

**Work Session Agenda
Staunton City Council
Rita S. Wilson Council Chambers
September 14, 2023
5:15 p.m.**

- | | | |
|------------------|-----------|--|
| 5:15 p.m. | 1. | Consideration of Work Session and Regular Meeting Agendas |
| 5:20 p.m. | 2. | Discussion of The Pathways Program of the Augusta County Commonwealth's Attorney's Office |
| 5:35 p.m. | 3. | Discussion of Panhandling and Potential Signage in the City of Staunton |
| 5:50 p.m. | 4. | Discussion of Potential Donation to the Communities and Victims Impacted by the Maui Fires |
| 6:05 p.m. | 5. | Discussion of LED Streetlight Replacement |
| 6:20 p.m. | 6. | Closed Meeting for Discussion of Actual Litigation related to Staunton Circuit Court Case Number CL 23-376 (Includes Dinner Break Until Regular Meeting at 7:00 p.m.) |

**Regular Meeting Agenda
Staunton City Council
Rita S. Wilson Council Chambers
September 14, 2023
7:00 p.m.**

Call to Order

Pledge of Allegiance

Invocation/Moment of Silence—Darby

Proclamation—Childhood Cancer Awareness Month

Mayor's Report

Additional Items by Members of Council

REGULAR MEETING

A. Consent Agenda

A.1. Approval of Minutes

Work Session and Regular Meeting of August 24, 2023

A.2. Approval of Transfer of Already Appropriated Funds within the Capital Improvement Fund

All items will be voted on in one (1) motion. If so requested by any member of Council, an item placed on the consent agenda shall be removed and taken up as a separate matter at the end of the Regular Meeting.

B. Public Hearing and Consideration of a Request by David Wilson to Rezone 537 Calvert Street from B-2, General Business District to R-2, Low Density Residential District*

C. Public Hearing and Consideration of a Request by Mark Clark, Agent for Staunton Properties, LLC, for a Special Use Permit Under the Provisions of Staunton City Code 18.55.060(3) to Allow Living and/or Sleeping Quarters on the Ground Level of a Building Located at 1048 W Beverley Street*

- D. Public Hearing and Consideration of Franchise Ordinance to Grant an Easement for Underground Electric Infrastructure at 250 N. Jefferson Street***
- E. Consideration of Resolution Establishing the Percentage of Relief at 33% for Purposes of the Personal Property Tax Relief Act (PPTRA)**
- F. Consideration of Resolution Authorizing Stadium License Agreement Between the City and Mary Baldwin University**

Matters from the City Manager

Matters from the Public*

Adjournment

***Public Participation** For instructions on how to participate in a Public Hearing and Matters from the Public portions of the City Council meeting visit www.staunton.va.us/council.

CITY COUNCIL



AGENDA BRIEFING

Staunton, Virginia

Meeting Date:	September 14, 2023	City Council
Item #	1	
Department:	City Council	
Alignment with Staunton Plan (Value/Strategic Area):	Values: Integrity Engagement	
Subject:	Work Session and Regular Meeting Agendas	

Background: Consistent with Procedural Memorandum No. 3, attached are draft meeting agendas for City Council's consideration and for approval as Council prefers.

Suggested Motion: I move to approve the Work Session agenda and the Regular Meeting agenda [as presented] [with the following changes: as to the Work Session, the addition/deletion of _____; as to the Regular Meeting, the addition/deletion of _____].

City Manager: Leslie Beauregard

CITY COUNCIL



AGENDA BRIEFING

Staunton, VA

Meeting Date:	September 14, 2023	Alice Woods Councilmember
Item #	2	
Department:	City Council	
Alignment with Staunton Plan (Value/Strategic Area):	Value: Engagement Strategic Area: Responsive, Efficient Government	
Subject:	Discussion of The Pathways Program of the Augusta County Commonwealth’s Attorney’s Office	

Background: At the request of Councilmember Alice Woods, an item has been added to the work session agenda for September 14, 2023 to discuss The Pathways Program of the Augusta County Commonwealth's Attorney's Office.

Attachments: Not applicable.

City Manager's Recommendation: Not applicable.

Suggested Motion: Not applicable.

City Manager: Leslie Beauregard

CITY COUNCIL



AGENDA BRIEFING

Staunton, VA

Meeting Date:	September 14, 2023	Mark Robertson City Councilmember
Item #	3	
Department:	City Council	
Alignment with Staunton Plan (Value/Strategic Area):	Value: Engagement Strategic Area: Responsive, Efficient Government	
Subject:	Discussion of Panhandling and Potential Signage in the City of Staunton	

Background: At the request Councilmember Robertson, this item has been added to Council's September 14, 2023 work session agenda for discussion.

Attachments: Not applicable.

City Manager's Recommendation: Not applicable.

Suggested Motion: Not applicable.

City Manager: Leslie Beauregard

CITY COUNCIL



AGENDA BRIEFING

Staunton, VA

Meeting Date:	September 14, 2023	Mark Robertson Councilmember
Item #	4	
Department:	City Council	
Alignment with Staunton Plan (Value/Strategic Area):	Value: Engagement Strategic Area: Responsive, Efficient Government	
Subject:	Discussion of Potential Donation to the Communities and Victims Impacted by the Maui Fires	

Background: In early August 2023, a series of wildfires began in the state of Hawaii. The island of Maui was heavily affected. The fires killed 115 individuals. The Governor of Hawaii has reported that the Town of Lahaina on Maui suffered nearly \$6 billion in property damage.

Virginia Code Section 15.2-953 permits the City Council to make a donation to charitable institutions or associations that serve residents of the City of Staunton.

Councilmember Robertson would like to discuss the possibility of the Staunton City Council making a donation to a charitable institution or association that is assisting the residents of Maui pursuant to Virginia Code Section 15.2-953.

Attachments: Not applicable.

City Manager's Recommendation: Not applicable.

Suggested Motion: Not applicable.

City Manager: Leslie Beauregard

CITY COUNCIL



AGENDA BRIEFING

Staunton, Virginia

Meeting Date:	September 14, 2023	Staff Member: Jeff Johnston
Item #	5	
Department:	Public Works	
Alignment with Staunton Plan (Value/Strategic Area):	Value: Environmentally Conscious Strategic Area: Built Environment	
Subject:	Discussion of LED Streetlight Replacement	

Background: Dominion Energy is no longer installing mercury vapor (MV) or high-pressure sodium (HPS) streetlights. As these lights reach the end of their service life, they will be replaced with light-emitting diode (LED) streetlights. These LED replacements have created an opportunity to influence the character of Staunton streetlights at no cost to the City.

Currently, when an HPS or MV fixture needs to be replaced (not just re-lamped, but completely replaced) Dominion Energy uses an “equivalency chart” to decide which LED fixture will be used to replace it. These equivalency charts are standard across all of Virginia, and are largely based on manufacturers’ recommendations. Dominion allows local governments to create their own, site-specific equivalency charts to control the LED replacement lights that Dominion installs in their jurisdiction. Providing that the new chart (Dominion refers to it as a “preference sheet”) uses fixtures already in the Dominion Outdoor Lighting Program inventory, it can be implemented at no cost.

In addition to setting the color and intensity of LED replacement streetlights, a Staunton preference sheet could help standardize streetlighting throughout the City. Dominion currently owns 1,730 MV & HPS streetlights in Staunton. That inventory is comprised of 30 different fixtures, a number that could be reduced by a properly prepared preference sheet. Dominion has provided staff with sample preference sheets from other cities and counties, and has offered to assist in the development of one for Staunton.

A preference sheet isn't a panacea, and does not address all streetlight issues. But it does allow the City to exert some influence in an area that has been "hands off" in the past, and to do so at no cost.

City Manager's Recommendation: While there is no specific recommendation at this time, staff would like direction from City Council at this time to develop a **Staunton Streetlight Preference Sheet**. The proposed preference sheet would be brought back to Council at a future meeting for review, discussion and possible adoption.

Suggested Motion: Not Applicable.

City Manager: Leslie Beauregard

CITY COUNCIL



AGENDA BRIEFING

Staunton, Virginia

Meeting Date:	September 14, 2023	City Council John C. Blair, II City Attorney
Item #	6	
Department:	City Council	
Alignment with Staunton Plan (Value/Strategic Area):	Value: Excellence Strategic Area: Responsive, Efficient Government	
Subject:	Closed Meeting for Discussion of Actual Litigation related to Staunton Circuit Court Case Number CL 23-376	

Suggested Motion: I move to enter a closed meeting for discussion of actual litigation related to Staunton Circuit Court Case Number CL 23-376, pursuant to Virginia Code § 2.2-3711(A)(7).

Second. Discussion. Vote – Clerk of Council to poll members of Council.

After the closed meeting: I move that Council reconvene in an open meeting and certify to the best of each member's knowledge that only lawfully exempted public business matters were discussed and that only public business matters as identified in the closed meeting motion were heard, discussed or considered in the meeting.

Second. Discussion. Vote –Clerk of Council to poll members of Council.

City Manager: Leslie Beauregard



CITY OF STAUNTON, VIRGINIA

Proclamation

Childhood Cancer Awareness Month September, 2023

- WHEREAS,** each year more than 15,000 children and adolescents under the age of 19 in the United States, and more than 400,000 children globally, are diagnosed with cancer; and
- WHEREAS,** every year more than 1,700 children under the age of 19 in the United States lose their lives to cancer; and
- WHEREAS,** childhood cancer is the leading cause of death by disease past infancy for children under the age of 14 in the United States; and
- WHEREAS,** the 5-year survival rate for children with cancer has increased from 58 percent in the mid-1970s to today, with more than 80 percent of U.S. childhood cancer patients becoming long-term survivors; and
- WHEREAS,** in 2012, President Obama proclaimed September as National Childhood Cancer Awareness Month to bring awareness to pediatric cancer; and
- WHEREAS,** the color gold and the gold ribbon are symbols of support for children affected with cancer.

NOW, THEREFORE, BE IT PROCLAIMED by Staunton City Council that September, 2023, is hereby designated as

Childhood Cancer Awareness Month

in the City of Staunton, and is a time of year when our community and other organizations honor children and survivors affected by pediatric cancer in order to raise awareness and help continue the research and treatment of the disease.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the city to be affixed, adopted this 14th day of September, 2023.

STEPHEN W. CLAFFEY, MAYOR



ATTEST: _____
CLERK OF COUNCIL



CITY COUNCIL



AGENDA BRIEFING

Staunton, Virginia

Meeting Date:	September 14, 2023	City Council
Item #:	A	
Department:	City Council	
Alignment with Staunton Plan (Value/Strategic Area):	Strategic Area: Responsive, Efficient Government	
Subject:	Consent Agenda	

Background: As provided in [Council Procedure Memorandum No. 14](#), it is the policy of City Council to have the City Manager place routine, noncontroversial items on a Consent Agenda. Briefings for each item included on the Consent Agenda have been prepared in the manner and format of regular business items on the agenda, with each item described in sufficient detail to provide the public with an appropriate understanding of such item. All matters listed on the Consent Agenda will be enacted by one motion and as a single item. There will be no separate discussion of an item. If discussion is desired, the item may be removed from the Consent Agenda at the request of a member of City Council and considered separately at the end of the regular meeting agenda.

The Mayor will inquire whether any member of City Council desires to remove any item from the Consent Agenda and to place such item on the regular meeting agenda for separate consideration.

Suggested Motion (if no items removed): I move to approve the Consent Agenda, as presented.

Suggestion Motion (if one or more items removed): I move to approve the Consent Agenda with the exception of item(s) _____, and that item(s)_____ be moved to the end of the regular agenda for discussion and a separate vote.

City Manager: Leslie Beauregard

CITY COUNCIL



AGENDA BRIEFING

Staunton, Virginia

Meeting Date:	September 14, 2023	City Council
Item #	A.1.	
Department:	City Council	
Alignment with Staunton Plan (Value/Strategic Area):	Values: Integrity Engagement	
Subject:	Approval of Minutes	

Background: Draft meeting minutes are attached for City Council's consideration and for approval as Council prefers.

Attachments:

Attachment 1 – Work Session and Regular Meeting Minutes of August 24, 2023

Suggested Motions: I move to approve the work session regular meeting minutes of August 24, 2023 [as presented] [with the following changes: _____.]

City Manager: Leslie Beauregard



City Council
WORK SESSION
August 24, 2023
5:00 p.m.

Council Members Present: Mayor Claffey, Vice Mayor Darby and Councilors Arrowood, Edwards, Holmes, Robertson, and Woods.

Mayor Claffey called the meeting to order: Mayor Claffey called the meeting of Staunton City Council to order.

1. Consideration of Work Session and Regular Meeting Agendas

Consistent with Procedural Memorandum No. 3, the agendas were presented for Council consideration.

Mr. Arrowood moved to approve the work session and regular meeting agendas as presented.

The motion was seconded by Mr. Holmes and carried as follows:

Ms. Edwards	aye	Mr. Robertson	absent
Mr. Arrowood	aye	Vice Mayor Darby	aye
Ms. Woods	aye	Mayor Claffey	aye
Mr. Holmes	aye		

2. Discussion of Application for Exemption from Real Property Taxes by Valley Area Community Support Inc., dba Valley Supportive Housing, per State Code 58.1-3651

City Manager Leslie Beauregard stated that in April 2023, Lou Siegel, Executive Director of Valley Supportive Housing (VSH), sent a letter to the City Assessor's Office requesting an exemption for six properties purchased by Valley St. Clair Properties LLC, which is owned by VSH. He also requested that an exemption be granted for a portion of 111 Pump Street that had been occupied by a commercial business and treated as taxable. VSH is remodeling the commercial portion of the Pump Street property in order to provide additional below market-rate housing units.

Mr. Robertson arrived at 5:05 p.m.

Ms. Beauregard continued, stating that in 2006, Valley Area Community Support Inc., a federally tax-exempt organization pursuant to section 501(c)3 of the Internal Revenue Code, was granted real property tax exempt status by the Staunton City Assessor's Office without proper

authorization from Virginia state code or local ordinance. She noted that VSH is a component of Valley Area Community Support Inc. The organization currently has six properties being treated as exempt for real property taxes. In 2023, VSH acquired the above-described six properties for \$1,300,000. These properties have been treated as taxable to this point pending further action. Upon further investigation, city staff still has not been able to find any justification in state code or local ordinance to allow for the exemption that had been granted to Valley Supportive Housing.

Since January 1, 2003, as a result of an amendment to the state code, the decision whether to grant exemptions from real property taxes has been vested in City Council, rather than the General Assembly (which previously considered such exemptions). The last time a request was made of City Council to grant tax exempt status to real property was in 2013, by The Legacy at North Augusta, Inc. At that time, Council denied the request, and based its decision on "...consideration of the questions specified in Virginia Code § 58.1-3651 and other pertinent criteria, facts and circumstances, as reflected in the information presented..." The 2013 resolution continued, "Council deny the application for the exemption by designation from real and personal property taxes, for the reasons included in the City Manager's recommendations and on the further basis that the City was assured that the applicant was not going to seek a tax exemption."

Under the applicable state code provision, a public hearing on each application for tax exemption by designation is required. Council has not previously granted a request of this nature. The earliest a public hearing could be scheduled to formally consider this request is September 14, 2023, at which time City Council would also consider whether to approve or deny the request.

City Assessor Charley Haney was also present virtually to answer any questions.

Mayor Claffey asked if Councilmembers had any questions or comments.

Mr. Holmes stated that if the city could come up with some way to alleviate the tax burden on VSH, it would be beneficial to the whole city.

Mr. Robertson stated that while he wants to help the organization where possible, he did not think the state code would allow the city to just forgive taxes. City Attorney John Blair corroborated Mr. Robertson's statement and added that there is a provision that allows Council to appropriate the past due amount as a donation to the organization. Mr. Haney estimated the amount to be around \$50,000.

Mr. Siegel gave a brief presentation on the properties, tenants, services, and budget of VSH. The dates the properties were acquired were also discussed, at the request of Mayor Claffey.

Councilmembers agreed to instruct staff to continue working towards a solution, for further discussion at a future Council meeting.

3. Update on Staunton's Pathway to Affordable Housing and Housing for Working Families

Housing Planner Rebecca Joyce presented an update on the city's housing program to City Council. The presentation highlighted activities focused on affordable housing and housing for

working families, as well as a timeline for upcoming tasks anticipated to take place over the next nine months.

Mayor Claffey asked if Councilmembers had any questions.

Councilmembers had no questions.

4. Closed Meeting for: (i) Discussion or Consideration of the Disposition of Publicly-Held Real Property within Staunton Crossing; and (ii) Discussion or Consideration of the Disposition of Publicly-Held Right-of-way Located Near the Intersection of Peck Street and Montgomery Avenue, Where Discussions in an Open Meeting Would Adversely Affect the Bargaining Positions or Negotiating Strategies of the Public Body

Mr. Holmes moved to enter a closed meeting for: (i) discussion or consideration of the disposition of publicly-held real property located at Staunton Crossing where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body, pursuant to Virginia Code § 2.2-3711(A)(3); and (ii) discussion or consideration of the disposition of publicly-held right-of-way located near the intersection of Peck Street and Montgomery Avenue where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body, pursuant to Virginia Code § 2.2-3711(A)(3).

The motion was seconded by Mr. Robertson and carried as follows:

Mr. Holmes	aye	Mr. Arrowood	aye
Mr. Robertson	aye	Vice Mayor Darby	aye
Ms. Edwards	aye	Mayor Claffey	aye
Ms. Woods	aye		

Mr. Arrowood moved that Council reconvene in an open meeting and certify to the best of each member's knowledge that only lawfully exempted public business matters were discussed, and that only public business matters as identified in the closed meeting motion were heard, discussed, or considered in the meeting.

The motion was seconded by Mr. Holmes and carried as follows:

Mr. Robertson	aye	Mr. Arrowood	aye
Mr. Holmes	aye	Vice Mayor Darby	aye
Ms. Woods	aye	Mayor Claffey	aye
Ms. Edwards	aye		

The work session adjourned at 7:00 p.m.

Kiley A. Kesecker
Clerk of Council

**REGULAR MEETING OF STAUNTON CITY COUNCIL****Thursday, August 24, 2023****7:00 p.m.****Rita S. Wilson Council Chambers**

PRESENT: Mayor Stephen W. Claffey
Vice Mayor Amy G. Darby
Brad D. Arrowood
Michele D. Edwards
R. Terry Holmes
Mark A. Robertson
Alice L. Woods

ALSO PRESENT: Leslie Beauregard, City Manager
Amanda Kaufman, Assistant City Manager
John Blair, City Attorney
Kiley Kesecker, Clerk of Council

Mayor Claffey called the meeting to order: Mayor Claffey called this meeting of Staunton City Council to order.

The Pledge of Allegiance was recited in unison.

The invocation/moment of silence was given by Mayor Claffey.

MAYOR'S REPORT

There was no Mayor's Report.

