the same procedure as for an original application.
  - E. Once the City Council has approved the final PD-MU master plan, all accepted conditions and elements of the plan shall constitute proffers, enforceable by the Zoning Administrator.
  - F. The Zoning Administrator shall approve or disapprove a final site plan within sixty days from the receipt of such plan. The site plan shall be in substantial conformance with the approved final PD-MU master plan. Such final site plan may include one or more sections of the overall Planned Development – Mixed Use District, and shall meet all applicable federal, state, and City regulations.
  - G. A property owners' association shall be established to provide for the ownership, care and maintenance of all common open space areas and other common facilities and improvements unless all real property within the district is owned by a single entity. All common open space, facilities and improvements shall be dedicated to the property owner's association and no land within privately owned lots shall be considered common open space. All property owners' associations shall be created by covenants and restrictions recorded among the land records of the City of Lexington and all such covenants shall include provisions for the maintenance of common open space, facilities and improvements. The property owners' association shall be responsible for the maintenance of all common open space, facilities and improvements in a reasonable condition. All open space areas shall be landscaped as shown on the adopted PD-MU master plan and shall be kept in a clean, attractive and safe condition. All open space areas shall be kept open to and available for use by the residents of the planned community.

#### **§420-5.14. Amendments to the PD-MU master plan.**

Where sections of the Zoning or Subdivision Ordinance are deemed to be in conflict with the goals of the final PD-MU master plan, the rezoning application shall be considered a waiver or modification to these sections if specified in the final PD-MU master plan. Otherwise, the applicant must provide a clear explanation as to why certain regulations are in conflict with the final PD-MU master plan, demonstrate that the public's health, safety and welfare will not be compromised, and request the specific waivers or modifications to be considered by the City after a public hearing. Amendments to the master plan may be accomplished by the same procedure as for an original application.

Amend Sec. 420-6.2 of the Entrance Corridor requirements as follows:

Sec. 420-6.2 Area created; boundaries.

The entrance corridor overlay districts shall be the boundary of the General Commercial District (C-2) and the Planned Development – Mixed Use District (PD-MU).