ADDITIONAL ITEMS BY MEMBERS OF COUNCIL

Mr. Arrowood stated that there was an upcoming community meeting to save the Shea House in Fairview Cemetery.

Mr. Robertson stated that he would like the city to consider making a donation to help with the wildfire recovery efforts in Maui.

Ms. Edwards presented some figures from the last Library Advisory Board meeting.

REGULAR MEETING**A. Consent Agenda**

Mayor Claffey made the following statement:

“Per Procedure Memorandum No. 14, it is the policy of City Council to have routine, noncontroversial items placed on a Consent Agenda. All items on the Consent Agenda will be voted on in one motion. If separate discussion of an item is requested by any member of Council, that item shall be removed and considered separately at the end of the regular meeting agenda.”

A.1. Approval of Meeting Minutes

**Work Session and Regular Meeting of July 27, 2023
Special Meeting of July 31, 2023**

A.2. Consideration of an Ordinance to Amend the FY2024 Budget Ordinance for the City of Staunton by Adding Budget Amendment Number One (ATTACHMENT A)**A.3. Approval of Transfer of Already Appropriated Funds within the Capital Improvement Fund****A.4. Approval of Proclamation to be Presented in Council Chambers at the September 14, 2023 City Council Meeting**

Mayor Claffey asked if any Councilmembers desired to remove any item from the Consent Agenda to be placed on the regular meeting agenda for separate consideration.

Councilmembers had no questions or comments.

Ms. Woods moved to approve the Consent Agenda as presented.

The motion was seconded by Mr. Robertson and carried as follows:

Ms. Edwards	aye	Ms. Woods	aye
Mr. Robertson	aye	Vice Mayor Darby	aye
Mr. Holmes	aye	Mayor Claffey	aye
Mr. Arrowood	aye		

B. Public Hearing and Consideration to Amend (a) an Ordinance Adopted September 8, 2022 and (b) a Bond Resolution Adopted September 22, 2022, that will Authorize Proceeds of the 2022 Bond to be Applied to Finance Costs Not Only of the Gardner Springs Pump Station Project but Also of Other Capital Improvement Projects Related to the City's Water System

Chief Financial Officer Jessie Moyers stated that the Gardner Springs Pump Station Project includes the construction of a new raw water pumping station, demolishing the existing pump

station, construction of a platform on the remaining foundation, and the furnishing, installment, and integration of a 1,500-kW generator. The city applied for grant funding for the project in May of 2022 through the Virginia Department of Health's (VDH) Office of Drinking Water American Rescue Plan Act (ARPA) for Small and Disadvantaged Waterworks. The city received an official denial for this grant in September 2022, and at that time, proceeded with debt financing of the Gardner Springs Pump Station Project.

The associated bond ordinance was enacted and signed at the September 8, 2022 Council meeting. The resolution authorizing the issuance of General Obligation Bonds was adopted and signed at the September 22, 2022 Council meeting. It was stated at both meetings that the proceeds from the debt issuance would be used only for the Gardner Springs Pump Station Project. The ordinance and resolution also memorialized that the debt financing would be solely for the Gardner Springs Pump Station Project.

In July 2023, the city was contacted by VDH to see if Staunton was still interested in the grant funds. VDH subsequently awarded the city \$5,930,000 of ARPA funding for the Gardner Spring Pump Station project. The receipt of grants funds for this project will allow the use of the 2022 bond funds for another water infrastructure project.

Under the advisement of the city's bond counsel, the city conducted a public hearing to amend the ordinance adopted September 8, 2022, and the bond resolution adopted September 22, 2022, to include capital improvements projects related to the city's water system, and not limit the purpose solely to the Gardner Springs Pump Station Project.

Mayor Claffey asked if Councilmembers had any questions.

Councilmembers had no questions.

Mayor Claffey stated the following:

"In a moment, I will open the Public Hearing. It is a time that Council sets aside to hear from citizens and others about a specific topic.

We ask that you please give your name, your address, and then keep your remarks at five minutes or less. When you reach the five-minute time limit, I will let you know that your time limit has expired.

For our Zoom participants, please raise your hand now if you wish to speak on this particular Public Hearing. If you raise your hand during this Public Hearing, you will also be able to raise your hand during this Council meeting for other Public Hearings and Matters of the Public. Please keep your comments to five minutes as well. Once everyone who wishes to speak has had an opportunity, I will then close the Public Hearing.

I will now open the Public Hearing, so if you wish to speak, please approach the podium. We will alternate between individuals physically present and those that have their hands raised via the Zoom platform."

The public hearing was opened.

Brenda Mead, 342 Sherwood Avenue, stated that she hopes the funds will be utilized on the revitalization of Uniontown.

With there being no one else present wishing to speak, the public hearing was closed.

Mr. Robertson moved that City Council approve the amended ordinance and bond resolution authorizing the use of the \$8,500,000 General Obligation Bonds for capital improvements projects related to the city's water system and not limit the purpose solely to the Gardner Springs Pump Station Project as presented.

The motion was seconded by Mr. Holmes and carried as follows:

Ms. Woods	aye	Ms. Edwards	aye
Mr. Holmes	aye	Vice Mayor Darby	aye
Mr. Robertson	aye	Mayor Claffey	aye
Mr. Arrowood	aye		

**ORDINANCE AUTHORIZING ADDITIONAL CAPITAL
IMPROVEMENT PROJECTS RELATED TO THE WATER
SYSTEM TO BE FINANCED WITH PROCEEDS OF THE CITY OF
STAUNTON, VIRGINIA \$8,500,000 GENERAL OBLIGATION
PUBLIC IMPROVEMENT BOND, SERIES 2022, BY AMENDING
THE PROVISIONS OF A PRIOR ORDINANCE ADOPTED
SEPTEMBER 8, 2022, AND A PRIOR RESOLUTION ADOPTED
SEPTEMBER 22, 2022**

WHEREAS, there is outstanding the \$8,500,000 General Obligation Public Improvement Bond, Series 2022 (the "2022 Bond"), issued by the City of Staunton, Virginia (the "City"), pursuant to the terms of an ordinance adopted by the Council of the City (the "Council") on September 8, 2022 (the "Prior Ordinance") and a resolution adopted by the Council on September 22, 2022 (the "Prior Resolution");

WHEREAS, the 2022 Bond was issued to finance capital costs related to the Gardner Springs Pump Station Project;

WHEREAS, subsequent to such issuance, the City received notice that it will be the recipient of grant funding that can be applied to a portion of the Gardner Springs Pump Station Project, thereby allowing the City to redirect a portion of the 2022 Bond proceeds; and

WHEREAS, the City desires to amend the provisions of the Prior Ordinance and the Prior Resolution to permit the 2022 Bond proceeds to be applied to finance costs not only of the Gardner Springs Pump Station Project but also of other capital improvement projects related to the City's water system;

**BE IT ORDAINED BY THE COUNCIL OF THE CITY OF STAUNTON,
VIRGINIA:**

1. It is hereby determined to be necessary and expedient, and in furtherance of the general welfare of the City and its citizens, for the City to finance costs related to the Gardner Springs Pump Station Project and other capital improvement projects related to the City's water system and to use a portion of the 2022 Bond proceeds to finance such projects.

2. The provisions of the Prior Ordinance and the Prior Resolution are hereby amended to authorize and provide that the 2022 Bond proceeds may be expended to finance costs not only of the Gardner Springs Pump Station Project previously authorized but also other capital improvement projects related to the City's water system.

3. Except as amended hereby, the Prior Ordinance and the Prior Resolution are hereby ratified, confirmed and approved.

4. All other actions of officers of the City in conformity with the purposes and intent of the Prior Ordinance, the Prior Resolution and this ordinance are approved and confirmed. The officers of the City are authorized and directed to execute and deliver all certificates and instruments and to take all such further action as may be considered necessary or desirable to effectuate the purposes of this ordinance and the application of 2022 Bond proceeds.

5. The Clerk of Council, in collaboration with the City Attorney, is hereby authorized and directed to see to the immediate filing of a certified copy of this ordinance in the Circuit Court of the City of Staunton, Virginia.

6. This ordinance shall take effect immediately upon its adoption.

Introduced: August 24, 2023

Adopted: August 24, 2023

Effective Date: August 24, 2023

Signed: STEPHEN W. CLAFFEY, MAYOR

Attest: KILEY A. KESECKER
Clerk of Council

C. Public Hearing and Consideration of an Amendment to Staunton City Code 18.85, H-1, Historic Preservation District, of Title 18, Zoning, to reference the Staunton Virginia, Historic District Design Guidelines

Senior Planner Rodney Rhodes stated that Staunton City Code 18.85, H-1, Historic Preservation District, establishes the regulations for the city's five historic districts. This chapter states in part:

SCC 18.85.050(7)(a) the commission shall issue certificates of appropriateness for the above proposed actions if those actions conform in design, scale, building material, setback and

landscaping and to the Secretary of Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings,

In 2018, City Council adopted new standards and guidelines specifically for the City of Staunton. Applications for Certificates of Appropriateness (COAs) are reviewed in accordance with the local historic guidelines, as well the Secretary of Interior's Standards and Guidelines; therefore, Chapter 18.85 needs to be amended to include a reference to the Staunton, Virginia Historic District Design Guidelines. The proposed changes are found on lines 307 – 309 of the draft amendment.

Mr. Rhodes noted that at its July 21, 2023 meeting, the Planning Commission conducted a public hearing, during which no one spoke in opposition to the request. On a 5-0 vote, the Commission voted to recommend approval of the amendment.

Mayor Claffey asked if a work session item could be scheduled in the future to bring the current Council up to date, as when the standards and guidelines were adopted by the city in 2018, Councilor Holmes was the only current councilmember on City Council at that time.

Mr. Robertson moved that Council table the item until later meeting, allowing Councilmembers and staff time for discussion before voting.

The motion was seconded by Ms. Woods and carried as follows:

Mr. Arrowood	aye	Mr. Holmes	aye
Ms. Edwards	aye	Vice Mayor Darby	aye
Ms. Woods	aye	Mayor Claffey	aye
Mr. Robertson	aye		

D. Public Hearing and Consideration of a Request by Staunton Apartments, LLC, to Rezone the R-3 Medium Density Residential Conditional Zoning of Middlebrook Park by Reducing the Minimum Required Side and Rear Setbacks from 75 Feet to 60 Feet When the Property Abuts Existing Residential Properties

Mr. Rhodes stated that Staunton Apartments, LLC, is requesting a change to the R-3, Medium Density Residential Conditional zoning of Middlebrook Park. The Middlebrook Park development is located on Middlebrook Avenue, Seth Drive, and Lacey B. King Way. It consists of approximately 120 acres and is zoned B-1, Local Business District Conditional (B-1c), I-1, Light Industrial District Conditional (I-1c), and R-3, Medium Density Residential District Conditional (R-3c). The proffered conditions include additional restrictions on signs, outdoor lighting, setback buffers between districts as well as between the Middlebrook Park development and surrounding properties. The purpose of the conditional zoning is to protect the character of the surrounding residential areas and the nearby Middlebrook Agricultural-Forestal District. The conditional zoning was approved by City Council in 2003. In 2008, at the request of the developer, some minor changes were made to the B-1c and I-1c zoning conditions including elimination of a cap on the number of employees allowed and increasing the number of signs permitted. To this point, the R-3c zoning has never been amended.

The applicant proposes to reduce the minimum required side and rear setbacks between development in the R-3c district and adjacent residential uses that existed at the time of adoption of the ordinance. Currently, the required minimum setback, whether a side or rear, is 75 feet. The applicant proposes to reduce that minimum setback to 60 feet.

Staff has reviewed the request and has found no issues. The original 75-foot setback, enacted in 2003, was intended to protect the surrounding neighborhoods, particularly the Tannehill Wheat and Montgomery Avenue neighborhoods. However, both of those neighborhoods are zoned R-3, Medium Density Residential District, and multi-family is a by-right use in those areas, with no special setbacks or buffers required. In this situation, the Middlebrook Park 60-foot buffer would still be required to be landscaped with trees and shrubs of sufficient height and density to provide a screen between Middlebrook Park and the adjacent existing residential areas. This 60-foot screened setback should be more than adequate to provide a buffer to soften the impacts of the Middlebrook Park residential development when it is adjacent to existing single-family dwellings.

The *City of Staunton Comprehensive Plan, 2018-2040, Future Land Use Map*, designates this area as Medium Density Residential and the requested rezoning is consistent with that designation.

Mr. Rhodes concluded by noting that at its July 21, 2023 meeting, the Planning Commission conducted a public hearing, during which no one spoke in opposition to the request. On a 4-0 vote with one abstaining, the Commission voted to recommend approval of the amendment.

Representing the applicant, Daniel Hansen of Balzer & Associates was present to answer questions.

Mayor Claffey asked if Councilmembers had any questions.

Ms. Edwards asked why the request from 60 to 75 feet was made in the first place. Mr. Hansen stated that it was likely a developer attempting to appease the neighbors at that time, adding that the number 75 is somewhat arbitrary.

Councilmembers had no further questions.

Mayor Claffey stated the following:

"I will now open the Public Hearing, so if you wish to speak, please approach the podium. We will alternate between individuals physically present and those that have their hands raised via the Zoom platform."

The public hearing was opened.

With there being no one present wishing to speak, the public hearing was closed.

Vice Mayor Darby moved that Council adopt the ordinance and approve the conditional rezoning as recommended by the Planning Commission.

The motion was seconded by Mr. Arrowood and carried as follows:

Ms. Woods	aye	Ms. Edwards	aye
Mr. Holmes	aye	Vice Mayor Darby	aye
Mr. Robertson	aye	Mayor Claffey	aye
Mr. Arrowood	aye		

Ordinance No. 2023-27

**AN ORDINANCE REZONING
FROM R-3, MEDIUM DENSITY RESIDENTIAL DISTRICT CONDITIONAL,
TO R-3, MEDIUM DENSITY RESIDENTIAL DISTRICT CONDITIONAL,
ALL THOSE CERTAIN TRACT OR PARCELS OF LAND
LOCATED IN MIDDLEBROOK PARK AND
CURRENTLY ZONED R-3, MEDIUM DENSITY RESIDENTIAL CONDITIONAL
WITH PARCEL IDENTIFICATION NUMBERS
10920, 10921, 10922, 10985, 11193, 11727, 11728, 11729, 11730, 11732, 11733
STAUNTON, VIRGINIA**

Recitals

A. Staunton Apartments LLC, has applied to the City of Staunton for a zoning classification change, under the provisions of the Staunton City Code (SCC), to make changes to the conditional zoning of 12 parcels of land currently zoned R-3, Medium Density Residential District Conditional, located in the Middlebrook Park planned mixed use development;

B. The proposed conditional rezoning is consistent with the provisions of SCC 18.215.060(1) and is necessary so that the applicant may develop a portion of the property with 72 multi-family residential units;

C. The applicant seeks to reduce the required setback between the R-3, Medium Density Residential District Conditional zoning, and any existing residential district with dwellings that existed at the adoption of the original R-3 conditional zoning from 75 feet to 60 feet;

D. The Planning Commission of the City of Staunton, after study and review, has properly heard the matter and recommended approval;

E. This matter has been properly advertised, heard, and considered; and

F. These recitals are an integral part of this ordinance.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Staunton, Virginia, that the properties located within Middlebrook Park planned mixed use development and currently designated with Parcel Identification Numbers 10920, 10921, 10922, 10985, 11193, 11727, 11728, 11729, 11730, 11732, 11733 in the City of Staunton, Virginia, are **HEREBY REZONED** from R-3, Medium Density Residential District, to R-3, Medium Density Residential

District Conditional, on the basis that the rezoning would serve the interests of public necessity, convenience, general welfare, and good zoning practice subject to the following onsite proffers as proposed by the applicant:

R-3 MEDIUM DENSITY RESIDENTIAL DISTRICT-CONDITIONAL

A. GENERAL DESCRIPTION:

This district provides for medium to high residential population density with conditions relating to the compatibility with adjacent single-family residential areas. The principal uses of land may range from single-family to multiple-family apartment uses. Certain uses, which are more compatible functionally with intensive residential uses than with commercial uses are permitted.

PERMITTED PRINCIPAL AND ACCESSORY USES AND STRUCTURES:

Property and buildings in an R-3 Medium Density Residential-Conditional District shall be used only for the following purposes:

1. Any use permitted in an R-1 and R-2 Low Density Residential District.
2. Two-family dwelling.
3. Multiple-family dwelling.
4. Single-family attached dwellings and single-family semi-detached dwellings as regulated in Article V, Section 1-B.
5. Rooming or boarding house.
6. Group house.
7. Accessory buildings and uses customarily incidental to the above uses when located on the same lot.
8. Housing for the elderly.
9. Home occupations as regulated in Article V, Section 10.

B. USES PERMITTED ON REVIEW:

The following uses may be permitted on review by the City Council in accordance with provisions in Article VII, Section 4:

1. Any use permitted on review in an R-1 and R-2 Low Density Residential District.
2. Private day nurseries and kindergartens, as regulated in Article V, Section 1-E.
3. A planned residential development as regulated in Article V, Section 1-A.

C. AREA REGULATIONS:

All building shall be set back from street right-of-way lines and lot lines to comply with the following yard requirements:

1. **Front Yard:**

- 419 a. For single, two-family, and multiple-family dwellings the minimum depth of the front
420 yard shall be twenty-five (25) feet and in no case shall an accessory building be located
421 or extend into the front yard.
422 b. Churches and other main and accessory buildings, other than dwellings, shall have a
423 front setback of thirty-five (35) feet.
424

425 2. ***Side Yard:***

- 426 a. For single story dwellings, located on interior lots, side yards shall be not less than
427 eight (8) feet in width; however, the sum of the two (2) side yards shall be not less than
428 twenty (20) feet each, unless the side yard abuts a residential district with dwellings
429 that existed at the adoption of this code and then the side yard shall be ~~seventy-fivesixty~~
430 (60) feet.
431 b. For dwellings of more than one (1) story, there shall be side yards of not less than
432 twelve (12) feet, unless the side yard abuts a residential district with dwellings that
433 existed at the adoption of this code and then the side yard shall be ~~seventy-fivesixty~~
434 (60) feet.
435 c. For unattached buildings of accessory use there shall be a side yard of not less than
436 eight (8) feet; provided, however, that unattached one (1) story buildings of accessory
437 use shall not be required to set back more than five (5) feet from an interior side lot line
438 when all parts of the accessory building are located more than ten (10) feet behind the
439 main building, unless the side yard abuts a residential district with dwellings that
440 existed at the adoption of this code and then the side yard shall be ~~seventy-fivesixty~~
441 (60) feet.
442 c. Churches and other main and accessory buildings, other than dwellings, and buildings
443 accessory to dwellings, shall set back from all side lot lines a distance of not less than
444 thirty-five (35) feet, unless the side yard abuts a residential district with dwellings that
445 existed at the adoption of this code and then the side yard shall be ~~seventy-fivesixty~~
446 (60) feet.
447

448 3. ***Rear Yard:***

- 449 a. For main buildings, other than garage apartments, there shall be a rear yard of not less
450 than twenty-five (25) feet, unless the rear yard abuts a residential district with dwellings
451 that existed at the adoption of this code and then the side yard shall be ~~seventy-fivesixty~~
452 (60) feet.
453 b. Five (5) foot setback for accessory building, unless the rear yard abuts a residential
454 district with dwellings that existed at the adoption of this code and then the side yard
455 shall be ~~seventy-fivesixty~~ (60) feet.
456

457 4. ***Buffer Zone:***

458 Setback areas shall act as a buffer between adjacent residential, business, and industrial
459 uses. They shall be fully landscaped and maintained with grass, trees, and shrubbery of
460 sufficient height and density to serve as a screen between the R-3 Medium Density
461 Residential-Conditional Zone and all other adjacent uses. The buffer zone shall not
462 constitute a site-distance obstruction at street intersections. The buffer zone shall be

considered as part of the lot area, but shall not be used for any purpose such as buildings, parking lots, signs, or any accessory use. The buffer zone, upon completion of the development of any project, shall be at or near the same grade or plane which existed prior to the development of the R-3 Medium Density Residential-Conditional District, unless otherwise expressly reviewed and approved by the Planning Commission and by City Council. These restrictions shall not apply to that portion of the lot fronting on the major thoroughfares, however all other required landscaping shall apply. (Buffer zone shall be twenty-five (25) feet when abutting property as otherwise shown on "Proposed Zoning Plat".)

5. *Lot Width:*

- a. For single and two-family dwellings, there shall be a minimum lot width of seventy-five (75) feet at the front building line.
- b. For multiple-family dwellings, there shall be a minimum lot width of one hundred (100) feet at the front building line.
- c. For lots having a width of not more than one hundred fifty (150) feet, the lot length shall be not greater than three times the lot width.

6. *Intensity of Use:*

- a. For each single-family dwelling and building accessory served by a sanitary sewer system, there will be a lot area of not less than seven thousand five hundred (7,500) square feet.
- b. For each two-family dwelling there shall be a lot area of not less than nine thousand (9,000) square feet.
- c. For multiple-family structures, there shall be a lot area of not less than six thousand (6,000) square feet plus an additional one thousand five hundred (1,500) square feet for each additional dwelling unit. For those structures that provide off-street parking within the main structure, the lot area requirement may be reduced by two hundred (200) square feet per dwelling unit.
- d. For churches and other main and accessory buildings, other than dwellings, and buildings accessory to dwellings, the lot area shall be adequate to provide the yard areas required by this section and the off-street parking areas required in Article V, Section 5; provided, however, that the lot for a church shall not be less than thirty thousand (30,000) square feet.

7. *Maximum Lot Coverage*

Main and accessory buildings shall not cover more than thirty (30) percent of the lot area.

D. USABLE OPEN SPACE:

For multiple-family structures there shall be usable open space provided for each dwelling unit of not less than four hundred (400) square feet. Open space does not include drives, parking, and service areas.

E. HEIGHT REGULATIONS:

No main building shall exceed three (3) stories or thirty-five (35) feet in height, except as provided in Article V, Section 3.

Accessory buildings shall not exceed fifteen (15) feet in height.

F. OFF-STREET PARKING:

As regulated in Article V, Section 5.

G. OCCUPANCY LIMITATIONS:

As regulated in Article V, Section 15.

H. SIGNAGE:

The requirements of Article V, Section 8 Signs, Billboards and Other Advertising Structures, shall apply with the following exceptions:

1. Each parcel of property occupied by a building shall be permitted one freestanding sign, whose size shall not exceed thirty (30) square feet on each face.
2. Freestanding signs shall be mounted on bases a maximum of three feet high. If the specific location of the sign requires a base of more than three feet to provide adequate visibility, the Planning Commission may approve a taller base. No freestanding sign shall exceed fifteen (15) feet in height from grade.
3. Location of signs.
 - (a) If the nearest point of a freestanding sign is located within five feet of the street right-of-way, its location must be approved by the City's Director of Public Works, or his designee, who will evaluate the location for site line and other traffic safety considerations.
 - (b) No flat wall sign shall project beyond the surface of the building or above the roofline of the building.
4. Illumination: Only external illumination of exterior signs is permitted, but in accordance with the restrictions set forth below:
 - (a) The light from any illuminated sign shall be so shaded, shielded, or directed that the light intensity or brightness will not be objectionable to the surrounding area.

(b) No sign shall have blinking, flashing, or fluttering lights or any other illumination device that has a changing light intensity, brightness, or color. Beacon lights shall not be permitted.

(c) No colored lights shall be used for exterior signage.

(d) Neither direct nor reflected light from primary light sources shall create a traffic hazard to operators or motor vehicles on public thoroughfares.

(e) No exposed reflective bulb, strobe light, or incandescent lamp that exceeds fifteen (15) watts shall be used on the exterior surface of any sign so as to expose the face of the bulb, light, or lamp to any public street or adjacent property.

(f) Awnings must not be illuminated.

5. Materials and colors used in signs and their support structures should reflect and be harmonious with the building served by the sign.

I. UTILITY LINES UNDERGROUND:

All utility lines such as electric, telephone, CATV, or other similar lines shall be installed underground. This requirement shall apply to lines serving individual sites as well as to utility lines necessary within the project. All junction and access boxes shall be screened with appropriate landscaping. All utility pad fixtures and meters should be shown on the site plan. The necessity of utility connections, meter boxes, etc., should be recognized and integrated with the architectural elements of the site plan.

J. EXTERIOR LIGHTING:

1. Lighting should be of uniform style for each project site.
2. Lighting should be contained within the site and designed to limit spillover and minimize the amount of light that is directed to the sky.
3. Light poles shall not exceed twenty-four (24) feet in height.

K. DRIVEWAYS AND PARKING AREAS:

1. Parking lot layouts shall respond to the topographic characteristics of the site.
2. The number of access points to parking lots from a street will be minimized and shall relate to other existing curb cuts whenever possible.
3. Parking lots will be interconnected on adjacent parcels whenever possible.

4. Parking lots shall not dominate the image of a site.

5. Pedestrian access from the sidewalk into individual project sites, as well as within sites and between sites shall be provided.

Introduced: August 24, 2023

Adopted: August 24, 2023

Effective Date: August 24, 2023

Signed: STEPHEN W. CLAFFEY, MAYOR

Attest: KILEY A. KESECKER

Clerk of Council

E. Public Hearing and Consideration of a Request by Ian and Leslie Boden to Rezone 1106 North Augusta Street from P-1, Professional District, to B-1, Local Business District Conditional

Mr. Rhodes stated that Ian and Leslie Boden have requested a rezoning of 1106 North Augusta Street from P-1, Professional District, to B-1, Local Business District Conditional. The Bodens recently purchased the property and plan to utilize the it as a small fine dining restaurant with short-term guest rooms. According to city real estate records, the most recent use of the property was as the Artist's House Bed and Breakfast. The Bodens propose a 24-seat fine dining restaurant on the first floor, with three guest rooms on the upper floors. There is a cottage on the rear of the property, fronting on Overlook Road, which would be used as two additional guest rooms. The applicants have submitted proffers to limit the use of the property to only:

1. Eating and drinking establishments with seating for no more than 24 guests.
2. Hotel with accommodations including no more than two guest rooms in the main structure and two guest units in the detached cottage fronting on Overlook Road.
3. Accessory buildings and uses customarily incidental to permitted uses.
4. Name plate and sign, as regulated in Staunton City Code Chapter 18.140 and Chapter 18.83.

Staff has conducted an analysis to determine the parking required under the Staunton Zoning Code for the proposed uses. Based on a 24-seat restaurant and five guest rooms (one parking space for every three seats + one parking space for each guest room), it has been determined that 13 parking spaces would typically be required. The property is located within the North Augusta Street Entrance Corridor Overlay Districts (ECO) and in the ECO, parking may be reduced by 10% by either the Planning Commission or the Zoning Administrator. Additionally, another 10% reduction may be given for on-street parking located within 200 feet of the subject property. On-street parking is located on Dover Street, Purviance Street, and Grasty Street. When the two reductions are applied, 11 off-street parking spaces are required. The site can accommodate six parking spaces in front of the main building and there are two existing parking spaces in the rear of the property, adjacent to Overlook Road. Additionally, the Bodens have parking agreements with the two adjoining neighbors for two parking spaces at 1220 North Augusta Street and one at 1104 North

642 Augusta Street, with the potential for more if needed. This provides a total of 11 available off-
643 street parking spaces.

644
645 Staff has considered the request and has identified no issues. The use of the property as proposed
646 will not create excessive traffic. There is adequate off-street and on-street parking to accommodate
647 a restaurant with the limited amount of seating that is proposed. If the rezoning is approved, a
648 building permit will be required for a change of use under the Building Code. A minor site plan,
649 or a site sketch, will be required and will primarily deal with the parking lot layout and entrance
650 off North Augusta Street.

651
652 Surrounding zoning to the north and south is P-1, Professional District, to the west is R-2, Low
653 Density Residential District, and to the east and across North Augusta Street, is B-1, Local
654 Business District.

655
656 The *City of Staunton Comprehensive Plan, 2018-2040, Future Land Use Map* designates this area
657 as Low Density Residential. While the proposed conditional rezoning is not consistent with this
658 designation, it is consistent with the surrounding uses. Staff recommends that this area be evaluated
659 during the next Comprehensive Plan update for a potential change. Given its location on North
660 Augusta Street and the surrounding business uses, Commercial or Professional would be a more
661 appropriate designation.

662
663 Mr. Rhodes concluded by stating that at its July 21, 2023 meeting, the Planning Commission
664 conducted a public hearing, during which three individuals spoke in opposition to the request,
665 citing concerns with traffic, parking, and noise. On a 3-1 vote with one abstaining, the Commission
666 voted to recommend approval of the conditional rezoning.

667
668 Mr. Rhodes noted that there was a minor change in the proffers after the Planning Commission
669 public hearing on the matter. The original application noted that there would be no more than four
670 guest rooms on the upper floors of the main building and one guest room in the cottage. During
671 the Planning Commission meeting, the applicant noted that after conferring with their architect,
672 they would only have three guest rooms in the main building. The applicant has since revised the
673 proffers to include not more than two guest rooms in the main building and two in the cottage.
674 While this is a minor change in the proffers from what the Planning Commission reviewed, such
675 a change is permitted without additional review by the Commission.

676
677 Mayor Claffey asked if Councilmembers had any questions.

678
679 Discussion ensued regarding outdoor seating, lighting, number of tables, and business hours.

680
681 Applicant Ian Boden presented an outline of the proposal, addressing all questions and concerns
682 he had received from neighbors, including: trash, parking, property values, outdoor dining, and
683 noise. Discussion ensued about several of the aforementioned issues.

684
685 Mayor Claffey stated the following:
686

“I will now open the Public Hearing, so if you wish to speak, please approach the podium. We will alternate between individuals physically present and those that have their hands raised via the Zoom platform.”

The public hearing was opened.

Eric Stamer, 212 North Market Street, spoke in support of the applicant and the proposed rezoning.

Thomas McPherson, 232 Williams Street, spoke in opposition to the proposed rezoning and voiced concerns with parking and traffic.

Diedre Armstrong, Augusta County, spoke in support of the applicant and the proposed rezoning.

Ashley Malcom, Augusta County, spoke in support of the applicant and the proposed rezoning.

Ann Jeffrey, 16 Woodland Drive, spoke in support of the applicant and the proposed rezoning.

Pat Stewart, 121 Overlook Road Unit B, spoke in opposition to the proposed rezoning and restaurant.

Hal Perrenot, 121 Overlook Road Unit A, spoke in opposition to the proposed rezoning and restaurant.

Dale Carlson, 123 Overlook Road #11, spoke in opposition to the proposed rezoning and restaurant.

David Jeffrey, 16 Woodland Drive, spoke in support of the applicant and the proposed rezoning.

Robin Miller, 216 Institute Street, spoke in support of the applicant and the proposed rezoning.

Carla Perrenot, 121 Overlook Road Unit A, spoke in opposition to the proposed rezoning and restaurant.

Jenny & Matt Mitchell, Woodland Drive, spoke in support of the applicant and the proposed rezoning.

With there being no one else present wishing to speak, the public hearing was closed.

Mr. Holmes moved that Council adopt the ordinance and approve the conditional rezoning as recommended by the Planning Commission.

The motion was seconded by Mr. Arrowood and carried as follows:

Mr. Robertson	aye	Ms. Edwards	aye
Ms. Woods	aye	Vice Mayor Darby	aye
Mr. Holmes	aye	Mayor Claffey	no
Mr. Arrowood	aye		

Ordinance No. 2023-28

**AN ORDINANCE REZONING
FROM P-1, PROFESSIONAL DISTRICT,
TO B-1, LOCAL BUSINESS DISTRICT CONDITIONAL,
THAT CERTAIN TRACT OR PARCEL OF LAND
LOCATED AT 1106 NORTH AUGUSTA STREET
(PARCEL IDENTIFICATION NUMBER 4735),
STAUNTON, VIRGINIA**

Recitals

G. It appears by deed dated May 24, 2023, recorded in the Clerk's Office of the Circuit Court of the City of Staunton, Virginia, as Instrument Number 230001391, that 1106 N Augusta, LLC, acquired from Lawrence W. Kelley and Robin E. Kelley, Trustees for the Kelley Family Real Estate Trust, what is known by present address numbering as 1106 North Augusta Street and referenced in the deed as all that certain lot or parcel of land containing 16,224 square feet, shown and described on a plat of survey entitled, "Physical Survey, 1106 N. Augusta Street, Staunton, Virginia", with further description provided in the deed, a copy of which is annexed and incorporated herein by reference (**Exhibit A**);

H. Ian and Leslie Boden, acting as 1106 N Augusta, LLC, have applied to the City of Staunton for a zoning classification change, under the provisions of the Staunton City Code ("SCC"), from P-1, Professional District, to B-1, Local Business District Conditional;

I. The proposed conditional rezoning is consistent with the provisions of SCC 18.215.060(1) and 18.215.070 and is necessary so that the applicant may use the property as a 24-seat restaurant with four (4) short term rental units;

J. The Planning Commission of the City of Staunton, after study and review, has properly heard the matter and recommended approval;

K. This matter has been properly advertised, heard, and considered; and

L. These recitals are an integral part of this ordinance.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Staunton, Virginia, that the property known as 1106 North Augusta Street (Parcel Identification Number 4735), in the City of Staunton, Virginia, is **HEREBY REZONED** from P-1, Professional District, to B-1, Local Business District Conditional, on the basis that the rezoning would serve the interests of public necessity, convenience, general welfare, and good zoning practice subject to the following onsite proffers as proposed by the applicant:

Permitted Uses

The uses of the property shall be limited to the following:

1. Eating and drinking establishments with seating for no more than 24 guests.

2. Hotel with accommodations including no more than two (2) guest rooms in the main structure and one (1) guest unit in each of the two the detached Accessory Buildings (2 rooms and 2 units total).
3. Accessory buildings and uses customarily incidental to permitted uses.
4. Name plate and sign, as regulated in SCC Chapter 18.140 and Chapter 18.83.

In all other respects the provision of SCC 18.55, B-1, Local Business District shall apply.

Introduced: August 24, 2023

Adopted: August 24, 2023

Effective Date: August 24, 2023

Signed: STEPHEN W. CLAFFEY, MAYOR

Attest: KILEY A. KESECKER

Clerk of Council

F. Public Hearing and Consideration of a Request by Arcadia Building LLC, for a Special Use Permit Under the Provisions of Staunton City Code 18.60.070(3) to Allow Living and/or Sleeping Quarters on the Ground Level of a Building Located at 119 East Beverley Street

Mr. Rhodes stated that Arcadia Building, LLC (Robin Miller is the LLC's principal) has requested a Special Use Permit to have living quarters on the ground floor of a building located at 119 East Beverley Street. The building, located on north side of East Beverley Street, is in the block between North New and North Market Streets. The building is four stories, 39 feet in width, and approximately 166 feet in length, extending from Beverley Street to an alley in the rear.

The zoning is B-2, General Business District and the property is located within the Beverley Historic District. Mr. Miller purchased the property in June, 2023, and he proposes to restore and redevelop the building with 23 residential units. Seven units would be located on each of the upper three floors and two units are proposed on the ground floor, along with a 3,176 square foot commercial space. The commercial space on the ground floor and the 21 units on the upper three floors are by-right uses; however, the two residential units proposed on the ground floor of the building are permitted only by Special Use Permit. The applicant notes that, "the building is 166' deep which makes it one of the longer buildings in this district. This depth allows for the inclusion of dwelling units at the rear of the ground floor without compromising the commercial frontage along Beverley Street that will be around ~3,000 sf." Furthermore, the applicant states that the restoration project may not be financially feasible without the inclusion of the two residential units on the ground level.

Staff has reviewed the request and does not support the approval of a Special Use Permit. As all surrounding zoning is B-2, General Business District. The property is located on the city's main commercial street in the heart of the downtown business district. The ground floor of buildings in this area should be reserved for commercial use. In the past, staff has supported some special use requests for living quarters on ground floors in the downtown area, but they had limited access/visibility and none of them were on Beverley Street, in the center of downtown.

The *City of Staunton, Virginia, Comprehensive Plan 2018-2040, Future Land Use Map*, designates this area as Commercial, and residential on the ground floor of 119 East Beverley Street is not consistent with this designation.

Mr. Rhodes concluded by stating that at its July 21, 2023 meeting, the Planning Commission conducted a public hearing, during which no one spoke in opposition to the request. The Planning Commission noted that the building is unique for downtown as one of the longest on Beverley Street, and the proposed 3,176 square feet of commercial space is comparable to the commercial space provided by other buildings on the street. On a 5-0 vote, the Commission voted to recommend approval of the Special Use Permit with the following conditions:

1. No more than two residential units may be permitted on the ground floor.
2. Primary access to the ground floor residential units must be from the alley in the rear of the building. No direct access to the residential units is permitted from East Beverley Street.
3. At least 3,000 square feet of floor area on the East Beverley Street side of the ground floor must be reserved for commercial purposes.

Mayor Claffey asked if Councilmembers had any questions.

Mr. Holmes asked if all entrances to the apartments will be in the back. Mr. Rhodes replied that the rear would be the primary access, and the units on the upper floors would have a secondary access from Beverley Street.

Applicant Robin Miller briefly outlined the proposal.

Mr. Holmes asked what the rental rates for a one bedroom apartment will be. Mr. Miller stated that they have not set a number yet, but they will likely be in the range of \$900 to \$1,200 per month.

Councilmembers had no further questions.

Mayor Claffey stated the following:

"I will now open the Public Hearing, so if you wish to speak, please approach the podium. We will alternate between individuals physically present and those that have their hands raised via the Zoom platform."

The public hearing was opened.

With there being no one present wishing to speak, the public hearing was closed.

Vice Mayor Darby moved that Council adopt the resolution and approve the Special Use Permit with conditions, as recommended by the Planning Commission.

The motion was seconded by Mr. Holmes and carried as follows:

Mr. Arrowood	aye	Mr. Holmes	aye
Ms. Edwards	aye	Vice Mayor Darby	aye
Ms. Woods	aye	Mayor Claffey	aye
Mr. Robertson	aye		

**RESOLUTION
OF THE
COUNCIL OF THE CITY OF STAUNTON, VIRGINIA
GRANTING A SPECIAL USE PERMIT FOR PROPERTY LOCATED AT
119 E BEVERLEY STREET (PARCEL IDENTIFICATION NUMBER: 183)**

Recitals

A. Arcadia Building, LLC (Owner), owner of certain land identified as parcel identification number (PID) 183, currently addressed as 119 E. Beverley Street, Staunton (the Property), having acquired the land through a deed dated May 8, 2023 and recorded in the Clerk's Office of the Circuit Court of the City of Staunton as Instrument Number 230001274, is requesting a Special Use Permit to allow two residential units to be constructed in the rear portion on the ground floor of the existing building (the Project);

B. The Owner seeks a Special Use Permit under Staunton City Code (SCC) Section 18.60.070(3)(a) to allow living and sleeping quarters on the ground floor of the building;

C. The Property is located within a B-2, General Business District, which, according to SCC section 18.60.070(3)(a), living and/or sleeping quarters in detached accessory buildings and on the ground and basement levels of main buildings may be permitted on review;

D. The request was evaluated using the criteria established in SCC section 18.60.070(3) as a guide;

E. The Staunton Planning Commission conducted a public hearing concerning the Project, after notice and advertisement as required by law on July 20, 2023;

F. The Staunton Planning Commission considered and recommended approval of the Owner's application for the Project at its July 20, 2023 meeting;

G. Upon consideration of the Staunton Planning Commission's recommendation, the City staff briefing, comments received at the public hearing, as well as the factors set forth within Section 18.60.070 and Chapter 18.210 of the SCC, Staunton City Council finds and determines that granting the proposed Special Use would serve the public necessity, convenience, general welfare and good zoning practice; and

H. These recitals are an integral part of this resolution.

920 **NOW, THEREFORE, BE IT RESOLVED** by the Council of the City of Staunton,
921 Virginia that a Special Use Permit is hereby granted to allow the Project to be established on the
922 Property, subject to the following conditions:
923

- 924 1. No more than two residential units may be permitted on the ground floor.
- 925 2. Access to the ground floor residential units must be from the alley in the rear of the
926 building. No direct access to the residential units is permitted from E. Beverley Street.
- 927 3. At least 3,000 square feet of floor area on the E. Beverley Street side of the ground floor
928 must be reserved for commercial purposes.
929

930 Introduced: August 24, 2023

931 Adopted: August 24, 2023

932 Effective: August 24, 2023
933

934 Signed: STEPHEN W. CLAFFEY, MAYOR
935

936 Attest: KILEY A. KESECKER
937

938 Clerk of Council

939 **G. Public Hearing and Consideration of a Request by Staunton, Augusta, Waynesboro**
940 **Habitat for Humanity, Inc, to Vacate, Discontinue and Abandon a Portion of**
941 **Undeveloped Park Avenue, a 20-Foot-Wide Alley, and a Portion of Undeveloped**
942 **Fourth Street**
943

944 Mr. Rhodes stated that Staunton, Augusta, Waynesboro Habitat for Humanity is seeking to
945 construct 22 single-family attached dwelling units at the end of A Street. As part of that process,
946 Habitat is requesting vacations to a portion of the undeveloped street and alley network in the
947 immediate area of the proposed development. The area, which is known as Staunton Park Addition,
948 was originally platted in Augusta County in 1891 and annexed into the city in 1948.
949

950 A portion of Park Avenue, which does not serve as primary access to any property, would be
951 utilized for stormwater management for the proposed development. No portion of Park Avenue
952 has ever been constructed and it is very unlikely that any portion ever would be constructed.
953

954 A 20-foot alley connects Park Avenue, 4th Street, and A Street. This area would be utilized for a
955 turnaround that will be developed at the end of A Street to serve the development. The alley will
956 not serve any other purpose once the sections of Park Avenue and 4th Street are vacated.
957

958 An undeveloped section of 4th Street would be eliminated as part of the re-platting that will be
959 necessary in order to create lots for the single-family attached dwellings. There is a public sewer
960 line located in the undeveloped street; however, the city has retained an easement for the sewer
961 line.
962

963 The original vacation application included a vacation of a 15-foot portion of the width of the
964 undeveloped end of A Street. The developed portion of A Street, from Hickory to its terminus,
965 was built slightly out of the confines of the right-of-way and encroaches in the front yards of the
966 properties on the east side of the street. When the street is extended, there will need to be a

realignment to get the street back into the center of the right-of-way, or the right-of-way needs to be shifted slightly to the east. The applicant has chosen to shift the right-of-way to the east which will allow for construction of the street in a straight line. The applicant is proposing to vacate 15 feet of width on the west side of the street and, as part of the final plat process, will later dedicate 15 feet of additional right-of-way on the east side. This will ensure that the A Street right-of-way will remain 40 feet in width. At the recommendation of staff, Planning Commission endorsed this portion of the vacation request, but directed that it not be placed on a Council agenda until after the final plat has been prepared creating the townhouse lots and dedicating the additional A Street right-of-way. The A Street portion of the vacation will come before Council at a later date, along with the final plat.

Mr. Rhodes concluded by stating that at its June 15, 2023 meeting, the Planning Commission conducted a public hearing, during which three people spoke in opposition to the request. Those that spoke expressed concerns with the added traffic that 22 new dwellings would bring to the narrow streets in the area. On a 5-0 vote, the Commission voted to recommend approval of the vacations.

Lance Barton, Executive Director for Habitat for Humanity, was present to answer questions.

Councilmembers had no questions.

Mayor Claffey stated the following:

"I will now open the Public Hearing, so if you wish to speak, please approach the podium. We will alternate between individuals physically present and those that have their hands raised via the Zoom platform."

The public hearing was opened.

Brenda Mead, 342 Sherwood Avenue, spoke in support of Habitat for Humanity and the proposed vacations.

With there being no one else present wishing to speak, the public hearing was closed.

Mr. Arrowood moved that Council adopt the three separate ordinances and approve the vacations as recommended by the Planning Commission.

The motion was seconded by Mr. Robertson and carried as follows:

Mr. Holmes	aye	Ms. Woods	aye
Mr. Robertson	aye	Vice Mayor Darby	aye
Mr. Arrowood	aye	Mayor Claffey	aye
Ms. Edwards	aye		

Ordinance No. 2023-29

**AN ORDINANCE
CLOSING, VACATING, DISCONTINUING AND ABANDONING A PORTION OF
UNOPENED PARK AVENUE
LOCATED BETWEEN LOTS 1, 4, 6, 8, 10, 12, AND 14, BLOCK 8, STAUNTON PARK
AND GYPSY HILL PARK**

Recitals

A. An application for street vacation has been filed by Staunton Augusta Waynesboro Habitat for Humanity, Inc., pursuant to § 15.2-2006 of the Code of Virginia, 1950, as amended, to have all of that certain portion of the street right of way as hereinafter described, vacated and abandoned by the City of Staunton, Virginia;

B. The subject portion of the street was initially platted in 1891, and corrected in 1916, and was never accepted by the City as part of its public street system;

C. Staunton Augusta Waynesboro Habitat for Humanity, Inc. is the owner of Block 8, Lots 12 and 14 of Staunton Park, identified as City of Staunton Parcel Identification Numbers (PID) 1180 and 4399 respectively; Anthony Mancuso, et al. are the owners of Block 8, Lot 10 (Rev) (PID 11562); Drake Thorne, et al. are the owners of Block 8 Lots 8 and 9 (PID 2352); Fred Jones, et al. are the owners of Block 8, Lots 6 & 7 (PID 4255); Mason Kilbourn, et al. are the owners of Block 8, Lots 4 and 5 (PID 3547); Edward Judkins is the owner of Block 8, Lots 1, 2, and 3 (PID 4346); and the City of Staunton is the owner of Gypsy Hill Park. Staunton Augusta Waynesboro Habitat for Humanity, Inc. seeks to close the portion of unopened Park Avenue located along their property, the Mancuso property, the Thorne property, the Jones property, the Kilbourn property, the Judkins property, and the City of Staunton's Gypsy Hill Park;

D. The requirements of § 15.2-2006 of the Code of Virginia have been met along with those of § 15.2-2204 of the Code of Virginia;

E. At its regular meeting on June 15, 2023 the Planning Commission of the City of Staunton, Virginia, after study and review, properly heard the matter and recommended approval of vacating said portion of the street;

F. This matter has been properly advertised, heard, and considered; and,

G. These recitals are an integral part of this ordinance.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Staunton, Virginia, that the City hereby **CLOSES, VACATES, DISCONTINUES** and **ABANDONS** the portion of the street described as follows:

The portion of Park Avenue varying in width and running in length
622.94' adjoining Block 8, Lots 1, 4, 6, 8, 10(Rcv), 12, and 14,
Staunton Park and the City of Staunton's Gypsy Hill Park.

with reservation to the City of Staunton of any existing utility lines located in the street, with
ownership of the area of the vacated street determined in accordance with applicable law.

Introduced: August 24, 2023

Adopted: August 24, 2023

Effective: August 24, 2023

Signed: STEPHEN W. CLAFFEY, MAYOR

Attest: KILEY A. KESECKER
Clerk of Council

Ordinance No. 2023-30

**AN ORDINANCE
CLOSING, VACATING, DISCONTINUING AND ABANDONING AN
UNOPENED ALLEY
LOCATED BETWEEN LOTS 16 AND 21, BLOCK 8, STAUNTON PARK
AND GYPSY HILL PARK**

Recitals

A. An application for street vacation has been filed by Staunton Augusta Waynesboro Habitat for Humanity, Inc., pursuant to § 15.2-2006 of the Code of Virginia, 1950, as amended, to have all of that certain portion of the street right of way as hereinafter described, vacated and abandoned by the City of Staunton, Virginia;

B. The subject portion of the street was initially platted in 1891, and corrected in 1916, and was never accepted by the City as part of its public street system;

C. Staunton Augusta Waynesboro Habitat for Humanity, Inc. is the owner of Block 8, Lots 14 through 16 of Staunton Park, identified as City of Staunton Parcel Identification Number (PID) 4399, and the City of Staunton is the owner of Block 8, Lot 21 of Staunton Park and the owner of Gypsy Hill Park. Staunton Augusta Waynesboro Habitat for Humanity, Inc. seeks to close the portion of the unopened Alley 20' in width located along their property and the City of Staunton property consisting of an area of approximately twenty feet (20') in width and one-hundred, forty-eight and thirty hundredths feet (148.30') in length and one-hundred, eighty-nine and sixty-five hundredths feet (189.65') in length;

D. The requirements of § 15.2-2006 of the Code of Virginia have been met along with those of § 15.2-2204 of the Code of Virginia;

E. At its regular meeting on June 15, 2023 the Planning Commission of the City of

Staunton, Virginia, after study and review, properly heard the matter and recommended approval of vacating said portion of the street;

F. This matter has been properly advertised, heard, and considered; and,

G. These recitals are an integral part of this ordinance.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Staunton, Virginia, that the City hereby **CLOSES, VACATES, DISCONTINUES** and **ABANDONS** the portion of the street described as follows:

The portion of an unopened Alley 20' wide street running a distance of 148.30' feet in length and 189.65' in length adjoining Block 8, Lot 16 and 21, Staunton Park and a portion of Gypsy Hill Park.

with reservation to the City of Staunton of any existing utility lines located in the street, with ownership of the area of the vacated street determined in accordance with applicable law.

Introduced: August 24, 2023

Adopted: August 24, 2023

Effective: August 24, 2023

Signed: STEPHEN W. CLAFFEY, MAYOR

Attest: KILEY A. KESECKER
Clerk of Council

Ordinance No. 2023-31

**AN ORDINANCE
CLOSING, VACATING, DISCONTINUING AND ABANDONING A PORTION OF
UNOPENED 4th STREET
LOCATED BETWEEN LOT 1, BLOCK 1, STAUNTON PARK AND
LOT 35, BLOCK 9, STAUNTON PARK AND BETWEEN LOTS 16 AND 17, BLOCK 8
AND LOT 21, BLOCK 8**

Recitals

A. An application for street vacation has been filed by Staunton Augusta Waynesboro Habitat for Humanity, Inc., pursuant to § 15.2-2006 of the Code of Virginia, 1950, as amended, to have all of that certain portion of the street right of way as hereinafter described, vacated and abandoned by the City of Staunton, Virginia;

B. The subject portion of the street was initially platted in 1891, and corrected in 1916, and was never accepted by the City as part of its public street system;

C. Staunton Augusta Waynesboro Habitat for Humanity, Inc. is the owner of Block 8,

Lots 16 and 17, and Block 9, Lot 35 of Staunton Park, identified as City of Staunton Parcel Identification Number (PID) 4399, and the City of Staunton is the owner of Block 1, Lot 1 and Block 8 Lot 21 of Staunton Park. Staunton Augusta Waynesboro Habitat for Humanity, Inc. seeks to close the portion 50' in width, of the unopened 4th Street located along their property and the City of Staunton, consisting of an area of approximately fifty feet (50') in width and one hundred, twenty-eight and twenty-five hundredths feet (128.25') in length and an area of approximately fifty feet (50') in width and sixty-four and seventy-nine hundredths feet (64.79') in length on the southwestern side and ninety and seventy-two hundredths feet (90.72') on the northeastern side;

D. The requirements of § 15.2-2006 of the Code of Virginia have been met along with those of § 15.2-2204 of the Code of Virginia;

E. At its regular meeting on June 15, 2023 the Planning Commission of the City of Staunton, Virginia, after study and review, properly heard the matter and recommended approval of vacating said portion of the street;

F. This matter has been properly advertised, heard, and considered; and,

G. These recitals are an integral part of this ordinance.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Staunton, Virginia, that the City hereby **CLOSES, VACATES, DISCONTINUES** and **ABANDONS** the portion of the street described as follows:

The portion of a 50 foot wide street running a distance of 128.25' feet adjoining Block 1, Lot 1 and Block 9, Lot 35, Staunton Park, and the portion of a 50 foot wide street running a distance of 64.79' on the southwestern side and a distance of 90.72' on the northeastern side adjoining Block 8, Lots 16, 17, and 21.

with reservation to the City of Staunton of any existing utility lines located in the street, with ownership of the area of the vacated street determined in accordance with applicable law.

Introduced: August 24, 2023

Adopted: August 24, 2023

Effective: August 24, 2023

Signed: STEPHEN W. CLAFFEY, MAYOR

Attest: KILEY A. KESECKER
Clerk of Council

H. Presentation on Uniontown Neighborhood Action Plan

Mr. Rhodes stated that earlier this year, the city engaged the services of EPR, PC, to assist in the creation of a neighborhood plan for the area known as Uniontown.

Will Cockrell from EPR presented the final draft of the Uniontown Neighborhood Action Plan to Council.

Mayor Claffey asked if Councilmembers had any questions or comments.

Ms. Edwards asked what the low cost, low investment items that could be addressed quickly. Mr. Cockrell stated that things like community cleanup, rezoning, and documenting, communicating, and celebrating the community's history are all things that can happen very soon.

Councilmembers had no further questions or comments.

Mr. Robertson moved to request the Staunton Planning Commission to prepare an amendment to the City of Staunton's Comprehensive Plan. This proposed amendment shall incorporate the Uniontown Neighborhood Action Plan as an addendum to the City of Staunton's Comprehensive Plan. The Staunton Planning Commission shall conduct a public hearing on this proposed amendment within the next ninety days pursuant to Virginia Code Section 15.2-2229.

The motion was seconded by Ms. Woods and carried as follows:

Mr. Robertson	aye	Mr. Holmes	aye
Ms. Edwards	aye	Vice Mayor Darby	aye
Ms. Woods	aye	Mayor Claffey	aye
Mr. Arrowood	aye		

I. Update on Juvenile & Domestic Relations Court Facility West End Project

Ms. Beauregard and Director of Public Works Jeff Johnston provided the first of many updates on the Juvenile & Domestic Relations Court Facility West End Project.

MATTERS FROM THE CITY MANAGER

There were no matters from the City Manager.

MATTERS FROM THE PUBLIC

Mayor Claffey read the following statement:

"This part of City Council's agenda is entitled matters from the public. It is a time that Council sets aside to hear from citizens and others about a wide variety of subjects. A copy of the Staunton City Council's 'Matters from the Public' rules are available in paper form at the Clerk's desk and online at the City of Staunton webpage. You are asked to familiarize yourself with those rules before commenting. Please come to the podium or begin your call, identify yourself and complete your remarks within five minutes."

Ophie Kier, 301 Yount Avenue, thanked Council and staff for moving forward with Uniontown, and announced a neighborhood cleanup that would take place on October 28 in Uniontown.

1249 Catherine Barnes, 216 North Madison Street, spoke on the hardships the residents of Uniontown
1250 have endured.

1251
1252 Stuart Gaines, no address given, shared some of the history of Uniontown and the surrounding
1253 area.

1254
1255 Cindy Connors, 106A Skyline Avenue, shared excitement about everything that happened during
1256 the meeting that night.

1257
1258 Barbara Lee, 904 Rockway Street, thanked the city for putting up the banner downtown welcoming
1259 back Mary Baldwin students.

1260
1261 There was no one else wishing to speak.

1262
1263 **ADJOURNMENT**

1264
1265 There being no further business to come before Council, the meeting adjourned at 9:55 p.m.

1266
1267
1268
1269
1270
1271

Kiley A. Kesecker
Clerk of Council

Ordinance No. 2023- 25
AN ORDINANCE TO AMEND
THE FY2024 BUDGET ORDINANCE
FOR THE CITY OF STAUNTON
BY ADDING BUDGET AMENDMENT NUMBER ONE

BE IT ORDAINED, by the City Council of the City of Staunton, Virginia, that the FY2024 Budget is amended as follows:

GENERAL FUND

Anticipated Revenue

General Revenue	\$	1,200,000
Capital Grants and Contributions		<u>115,643</u>
Total Revenue	\$	1,315,643

Appropriations

Public Safety	\$	115,643
Transfers to Other Funds		<u>1,200,000</u>
Total Appropriations	\$	1,315,643

CITY CAPITAL IMPROVEMENTS FUND

Anticipated Revenue

Transfer from the General Fund	\$	1,200,000
State Aid	\$	1,351,524
Recovered Cost	\$	<u>6,262,595</u>
Total Revenue	\$	8,814,119

Appropriations

Capital Projects	\$	<u>8,814,119</u>
Total Appropriations	\$	8,814,119

GRAND TOTAL BUDGET AMENDMENT NO 1	\$	10,129,762
--	-----------	-------------------

INTRODUCED: July 27, 2023

PUBLIC HEARING: July 27, 2023

Public Hearing Advertisement Date: July 20, 2023

Approved this 24th day of August, 2023

Effective Date: August 24, 2023

CERTIFIED: _____

ATTEST: _____

Kiley Kesecker

Clerk of Council

Stephen W. Claffey

Mayor of Council

CITY OF STAUNTON			
FY 2024 BUDGET AMENDMENT NO. 1			
		AMOUNT	
	LEDGER CODE	REVENUE	EXPENDITURE
GENERAL FUND			
PUBLIC SAFETY			
<u>POLICE DEPARTMENT</u>			
DCJS Grant Revenue	11033-45559-53500	\$ 87,705	
Full Time Salaries	11033110-51006-53500		\$ 61,939
Group Life VRS	11033110-52001-53500		\$ 830
Health Insurance	11033110-52005-53500		\$ 7,602
Social Security FICA	11033110-52010-53500		\$ 4,738
Retirement VRS	11033110-52020-53500		\$ 10,697
Worker's Comp	11033110-52025-53500		\$ 1,869
Unemployment	11033110-52030-53500		\$ 30
To appropriate the SRO Incentive Grant Program			
<u>FIRE DEPARTMENT</u>			
Fire Programs fund grants	11033-45525	\$ 27,938	
Fire Programs funds expenditures	11033290-55639		\$ 27,938
To appropriate additional fire programs grant funds			
TRANSFERS TO OTHER FUNDS			
<u>CAPITAL IMPROVEMENTS</u>			
Appropriation of Prior Year Unassigned Fund Balance	11001-41930	\$ 1,200,000	
Transfer to the City Capital Improvements Fund	11099600-59339		\$ 1,200,000
To designate remaining FY22 prior year carryover for West End Complex and Regional Animal Shelter			
TOTAL GENERAL FUND		\$ 1,315,643	\$ 1,315,643

BUDGET AMENDMENT NO. 1 GENERAL FUND SUMMARY

GENERAL FUND REVENUE SUMMARY

<u>General Revenues</u>		
Appropriation of Prior Year Fund Balance		\$ 1,200,000
Transfer to the Capital Improvements Fund	1,200,000	
<u>Non-Capital Grants and Contributions</u>		115,643
Police Department	87,705	
Fire Department	27,938	
Total General Fund Revenues		\$ 1,315,643

GENERAL FUND EXPENDITURE SUMMARY

Public Safety		\$ 115,643
Transfer to Other Funds		1,200,000
Total General Fund Expenditures		\$ 1,315,643

CITY OF STAUNTON			
FY 2024 BUDGET AMENDMENT NO. 1			
		AMOUNT	
	LEDGER CODE	REVENUE	EXPENDITURE
CITY CAPITAL IMPROVEMENTS FUND			
Transfer from the General Fund	39001-49211	\$ 1,200,000	
JDR Courthouse/West End Complex	39044210-58529		\$ 424,000
Regional Animal Shelter	39033510-58486		\$ 776,000
To appropriate transfer from GF Fund Balance for capital projects			
State Aid-VDOT Funds	39044-45425	\$ 1,111,524	
Pedestrian Infrastructure Improvements	39044130-58532		\$ 1,111,524
To appropriate VDOT VHSIP funds for Pedestrian Infrastructure Improvements			
State Grant Revenue	39033-46229-73631	\$ 240,000	
E911 Emergency Communications-Grant funds	39033140-58467-73631		\$ 240,000
To appropriate the VDEM Grant for the radio project			
Augusta County Cost Recovery	39001-41901-73612	\$ 147,728	
City of Waynesboro Cost Recovery	39001-41901-73613	\$ 58,036	
Regional P25 Radio System - Augusta County share	39033140-58467-73612		\$ 147,728
Regional P25 Radio System - Waynesboro share	39033140-58467-73613		\$ 58,036
To appropriate the Augusta Co and Waynesboro shared of the Regional Radio Project <u>Consulting</u> (after the grant)			
Augusta County Cost Recovery	39001-41901-73612	\$ 4,016,470	
City of Waynesboro Cost Recovery	39001-41901-73613	\$ 1,577,899	
Regional P25 Radio System - Augusta County share	39033140-58467-73612		\$ 4,016,470
Regional P25 Radio System - Waynesboro share	39033140-58467-73613		\$ 1,577,899
To appropriate the Augusta Co and Waynesboro shared of the Regional Radio Project <u>Infrastructure</u>			
Augusta County Cost Recovery	39001-41901-73612	\$ 332,024	
City of Waynesboro Cost Recovery	39001-41901-73613	\$ 130,438	
Regional P25 Radio System - Augusta County share	39033140-58467-73612		\$ 332,024
Regional P25 Radio System - Waynesboro share	39033140-58467-73613		\$ 130,438
To appropriate the Augusta Co and Waynesboro shared of the Regional Radio Project <u>Contingency</u>			
TOTAL CAPITAL IMPROVEMENTS FUND		\$ 8,814,119	\$ 8,814,119

FY 2024 BUDGET AMENDMENT NO. 1 SUMMARY

CITY GOVERNMENT FUNDS	
GENERAL FUND	\$ 1,315,643
CAPITAL IMPROVEMENTS FUND	\$ 8,814,119
TOTAL CITY GOVERNMENT FUNDS	\$ 10,129,762
TOTAL FY2024 BUDGET AMENDMENT NO. 1	\$ 10,129,762

CITY COUNCIL



AGENDA BRIEFING

Staunton, Virginia

Meeting Date:	September 14, 2023	Jessie L. Moyers Chief Financial Officer
Item #	A.2.	
Department:	Finance	
Alignment with Staunton Plan (Value/Strategic Area):	Value: Excellence Strategic Area: Responsible, Efficient Government	
Subject:	Approval of Transfer of Already Appropriated Funds within the Capital Improvement Fund	

Background: The item before City Council is approval of transfer of already appropriated funds between projects in the Capital Improvement Fund. Approval of these transfers can be accomplished in one meeting, September 14, 2023, since this is a transfer of previously appropriated funds rather than an appropriation of funds.

An additional \$20,450 of ARPA funding will be transferred into the library roof project. The project exceeded the original estimate of \$375,000 by this amount. The funds will come from the ARPA funding set aside for the purchase of two dump trucks for the Public Works department. The two trucks combined came in under budget by \$23,572. The difference of \$3,122 will be transferred to the JDR Courthouse/West End Complex Project.

Summary of the proposed transfers:

Project	Account	Increase	Decrease
Library Roof Replacement	39044210-58525-ARPA	20,450	
JDR Courthouse/West End Complex Project	39044210-58529-ARPA	3,122	
PW Dump Trucks	39044130-58505-ARPA		(23,572)

Attachment: Not applicable.

City Manager's Recommendation: Recommends the approval of the transfer of already appropriated funds within the Capital Improvement Fund.

Suggested Motion: I move to approve the transfer of already appropriated funds within the Capital Improvement Fund, as presented.

City Manager: Leslie Beauregard

CITY COUNCIL



AGENDA BRIEFING

Staunton, Virginia

Meeting Date:	September 14, 2023	Staff Members: Rodney Rhodes Tim Hartless
Item #	B	
Department:	Community Development— Planning and Zoning	
Alignment with Staunton Plan (Value/Strategic Area):	Strategic Areas: Infrastructure, Responsive, Efficient Government	
Subject:	Public Hearing and Consideration of a Request by David Wilson to Rezone 537 Calvert Street from B-2, General Business District to R-2, Low Density Residential District	

Background: David Wilson is requesting a rezoning of 537 Calvert Street from B-2, General Business District, to R-2, Low Density Residential District. The property contains a 1,419 square foot detached single-family dwelling on a 0.38 acre parcel on the east side of Calvert Street. The City records do not indicate the age of the structure, but the house appears on the Sanborn Insurance Maps in 1914. The area was annexed into the City in 1905.

The structure appears to have been built as a single-family dwelling and has been zoned B-2, General Business District since the City's comprehensive rezoning of the late 1960s. This is not an area that was identified by the Planning Commission for a comprehensive rezoning during the 2010 update to the Comprehensive Plan. As a result, this area is not scheduled for any City initiated rezoning's. Mr. Wilson purchased the property in 2012 and is now in the process of selling the property and the requested rezoning will help the purchasers obtain financing.

A current zoning map, proposed rezoning map, and recommended land use map of the requested area are attached.

Analysis: City staff conducted a review of the proposed rezoning, during which it did not identify any issues.

Calvert Street is a short street beginning at its intersection with E Gay Street and ending with its terminus in a cul-de-sac. The street was previously part of Greenville Avenue until improvements were made in the 1940s and a new Greenville Avenue was built slightly to the west of the original alignment.

Surrounding zoning is all B-2, General Business District. The area contains numerous other non-conforming dwellings.

The “Generalized Land Use and Development Guide, Future Land Use Map” *Staunton, Virginia, Comprehensive Plan 2018 – 2040*, designates this area as Medium Density Residential. The proposed rezoning is for R-2, Low Density Residential District. This area includes mostly detached single-family dwellings and the R-2, Low Density Residential zoning is more consistent with the actual use of the area. In 2020, Planning Commission recommended, and City Council approved, a rezoning of 550 Calvert Street to R-2, Low Density Residential District. Staff recommends that this area be evaluated in the future for a mass rezoning to R-2, Low Density Residential District.

Planning Commission Recommendation:

At its August 17, 2023 meeting, the Planning Commission conducted a public hearing. During the public hearing no one spoke in opposition to the request. On a 5-0 vote, the Commission unanimously voted to recommend approval of the rezoning.

Attachments:

Attachment 1—Application and Supporting Documents

Attachment 2—Vicinity Map: 537 Calvert Street

Attachment 3—Current Zoning Map: 537 Calvert Street

Attachment 4—Proposed Zoning Map: 537 Calvert Street

Attachment 5—2018 Future Land Use Map: 537 Calvert Street

Attachment 6—Draft Ordinance

Suggested Motion (to be made after the public hearing is conducted): I move that Council adopt the ordinance and approve the rezoning as recommended by the Planning Commission.

City Manager: Leslie Beauregard



COMMUNITY DEVELOPMENT
Planning & Zoning Division

Applicant: DAVID W Wilson Date: 7/19/2023
Address: 302 Alpine Road Staunton, VA 24401
Telephone #: Primary: 540 280 3810 Secondary: _____
Email address: DAVIDW_Wilson@outlook.com

If the applicant is NOT the owner of the property in question, explain. A copy of a pending contract or option agreement shall be attached hereto and made a part of this application.

Name of person to be notified in addition to the applicant and/or property owner:

Name: _____
Address: _____
Phone #: _____
Email address: _____

Location of property: 537 Calvert St Staunton VA 24401

Legal description of property: LOT 12 BLK EE

Purpose of request: OBTAIN mortgage for purchaser of property

Map Provided: YES ☒ NO ☐

Present zoning classification of property: B2 - General Business

Requested zoning classification: R-2 Low Density Residential

List permits pending approval of this rezoning: N/A

Fee Paid (\$250) YES ☒ NO ☐ *check or cash only

Applicant must provide 19 copies of complete application

Signature of applicant: _____
(Owner / Agent)

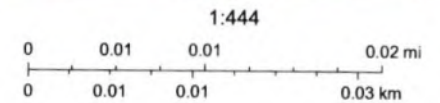


537 Calvert Street Location Map



7/19/2023, 1:14:52 PM

- Lot_Lines
- City Limits
- Road Centerline
- Green: Band_2
- Lot_Numbers
- Tax Parcels
- 2022 Imagery
- Blue: Band_3
- AddressPoints
- Red: Band_1



Esri, HERE, Garmin, (c) OpenStreetMap contributors, Source: Esri, Maxar, Earthstar Geographics, and the GIS User Community

For Information Purposes Only. Data owned by the City of Staunton and ESRI.

PG0028 FEB 23 12**SCHEDULE A**

All that certain tract or parcel of land, together with all improvements thereon and all rights, privileges and appurtenances thereunto pertaining, located and situated in the City of Staunton, Virginia, known by present house numbering as 537 Calvert Street, said lot fronting fifty (50) feet on the Old Greenville Road, (now Calvert Street) and extending back to Western State Hospital, the rear of said lot having a width of 34 feet and bounded on the north by the property now or formerly owned by Armistead Taylor, the northern line of said lot having a length of 331 feet, 4 inches, less however, a strip of land off of the front, which was conveyed by R. A. Myers to the City of Staunton, by deed dated June 11, 1911, of record in the Clerk's Office of the Circuit Court of the City of Staunton in Deed Book 21, Page 588, for purposes of widening the street.

Property Address: 537 Calvert Street Staunton, Va. 24401

This conveyance is made subject to all restrictions, easements, and rights of way of record affecting the aforesaid real estate.

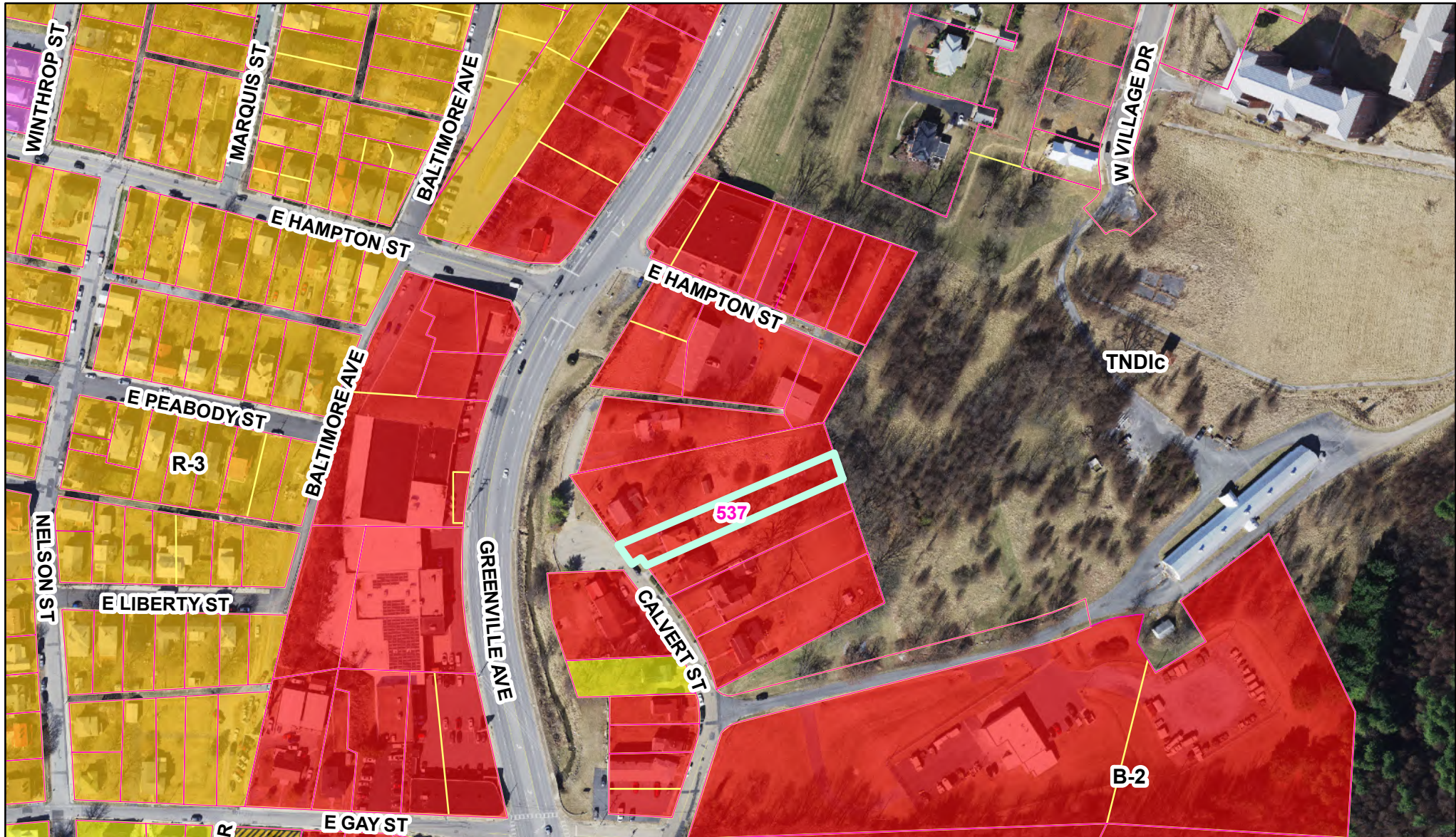
Vicinity Map: 537 Calvert St

Attachment 2



Current Zoning: 537 Calvert St

Attachment 3



Zoning

- B-1
- B-1(conditional)
- B-2
- B-2(conditional)

- B-3
- B-5
- HE-1
- I-1

- I-1(conditional)
- I-2
- I-2(conditional)
- I-3(conditional)
- P-1

- P-1(conditional)
- R-1
- R-2
- R-2(conditional)
- R-3

- R-3(conditional)
- R-4
- R-4(conditional)

Additional Layers

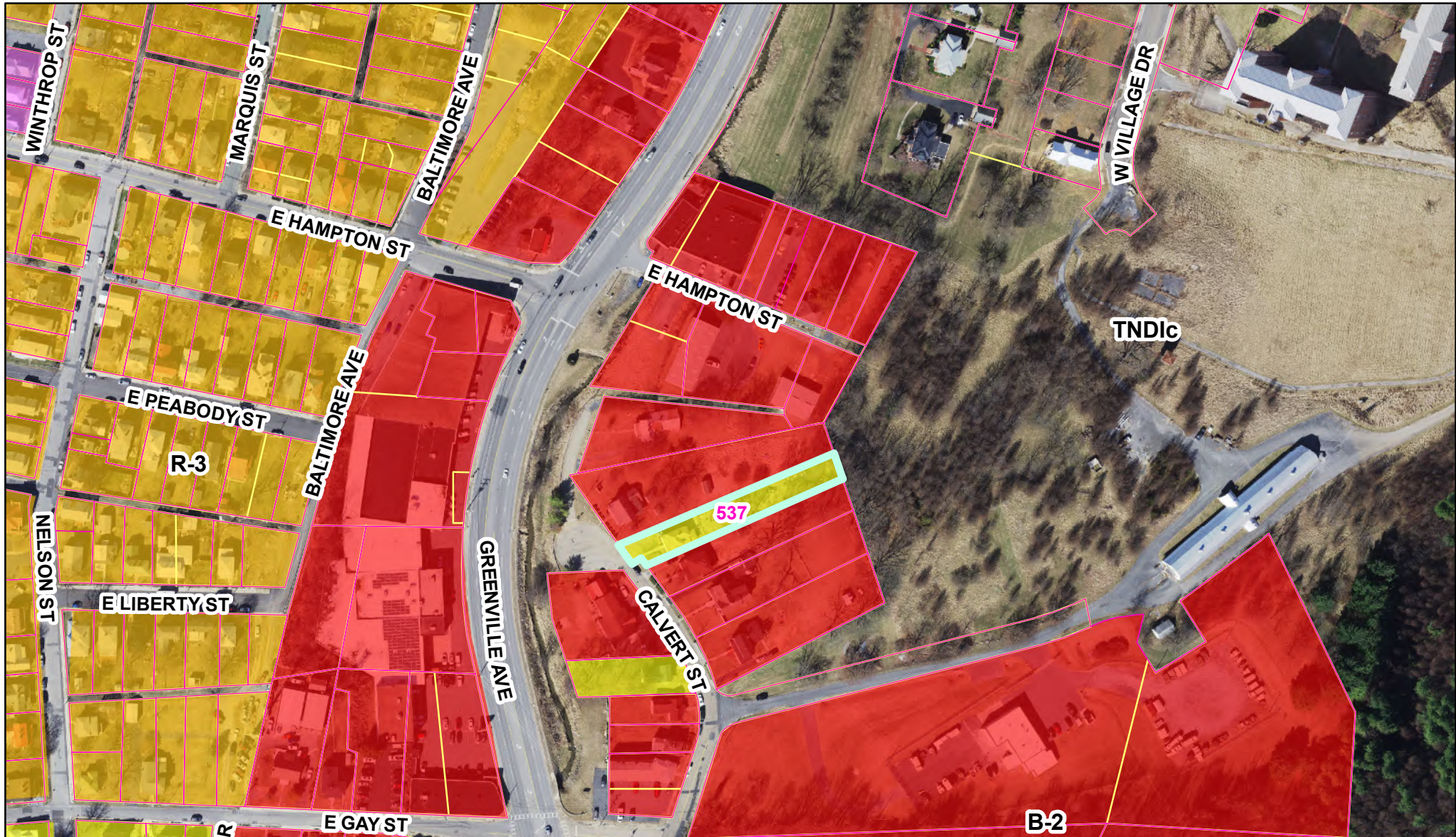
- Selected Property
- Parcels
- Lot_Lines



0 100 200 400 Feet

Proposed Rezoning: 537 Calvert St

Attachment 4



Zoning

B-1
B-1(conditional)
B-2
B-2(conditional)

B-3
B-5
HE-1
I-1

I-1(conditional)
I-2
I-2(conditional)
I-3(conditional)
P-1

P-1(conditional)
R-1
R-2
R-2(conditional)
R-3

R-3(conditional)
R-4
R-4(conditional)

Additional Layers

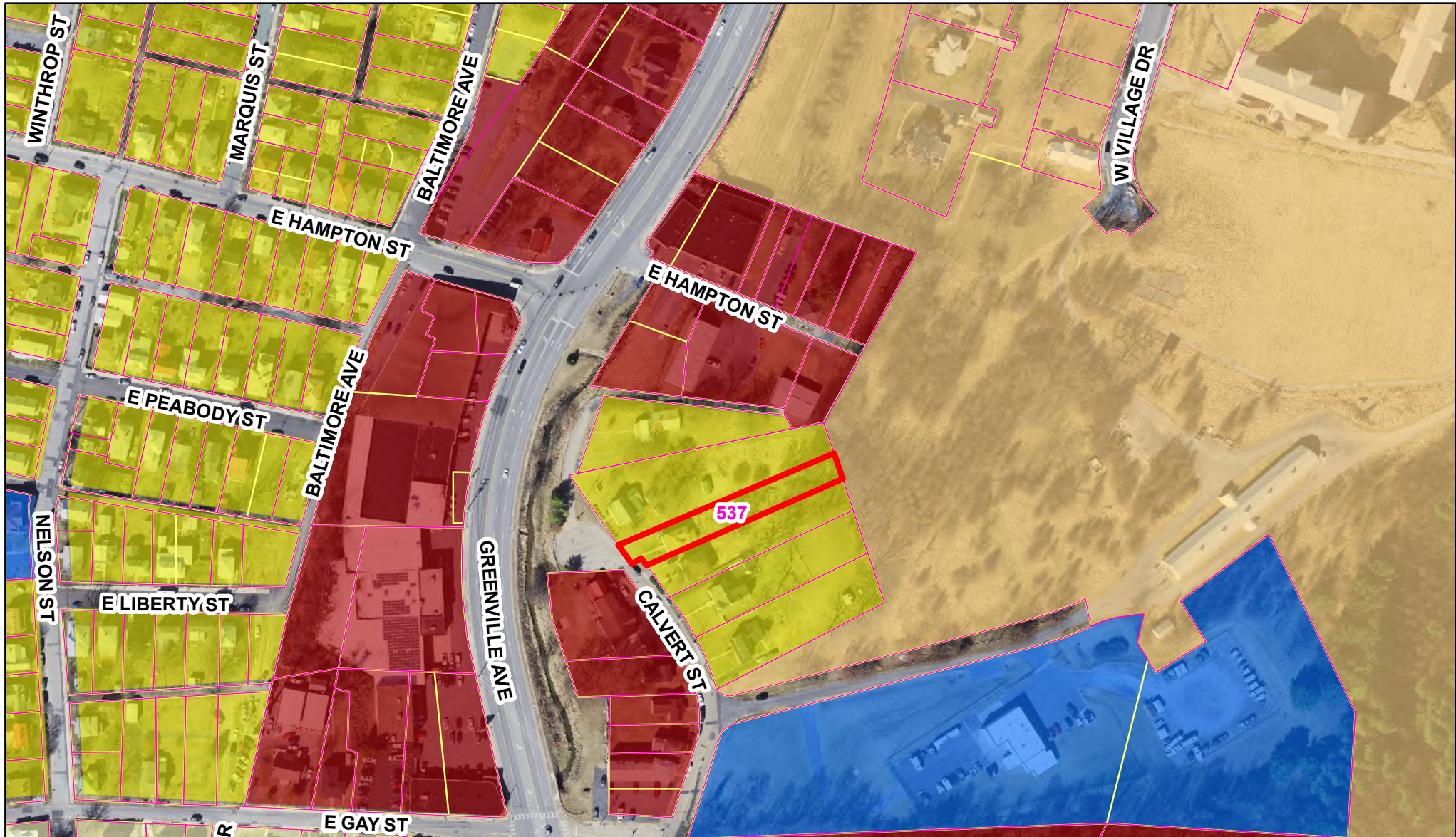
Selected Property
Parcels
Lot_Lines



0 100 200 400 Feet

Future Land Use: 537 Calvert St

Attachment 5



Future Land Use

- CONSERVATION/RECREATION/OPEN SPACE
- PLANNED FARM DEVELOPMENT
- PUBLIC/SEMI-PUBLIC

- LOW DENSITY RESIDENTIAL
- MEDIUM DENSITY RESIDENTIAL
- MEDIUM DENSITY PLANNED RESIDENTIAL
- HIGH DENSITY RESIDENTIAL

- TRADITIONAL NEIGHBORHOOD DEVELOPMENT
- LOW DENSITY PLANNED RESIDENTIAL
- NEIGHBORHOOD RESIDENTIAL
- PROFESSIONAL

- PLANNED BUSINESS
- BUSINESS
- PLANNED INDUSTRIAL
- LIGHT INDUSTRIAL
- HEAVY INDUSTRIAL

Additional Layers

- Selected Property
- Parcels
- Lot_Lines



0 100 200 400 Feet

Ordinance No. 2023-____

**AN ORDINANCE REZONING
FROM B-2, GENERAL BUSINESS DISTRICT,
TO R-2, LOW DENSITY RESIDENTIAL DISTRICT,
A PORTION OF THAT CERTAIN TRACT OR PARCEL OF LAND
LOCATED AT 537 CALVERT STREET
(PARCEL IDENTIFICATION NUMBER 1015),
STAUNTON, VIRGINIA**

Recitals

A. It appears by deed dated April 6, 2012, recorded in the Clerk's Office of the Circuit Court of the City of Staunton, Virginia, as Instrument Number 120000911, that David W. Wilson, acquired from Federal Home Loan Mortgage Corporation, what is known by present numbering as 537 Calvert Street with further description provided in the deed, a copy of which is annexed and incorporated herein by reference (**Exhibit A**);

B. David .W Wilson, has applied to the City of Staunton for a zoning classification change, under the provisions of the Staunton City Code, from B-2, General Business District, to R-2, Low Density Residential District;

C. The proposed rezoning is consistent with the provisions of SCC 18.215.060(1) and is necessary so that the owner may sell the property and the purchaser may obtain financing;

D. The Planning Commission of the City of Staunton, after study and review, has properly heard the matter and recommended approval;

E. This matter has been properly advertised, heard, and considered; and

F. These recitals are an integral part of this ordinance.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Staunton, Virginia, that the property known as 537 Calvert Street (Parcel Identification Number 1015), in the City of Staunton, Virginia, is **HEREBY REZONED** from B-2, General Business District, to R-2, Low Density Residential District, on the basis that the rezoning would serve the interests of public necessity, convenience, general welfare, and good zoning practice.

Introduced:

Adopted:

Effective Date:

Stephen W. Claffey, Mayor

ATTEST: _____

Kiley A. Kesecker,
Clerk of Council

120000911

After recording return to:
 Top Notch Title, LLC
 410 N. Center Drive, Suite 200
 Norfolk, Virginia 23502
 File#: 71-01028112

PG0005 APR 25 12

CONSIDERATION \$ 24,500.00
 ASSESSMENT \$ 69,700.00
 Title Insurance Underwriter unknown to preparer

FEDERAL HOME LOAN MORTGAGE CORPORATION

TO

TAX EXEMPT PURSUANT TO
 12USCS§1452(e)

DAVID W. WILSON

SPECIAL WARRANTY DEED

THIS DEED, made this 6th day of April, 2012, by and between **FEDERAL HOME LOAN MORTGAGE CORPORATION, Grantor**, party of the first part; and **DAVID W. WILSON, Grantee**, party of the second part, whose address is: **537 Calvert Street, Staunton, VA 24401-4752**.

WITNESSETH:

That for and in consideration of the sum of Ten Dollars (\$10.00), cash in hand paid, and other good and valuable consideration, the receipt of which is hereby acknowledged, the said party of the first part doth hereby bargain, sell, grant and convey, with SPECIAL WARRANTY, unto DAVID W. WILSON, Grantee, party of the second part, the following described property, to-wit:

All that certain tract or parcel of land, together with all improvements thereon and all rights, privileges and appurtenances thereunto pertaining, located and situated in the City of Staunton, Virginia, known by present house numbering as 537 Calvert Street, said lot fronting fifty (50) feet on the Old Greenville Road, (now Calvert Street) and extending back to Western State Hospital, the rear of said lot having a width of 34 feet and bounded on the north by the property now or formerly owned by Armistead Taylor, the northern line of said lot having a length of 331 feet, 4 inches, less however, a strip of land off of the front, which was conveyed by R. A. Myers to the City of Staunton, by deed dated June 11, 1911, of record in the Clerk's Office of the Circuit Court of the City of Staunton in Deed Book 21, Page 588, for purposes of widening the street.

Title Insurance issued by: WFG National Title Insurance

GPIN/TAX ID #1015
 Prepared by Samuel I. White, P.C.
 File #75-001991-12

PG00006 APR 25 12

IT BEING the same property conveyed unto the grantor herein by deed of Samuel I. White, P.C., a Virginia Professional Corporation, Substitute Trustee, and BANK OF AMERICA, N.A., dated January 23, 2012 and duly recorded in the aforesaid Clerk's Office as Instrument No. 120000394.

This conveyance is made subject to all restrictions, easements and rights of way of record affecting the aforesaid real estate.

IN WITNESS WHEREOF, **FEDERAL HOME LOAN MORTGAGE CORPORATION** has caused this to be executed in its name pursuant to Power of Attorney. The undersigned Attorney in Fact has no actual knowledge or notice of the revocation or termination of the aforementioned Power of Attorney.

FEDERAL HOME LOAN MORTGAGE CORPORATION

By: *Sylvia C. Miller*
Sylvia C. Miller of Samuel I. White, P.C. as Attorney in Fact
for Federal Home Loan Mortgage Corporation pursuant to
Power of Attorney recorded as Instrument No. 110001462, at
page 2.

STATE OF VIRGINIA

CITY OF NORFOLK, to-wit:

The foregoing instrument was acknowledged before me this 14th day of Apr., 2012, by Sylvia C. Miller of Samuel I. White, P.C., as Attorney in Fact for Federal Home Loan Mortgage Corporation.

Christina M. Kelly
Notary Public

My Commission Expires: April 30, 2015

Notary ID #7265466

GPIN/TAX ID #1015
Prepared by Samuel I. White, P.C.
File #75-001991-12



INSTRUMENT #120000911
RECORDED IN THE CLERK'S OFFICE OF
STAUNTON ON
APRIL 25, 2012 AT 09:46AM
THOMAS E. ROBERTS, CLERK
RECORDED BY: CGN

CITY COUNCIL



AGENDA BRIEFING

Staunton, Virginia

Meeting Date:	September 14, 2023	Staff Members: Rodney Rhodes Tim Hartless
Item #	C	
Department:	Community Development— Planning and Zoning	
Alignment with Staunton Plan (Value/Strategic Area):	Strategic Areas: Infrastructure, Responsive, Efficient Government	
Subject:	Public Hearing and Consideration of a Request by Mark Clark, Agent for Staunton Properties, LLC, for a Special Use Permit Under the Provisions of Staunton City Code 18.55.060(3) to Allow Living and/or Sleeping Quarters on the Ground Level of a Building Located at 1048 W Beverley Street	

Background: Mark Clark, acting as the agent for Staunton Properties, LLC, has requested a Special Use Permit to have living quarters on the ground floor of a building located at 1048 W Beverley Street. The building is located on the south side of the Street, in the block between Montgomery Avenue and Trenary Street. The building is a two-story structure originally constructed as a dwelling and first appears on the Sanborn Maps in 1904. This area was annexed into the City in 1905. The current zoning is B-1, Local Business District and the property is located within the Newtown Historic District. Staunton Properties, LLC purchased the property in July, 2023. Currently, there are two dwelling units located on the second floor. The owner proposes to use a 525 square foot portion in the rear of the first floor for an additional residential unit and the remaining 730 square feet will be reserved for commercial space. The commercial space on the ground floor and the two units on the second floor are by-right uses; however, the residential unit proposed on the rear of the ground floor is permitted only by

Special Use Permit.

Staff Analysis: Staff reviewed the request and has not identified any issues. As shown on the attached map (Attachment 3), zoning to the east and west is B-1, Local Business District, zoning to the north is R-3, Medium Density Residential District, and zoning to the south is R-2, Low Density Residential District. The north side of this segment of West Beverley Street is the location of Thornrose Cemetery while the south side is a mixture of uses, including single-family, multi-family, and business uses. Residential use on the ground floor of a building in a B-1 District is not ideal; however, the property adjoins various land uses (including a single-family dwelling), the majority of the first floor (730 SF) would be reserved for business use and the residential unit would be in the rear of the building, with access also provided from the back.

Parking will be required at a rate of two parking spaces for each residential unit; therefore, the three residential units would require six parking spaces. For business offices, parking is required at a rate of one space for each 300 square feet plus one space for each three employees. A 730 SF office space with three employees would require four parking spaces. This would require a total of 10 spaces. The applicant has included a parking layout showing 11 parking spaces (including two in the attached carport on the west side). Staff recommended a series of conditions be placed on approval of the Special Use Permit:

1. No more than one residential unit may be permitted on the ground floor and the area of the residential unit may not exceed 50% of the total area of that floor.
2. Primary access to the ground floor unit must be from the side or rear of the building.
3. Due to limited width of the travel lanes, traffic flow must be limited to one-way within the parking lot. Directional arrows indicating one-way must be painted on the asphalt surface at the entrance and exit of the parking lot shall be approved by the Zoning Administrator. The signs must be installed meeting the requirements of Staunton City Code 18.125, Minimum Off-street Parking Requirements.
4. All parking spaces must be at least 9 feet wide and 18 feet long and properly striped to clearly identify the space and shall be approved by the Zoning Administrator.

The *City of Staunton, Virginia, Comprehensive Plan 2018-2040*, Future Land Use Map, designates this area as Commercial and residential on the ground floor of the building is not consistent with this designation. However, for the reasons mentioned above, staff supports the application.

Planning Commission Recommendation:

At its August 17, 2023 meeting, the Planning Commission conducted a public hearing. During the public hearing no one spoke in opposition to the request. On a 5-0 vote, the Commission unanimously voted to recommend approval of the Special Use Permit with the following conditions:

1. No more than one residential unit may be permitted on the ground floor and the area of the residential unit may not exceed 50% of the total area of that floor.
2. Primary access to the ground floor unit must be from the side or rear of the building.
3. Due to limited width of the travel lane, traffic flow must be limited to one-way. Directional arrows indicating one-way must be painted on the asphalt surface at the entrance and exit of the parking lot. The signs must be installed meeting the requirements of Staunton City Code 18.125, Minimum Off-street Parking Requirements.
4. All parking spaces must be at least 9 feet wide and 18 feet long and properly striped to clearly identify the space.

Attachments:

Attachment 1—Application and Supporting Documents

Attachment 2—Vicinity Map: 1048 W Beverley Street

Attachment 3—Current Zoning Map: W Beverley Street

Attachment 4—Future Land Use Map: W Beverley Street

Attachment 5—Draft Resolution

Suggested Motion (to be made after the public hearing is conducted): I move that Council adopt the resolution approving the Special Use Permit with conditions as presented.

City Manager: Leslie Beauregard



DEPARTMENT OF PLANNING &
INSPECTIONS
116 W. BEVERLEY STREET | P.O. BOX
58 | STAUNTON, VA 24402
540.332.3862 (OFFICE)
540.332.3807 (FAX)

APPLICATION FOR SPECIAL USE PERMIT

DATE: 6/7/23
NAME OF APPLICANT: Mark Clark
ADDRESS OF APPLICANT: 676 St James Rd Fishersville Va
PHONE #: 540-319-9550 22939

E-MAIL ADDRESS: markclaytonclark@gmail.com

IF APPLICANT IS **NOT** THE OWNER OF THE PROPERTY IN QUESTION, EXPLAIN. A COPY OF A PENDING CONTRACT OR OPTION AGREEMENT MUST BE ATTACHED HERETO AND MADE A PART OF THIS APPLICATION.

LOCATION OF PROPERTY: 1048 West Beverly St Staunton Va

MAP PROVIDED: YES ☒ NO ☐

SITE PLAN PROVIDED: YES ☒ NO ☐

FEE PAID: YES ☒ NO ☐ *check or cash only

PRESENT ZONING OF THE PROPERTY: B-1

APPLICABLE SECTION OF ZONING CODE STATING USE IS PERMITTED ON REVIEW:

ARE PUBLIC UTILITIES AVAILABLE AND ADEQUATE FOR PROPOSED USE? IF **NO**, EXPLAIN HOW UTILITIES WILL BE PROVIDED:

Yes

LEGAL DESCRIPTION OF PROPERTY: Parcel A (Rev lot 2 BLK D)

DETAILED DESCRIPTION OF PROPOSED USE (DRAWINGS MUST BE INCLUDED IF NEW CONSTRUCTION, ADDITIONS, OR CHANGES TO THE EXTERIOR OF THE PROPERTY ARE PROPOSED).

Use Downstairs - Rear Apartment as Residential Use
SIGNATURE: MCCL

54-23-06

78 ft

Edge of Asphalt

Apt
#1

Apt
#1

Apt
#2

Apt
#2

Apt
#3

21 ft

3 Car Garage
720 sq ft

31 ft

47 ft

Office
Parking

Office
Parking

Office
Parking

32
ft

231 f

Apt
#3

21 ft

25 ft

Rear
Apartment

6 ft

16 ft

Office
Space

Office
Parking

18 ft

Car
Port

11 ft

Office
Parking

35 ft

78 ft

1048 West Beverly

11 Parking Spaces

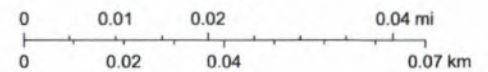
Additional Map Layers



6/28/2023, 3:09:19 PM

- Lot_Lines
- City Limits
- Road Centerline
- Green: Band_2
- Lot_Numbers
- Tax Parcels
- 2022 Imagery
- Blue: Band_3
- AddressPoints
- Red: Band_1

1:889



Esri, HERE, Garmin, (c) OpenStreetMap contributors, Source: Esri, Maxar, Earthstar Geographics, and the GIS User Community

For Information Purposes Only. Data owned by the City of Staunton and ESRI.

Staunton Properties, LLC
Tobin & Lynn Forbus
1553 Goose Creek Road
Fishersville, VA 22939

August 8, 2023

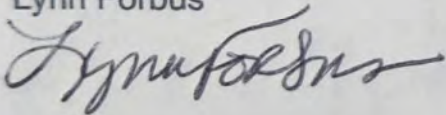
To whom it may concern:

We are the new owners of 1048 West Beverley Street and I request that we move forward with the SUP for the 3rd apartment in the home that Mr. Mark Clark has initiated with the City of Staunton.

"I authorize Mark Clark to act as my agent and to represent me for a Special Use Permit application for 1048 W Beverley Street, Staunton, VA.

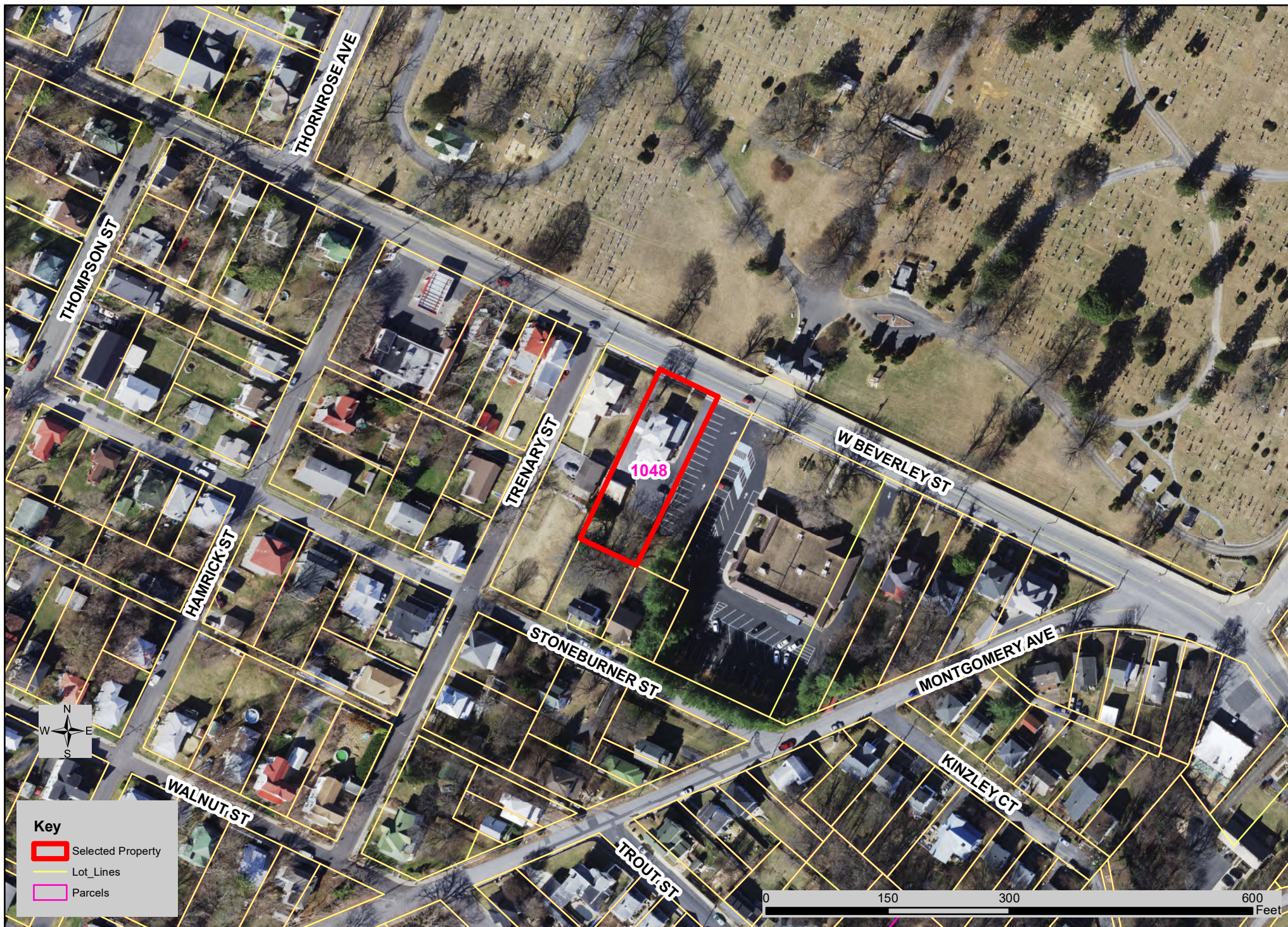
Please allow this as our official request to move forward with the SUP in our name, Staunton Properties, LLC.

Thank you,
Lynn Forbus

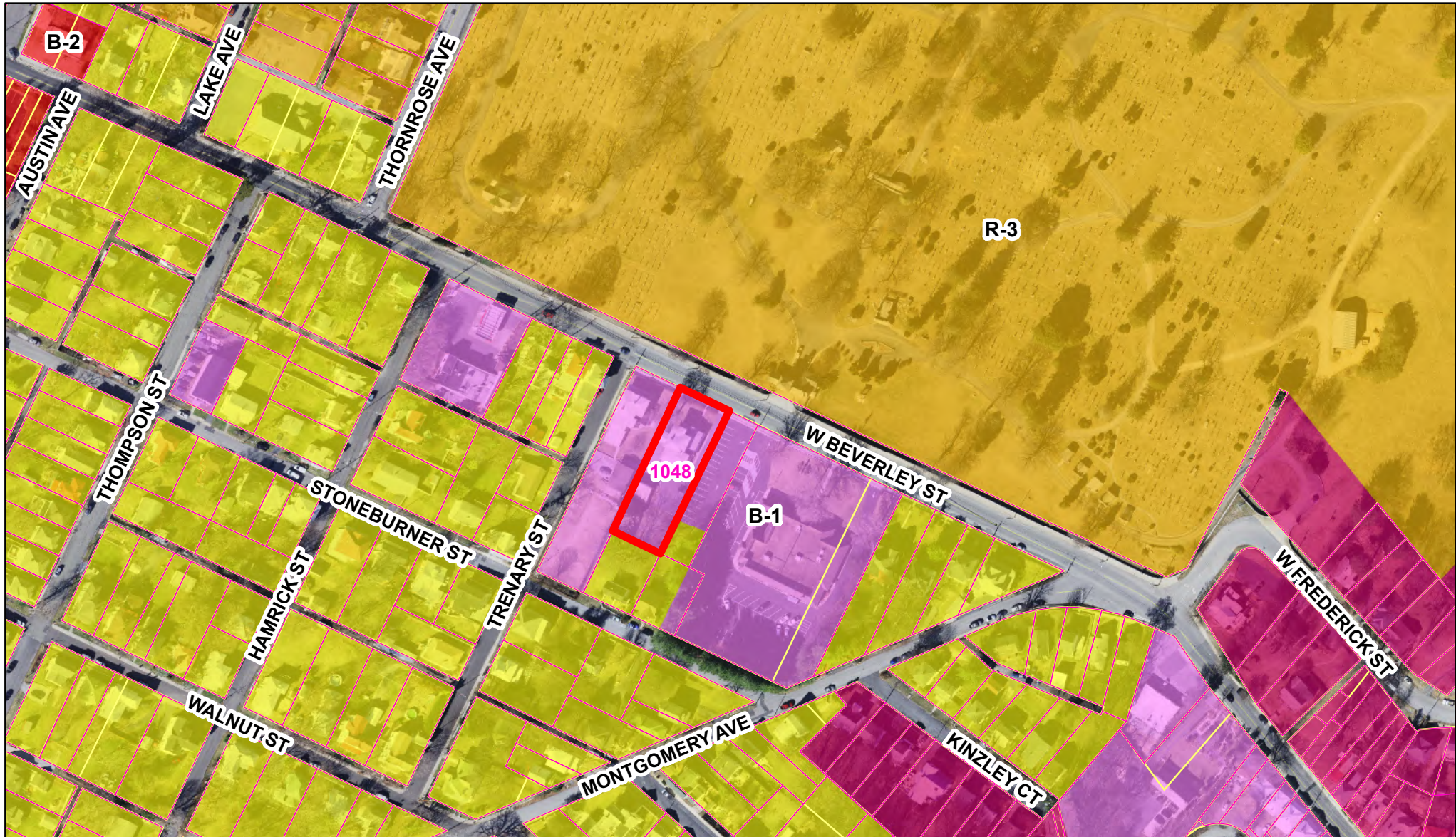
A handwritten signature in black ink, appearing to read "Lynn Forbus", written in a cursive style.

Vicinity Map: 1048 W Beverley St

Attachment 2



Current Zoning: 1048 W Beverley St **Attachment 3**



0 100 200 400 Feet

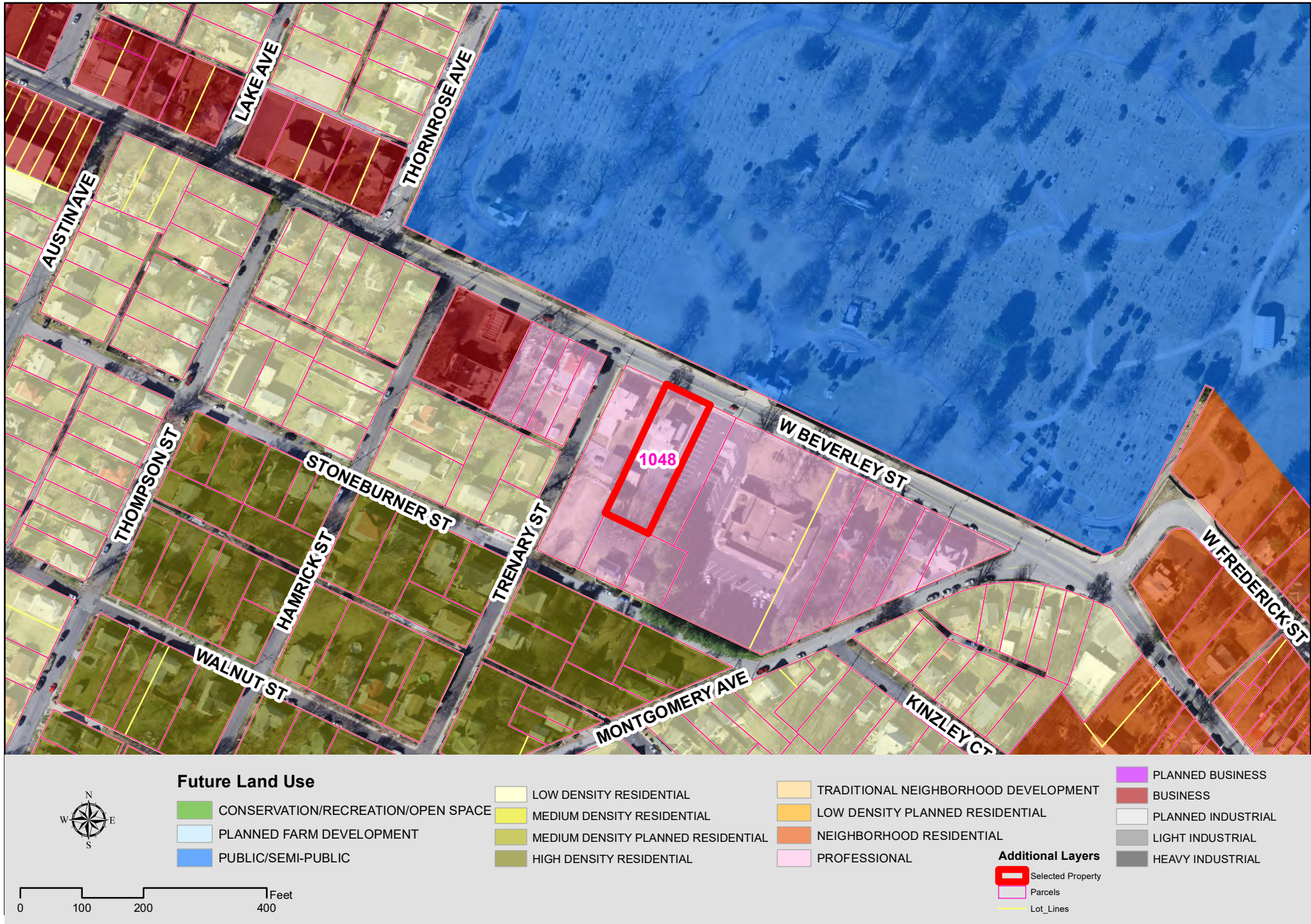
Zoning

B-1	B-3	I-1(conditional)	P-1(conditional)	R-3(conditional)
B-1(conditional)	B-5	I-2	R-1	R-4
B-2	HE-1	I-2(conditional)	R-2	R-4(conditional)
B-2(conditional)	I-1	I-3(conditional)	R-2(conditional)	
		P-1	R-3	

Additional Layers

- Selected Property
- Parcels
- Lot_Lines

Future Land Use: 1048 W Beverley St Attachment 4



1
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**RESOLUTION
OF THE
COUNCIL OF THE CITY OF STAUNTON, VIRGINIA
GRANTING A SPECIAL USE PERMIT FOR PROPERTY LOCATED AT
1048 W. BEVERLEY STREET (PARCEL IDENTIFICATION NUMBER: 8620)**

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Recitals

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A. Mark Clark (Agent), acting as the agent for Staunton Properties, LLC (Owner), owner of certain land identified as parcel identification number (PID) 8620, currently addressed as 1048 W. Beverley Street, Staunton (the Property), having acquired the land through a deed dated July 10, 2023 and recorded in the Clerk's Office of the Circuit Court of the City of Staunton as Instrument Number 230001662, is requesting a Special Use Permit to allow one residential unit to be constructed in the rear portion on the ground floor of the existing building (the Project);

B. The Owner seeks a Special Use Permit under Staunton City Code (SCC) Section 18.55.060(3) to allow living and sleeping quarters on the ground floor of the building;

C. The Property is located within a B-1, Local Business District, which, according to SCC Section 18.55.060(3), living and/or sleeping quarters in detached accessory buildings and on the ground and basement levels of main buildings may be permitted on review;

D. The request was evaluated using the criteria established in SCC Section 18.55.060(3) as a guide;

E. The Staunton Planning Commission conducted a public hearing concerning the Project, after notice and advertisement as required by law on August 17, 2023;

F. The Staunton Planning Commission considered and recommended approval of the Owner's application for the Project at its August 17, 2023 meeting;

G. Upon consideration of the Staunton Planning Commission's recommendation, the City staff briefing, comments received at the public hearing, as well as the factors set forth within Section 18.55.060 and Chapter 18.210 of the SCC, Staunton City Council finds and determines that granting the proposed Special Use Permit would serve the public necessity, convenience, general welfare and good zoning practice; and

H. These recitals are an integral part of this resolution.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Staunton, Virginia that a Special Use Permit is hereby granted to allow the Project to be established on the Property, subject to the following conditions:

1. No more than one residential unit may be permitted on the ground floor and the area of the residential unit may not exceed 50% of the total area of that floor.

2. Primary access to the ground floor unit must be from the side or rear of the building.
3. Due to limited width of the travel lane, traffic flow must be limited to one-way within the parking lot. Directional arrows indicating one-way must be painted on the asphalt surface at the entrance and exit of the parking lot as approved by the Zoning Administrator. Signs must be installed meeting the requirements of SCC 18.125, Minimum Off-street Parking Requirements.
4. All parking spaces must be at least 9 feet wide and 18 feet long and properly striped to clearly identify the space, and shall be approved by the Zoning Administrator.

Introduced:

Adopted:

Effective:

Stephen W. Claffey, Mayor

Attest: _____
Kiley A. Kesecker, Clerk of Council

CITY COUNCIL



AGENDA BRIEFING

Staunton, Virginia

Meeting Date:	September 14, 2023	Staff Member: Jeff Johnston
Item #	D	
Department:	Public Works	
Alignment with Staunton Plan (Value/Strategic Area):	Strategic Area: Infrastructure	
Subject:	Public Hearing and Consideration of Franchise Ordinance to Grant an Easement for Underground Electric Infrastructure at 250 N. Jefferson Street	

Background: Dominion Energy has requested a utility easement to place underground electric infrastructure within Reservoir Park, 250 N. Jefferson Street (Exhibit A to Attachment 3). The underground lines will replace existing overhead lines that provide power to the Reservoir Park cellular communications tower, and provide improved service for the installed antennae.

At Council's regular meeting, it is anticipated that, consistent with the provisions of Virginia Code §§ 15.2-2100 - 15.2-2101 (Attachment 1), the Mayor will open all bids, read them or a summary aloud, and conduct a public hearing, as properly noticed in *The News Leader* (Attachment 2). Council will then receive any preliminary recommendations from the staff relative to any bids. Bids can be further reviewed by staff subsequent to the regular meeting or as otherwise directed by Council. Council could adopt an ordinance (Attachment 3), authorizing a franchise to the successful bidder, at the regular meeting or the next scheduled regular meeting.

Attachments:

- Attachment 1 – Virginia Code §§ 15.2-2100 and 15.2-2101
- Attachment 2 – Notice of Invitation for Bids and Public Hearing
- Attachment 3 – Draft Ordinance

Exhibit A to Attachment 3 – Utility Services Easement
Exhibit B to Attachment 3 – Underground Agreement
Exhibit C to Attachment 3 – Site Diagram

City Manager's Recommendation: Recommend that, at the regular meeting, the Mayor (i) open all bids received for the utility easement, (ii) read the bids or a summary of them, (iii) inquire if any other bids are offered, (iv) receive further bids if offered, (v) declare the bidding closed, (vi) conduct a public hearing, and (vii) grant the easement if only one bid is received or, alternatively, if more than one bid is received, take the matter under advisement until Council's next meeting on September 28, 2023.

Alternative Motions (to be made after the public hearing):

If only one bid is received: I move that City Council adopt the ordinance as presented, granting to _____ an easement to place telecommunications equipment and other facilities within property owned by the City located at 250 N. Jefferson St., as set forth in the ordinance and easement.

If more than one bid is received: I move that Council continue this matter until its September 28, 2023 regular meeting, and that staff review the matter in the meantime for any other recommendations to Council to be made at that time when Council may adopt a proposed ordinance to grant the finalized easement.

City Manager: Leslie Beauregard

Code of Virginia

Title 15.2. Counties, Cities and Towns

Subtitle II. Powers of Local Government

Chapter 21. Franchises; Sale and Lease of Certain Municipal Public Property; Public Utilities

Article 1. Franchises; Sale and Lease of Certain Public Property

§ 15.2-2100. Restrictions on selling certain municipal public property and granting franchises

A. No rights of a city or town in and to its waterfront, wharf property, public landings, wharves, docks, streets, avenues, parks, bridges, or other public places, or its gas, water, or electric works shall be sold except by an ordinance passed by a recorded affirmative vote of three-fourths of all the members elected to the council, notwithstanding any contrary provision of law, general or special, and under such other restrictions as may be imposed by law. Notwithstanding any contrary provision of law, general or special, in case of a veto by the mayor of such an ordinance, it shall require a recorded affirmative vote of three-fourths of all the members elected to the council to override the veto.

B. No franchise, lease or right of any kind to use any such public property or any other public property or easement of any description, in a manner not permitted to the general public, shall be granted for a period longer than forty years, except for air rights together with easements for columns for support, which may be granted for a period not exceeding sixty years.

Before granting any such franchise or privilege for a term in excess of five years, except for a trunk railway, the city or town shall, after due advertisement, publicly receive bids therefor, in such manner as is provided by § 15.2-2102, and shall then act as may be required by law.

Such grant, and any contract in pursuance thereof, may provide that, upon the termination of the grant, the plant as well as the property, if any, of the grantee in the streets, avenues and other public places shall thereupon, without compensation to the grantee, or upon the payment of a fair valuation become the property of the city or town; but the grantee shall be entitled to no payment by reason of the value of the franchise. Any such plant or property acquired by a city or town may be sold or leased or, if authorized by general law, maintained, controlled, and operated by such city or town. Every such grant shall specify the mode of determining any valuation therein provided for and shall make adequate provisions by way of forfeiture of the grant, or otherwise, to secure efficiency of public service at reasonable rates and the maintenance of the property in good order throughout the term of the grant.

C. Any additional restriction now required in any existing municipal charter relating to the powers of cities and towns in selling or granting franchises or leasing any of their property is hereby superseded; however, nothing herein contained shall be construed as affecting the term of any existing franchise, lease or right. The requirement of an affirmative three-fourths vote of council shall apply only to the sale of the listed properties and not to their franchise, lease or use.

D. The provisions of this section shall only apply to cities or towns and shall not apply to counties or other political subdivisions.

Code 1950, § 15-727; 1962, c. 623, § 15.1-307; 1971, Ex. Sess., c. 64; 1997, c. 587; 2001, c. 498.

The chapters of the acts of assembly referenced in the historical citation at the end of this

section(s) may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

Code of Virginia

Title 15.2. Counties, Cities and Towns

Subtitle II. Powers of Local Government

Chapter 21. Franchises; Sale and Lease of Certain Municipal Public Property; Public Utilities

Article 1. Franchises; Sale and Lease of Certain Public Property

§ 15.2-2101. Ordinance proposing grant of franchise, etc., to be advertised

A. Before granting any franchise, privilege, lease or right of any kind to use any public property described in § 15.2-2100 or easement of any description, for a term in excess of five years, except in the case of and for a trunk railway, the city or town proposing to make the grant shall advertise a descriptive notice of the ordinance proposing to make the grant once a week for two successive weeks in a newspaper having general circulation in the city or town. The descriptive notice of the ordinance may also be advertised as many times in such other newspaper or newspapers, published outside the city, town or Commonwealth, as the council may determine. The advertisement shall include a statement that a copy of the full text of the ordinance is on file in the office of the clerk of the city or town council.

B. The advertisement shall invite bids for the franchise, privilege, lease or right proposed to be granted in the ordinance. The bids shall be in writing and delivered upon the day and hour named in the advertisement and shall be opened in public session and marked for identification by the person designated in the advertisement to receive such bids. The cost of the required advertisement shall be paid by the city or town which shall be reimbursed by the person to whom the grant is made. The city or town shall have the right to reject any and all bids and shall reserve this right in the advertisement.

Code 1950, §§ 15-728, 15-729; 1962, c. 623, §§ 15.1-308, 15.1-309; 1971, Ex. Sess., c. 64; 1983, c. 138; 1997, c. 587; 2001, c. 498.

The chapters of the acts of assembly referenced in the historical citation at the end of this section(s) may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

NOTICE OF INVITATION FOR AND PUBLIC OPENING OF BIDS AND
PUBLIC HEARING FOR GRANT OF
UTILITY EASEMENT ON CITY OWNED PROPERTY
TO PLACE ELECTRICAL EQUIPMENT AND OTHER FACILITIES
ACROSS CITY-OWNED PROPERTY LOCATED AT 250 N. JEFFERSON ST.,
STAUNTON, VA

Notice is hereby given of the invitation for and the receipt and for the opening of bids and public hearing on a potential 40-year easement to be granted by the following referenced ordinance to be considered by the Staunton City Council at its regular meeting, in the Rita S. Wilson Council Chambers on September 14, 2023 at 7:00 p.m. This notice is occasioned by the request of Virginia Electric and Power Company (DBA Dominion Energy Virginia) to be granted a utility easement to place electrical equipment and other facilities across City-owned property located at 250 N. Jefferson St., Staunton, VA 24401.

After the Mayor or other presiding officer of City Council receives and opens and reads aloud such bids, the Council will proceed with the continued consideration of the granting of the proposed easement in the mode prescribed by law and will conduct a public hearing.

All bids must be in writing and shall include reference to the City's preferred form of any proposed agreement. All bids must be submitted by not later than 5:00 p.m., local time, September 13, 2023, to the office of the Clerk of Council, 116 W. Beverley St., 3rd Floor, Staunton, VA 24401. The right is hereby expressly reserved to reject any and all bids and to proceed as prescribed by law, as may be permitted by law. A descriptive notice of the proposed easement ordinance, including the full text of this advertised notice, includes the foregoing and following:

To grant to _____, a public service corporation doing business in the Commonwealth of Virginia (SCC# _____), its successors and assigns, under the Code of Virginia, the right, for the term and upon the conditions stated in this ordinance and incorporated agreement, an easement authorizing the placement and maintenance of its electrical equipment and facilities across 250 N.

DRAFT 3.1.23

Jefferson St., Staunton, and for that purpose to use, erect, install, construct, repair, alter, add to, inspect, replace, reconstruct, maintain, or retain within the easement such wires, conduits, cables, transformers, transformer enclosures, concrete pads, manholes, handholes, connection boxes, accessories and appurtenances desirable in connection therewith, or other related property, equipment, or fixtures as may be necessary, useful, or appurtenant to the electrical equipment and facilities, and to provide such services over the electrical equipment and facilities as may be lawfully allowed.

The proposed ordinance is authorized by, among other considerations, the Staunton City Charter, Chapter II, Section 11; Staunton City Code § 2.10.190; and by Virginia Code Sections §§ 15.2-2100, 15.2-2101.

A true and complete copy of the proposed ordinance and form of agreement, including all of its terms and conditions, is on file and available for inspection during normal working hours at the office of the Clerk of Council.

All persons wishing to be heard at the public hearings are invited to attend. The public may also participate in the public hearings by Zoom, or by phone. Specific instructions to participate by Zoom or by phone can be found at: <https://www.ci.staunton.va.us/government/city-council/access-city-council-meetings>. Those interested in listening to the meeting may do so via live stream from the City's website or by listening to the public access television Channel (Comcast Channel 7). Hearing impaired persons desiring to participate in the public hearings should contact the Clerk of Council by email at keseckerka@ci.staunton.va.us to request an interpreter.

Kiley A. Kesecker,
Clerk of Council

Please publish twice on Thursday, August 31, 2023 and Thursday September 7, 2023 as a boxed ad in the classified “Legal Notice” section of the paper.

DRAFT 3.1.23

Ordinance No. 2023 - __

AN ORDINANCE

To grant to _____, a public service corporation doing business in the Commonwealth of Virginia (SCC# _____), its successors and assigns, under the Code of Virginia, the right, for the term and upon the conditions stated in this ordinance and incorporated agreement, an easement authorizing the placement and maintenance of its electrical equipment and facilities across 250 N. Jefferson St., Staunton, VA, and for that purpose to transmit and distribute electric power by one or more circuits; for its own internal telephone and other internal communication purposes directly related to or incidental to the generation, distribution, and transmission of electricity; for fiber optic cables, wires, attachments, and other transmission facilities, and all equipment, accessories and appurtenances desirable in connection therewith, for the purpose of transmitting voice, text, data, internet services, and other communications services, including the wires and attachments of third parties; and for lighting purposes, and to provide such services over the electrical equipment and facilities as may be lawfully allowed.

Recitals

A. By deed dated April 26, 1876 (“Deed”) and recorded in Deed Book 7 Page 247, in the Clerk’s Office of the Circuit Court of the City of Staunton, Virginia, Robert and Mary Bickle conveyed unto the City of Staunton, a municipal corporation of the Commonwealth of Virginia, all of that certain tract or parcel of land, together with all improvements thereon, and all rights, privileges and appurtenances thereunto belonging, situate in the City of Staunton, Virginia, and more particularly described in the Deed.

B. The property houses the Reservoir Hill cellular tower which provides water to the City of Staunton;

C. Virginia Electric and Power Company (DBA Dominion Energy Virginia) has requested a utility easement across a portion of City-owned property located at 250 N. Jefferson St., Staunton, in the form of a Right of Way Agreement (Agreement), annexed and incorporated by reference (**Exhibit A**);

D. Consistent with Chapter II, Section 11, of the City Charter, Staunton City Code § 2.10.190 and the provisions of Virginia Code Sections §§ 15.2-2100, 15.2-2101, the City may grant easements for a period of not longer than forty years;

E. Pursuant to § 15.2-2101(A) of the Code of Virginia, before granting any

47 franchise, privilege, lease or right of any kind to use any public property described in §
48 15.2-2100 or easement of any description, for a term in excess of five years, except in the
49 case of and for a trunk railway, the city or town proposing to make the grant shall advertise
50 a descriptive notice of the ordinance proposing to make the grant once a week for two
51 successive weeks in a newspaper having general circulation in the city or town;

52
53 **F.** This matter was properly advertised once a week for two successive weeks
54 in the *Staunton News Leader* on August 31, 2023 and September 7, 2023;

55
56 **G.** The Staunton City Council, at its September 14, 2023 meeting, conducted
57 an opening of any bid(s);

58
59 **H.** The Staunton City Council conducted a public hearing on September 14,
60 2023, on the proposed ordinance and Agreement and any bid(s);

61
62 **I.** The provisions of Virginia Code § 15.2-2100 and Staunton City Code §
63 2.10.180 require a recorded affirmative vote of three-fourths of all the members elected to
64 Council to grant, lease, sell or otherwise dispose of public property;

65
66 **J.** These recitals are deemed an integral part of this ordinance.

67
68 **NOW, THEREFORE, BE IT ORDAINED** by the Council of the City of
69 Staunton, Virginia, that it authorizes the grant and conveyance of the utility easement as
70 contemplated in the proposed Agreement, for a term not to exceed forty years; and

71
72 **BE IT FURTHER ORDAINED** that the City Manager of the City of Staunton,
73 Virginia, is authorized to make minor modifications to the Agreement and to execute such
74 proposed instrument on behalf of the City of Staunton, Virginia, as advised by the City
75 Attorney of the City of Staunton, Virginia, and take all other reasonable actions in
76 exchange for full execution by the other parties and receipt by the City of Staunton,
77 Virginia, in a form satisfactory as determined in the sole discretion of the City Attorney.

78
79
80 Introduced:

81 Adopted:

82 Effective Date:

83
84
85 _____
86 Stephen W. Claffey, Mayor

87
88 ATTEST: _____
89 Kiley A. Kesecker,
90 Clerk of Council

Attachment 3, Exhibit A



Right of Way Agreement

THIS RIGHT OF WAY AGREEMENT, Is made and entered into as of this _____ day of _____, 2023, by and between the CITY OF STAUNTON ("**GRANTOR**") and VIRGINIA ELECTRIC AND POWER COMPANY, a Virginia public service corporation, doing business in Virginia as Dominion Energy Virginia, with its principal office in Richmond, Virginia ("**GRANTEE**").

WITNESSETH:

1. That for and in consideration of the mutual covenants and agreements herein contained and other good and valuable consideration, the receipt and sufficiency whereof is hereby acknowledged, **GRANTOR** grants and conveys unto **GRANTEE**, its successors and assigns, the ~~perpetual~~ right, privilege and exclusive easement over, under, through, upon, above and across the property described herein, for the purpose of transmitting and distributing electric power by one or more circuits; for its own internal telephone and other internal communication purposes directly related to or incidental to the generation, distribution, and transmission of electricity; for fiber optic cables, wires, attachments, and other transmission facilities, and all equipment, accessories and appurtenances desirable in connection therewith, for the purpose of transmitting voice, text, data, internet services, and other communications services, including the wires and attachments of third parties; and for lighting purposes; including but not limited to the rights:

1.1 to lay, construct, operate and maintain one or more lines of underground conduits and cables including, without limitation, one or more lighting supports and lighting fixtures as **GRANTEE** may from time to time determine, and all wires, conduits, cables, transformers, transformer enclosures, concrete pads, manholes, handholes, connection boxes, accessories and appurtenances desirable in connection therewith; the width of said exclusive easement shall extend FIFTEEN (15') feet in width across the lands of **GRANTOR**; and

1.2 to construct, operate and maintain a pole line including, without limitation, all wires, poles, attachments, ground connections, one or more lighting supports and lighting fixtures as **GRANTEE** may from time to time deem advisable, equipment, accessories and appurtenances desirable in connection therewith, including the right to increase or decrease the number of wires; the width of said exclusive easement shall extend FIFTEEN (15') feet in width across the lands of **GRANTOR**; and

1.3 to apportion, lease, or license the voice, text, data, internet service, and other communications rights herein in whole or in part to third parties as may be useful or practical, including the rights to transmit third party data and the right to apportion, lease, or license surplus communications capacity to third parties for the exercise of such rights.

2. The easement granted herein shall extend across the lands of **GRANTOR** situated in the City of Staunton, Virginia, as more fully described on Plat(s) Numbered 82-22-0039, attached to and made a part of this Right of Way Agreement; the location of the boundaries of said easement being shown in broken lines on said Plat(s), reference being made thereto for a more particular description thereof.

3. All facilities constructed hereunder shall remain the property of **GRANTEE**. **GRANTEE** shall have the right to inspect, reconstruct, remove, repair, improve, relocate on and within the easement area, including but not limited to the airspace above the property controlled by **GRANTOR**, and make such changes, alterations, substitutions, additions to or extensions of its facilities as **GRANTEE** may from time to time deem advisable.

This Document Prepared by Virginia Electric and Power Company and should be returned to: Dominion Energy Virginia, 1719 Hydraulic Road, Charlottesville, VA 22901.

Initials: _____

(Page 1 of 5 Pages)

DEVID No(s). 82-22-0039

Parcel ID No. 9129



Right of Way Agreement

4. **GRANTEE** shall have the right to keep the easement clear of all buildings, structures, trees, roots, undergrowth and other obstructions which would interfere with its exercise of the rights granted hereunder, including, without limitation, the right to trim, top, retrim, retop, cut and keep clear any trees or brush inside and outside the boundaries of the easement that may endanger the safe and proper operation of its facilities. All trees and limbs cut by **GRANTEE** shall remain the property of **GRANTOR**.

5. For the purpose of exercising the right granted herein, **GRANTEE** shall have the right of ingress to and egress from this easement over such private roads as may now or hereafter exist on the property of **GRANTOR**. The right, however, is reserved to **GRANTOR** to shift, relocate, close or abandon such private roads at any time. If there are no public or private roads reasonably convenient to the easement, **GRANTEE** shall have such right of ingress and egress over the lands of **GRANTOR** adjacent to the easement. **GRANTEE** shall exercise such rights in such manner as shall occasion the least practicable damage and inconvenience to **GRANTOR**.

6. **GRANTEE** shall repair damage to roads, fences, or other improvements (a) inside the boundaries of the easement (subject, however, to **GRANTEE**'s rights set forth in Paragraph 4 of this Right of Way Agreement) and (b) outside the boundaries of the easement and shall repair or pay **GRANTOR**, at **GRANTEE**'s option, for other damage done to **GRANTOR**'s property inside the boundaries of the easement (subject, however, to **GRANTEE**'s rights set forth in Paragraph 4 of this Right of Way Agreement) and outside the boundaries of the easement caused by **GRANTEE** in the process of the construction, inspection, and maintenance of **GRANTEE**'s facilities, or in the exercise of its right of ingress and egress; provided **GRANTOR** gives written notice thereof to **GRANTEE** within sixty (60) days after such damage occurs.

7. **GRANTOR**, its successors and assigns, may use the easement for any reasonable purpose not inconsistent with the rights hereby granted, provided such use does not interfere with **GRANTEE**'s exercise of any of its rights hereunder. **GRANTOR** shall not have the right to construct any building, structure, or other above ground obstruction on the easement; provided, however, **GRANTOR** may construct on the easement fences, landscaping (subject, however, to **GRANTEE**'s rights in Paragraph 4 of this Right of Way Agreement), paving, sidewalks, curbing, gutters, street signs, and below ground obstructions as long as said fences, landscaping, paving, sidewalks, curbing, gutters, street signs, and below ground obstructions do not interfere with **GRANTEE**'s exercise of any of its rights granted hereunder. In the event such use does interfere with **GRANTEE**'s exercise of any of its rights granted hereunder, **GRANTEE** may, in its reasonable discretion, relocate such facilities as may be practicable to a new site designated by **GRANTOR** and acceptable to **GRANTEE**. In the event any such facilities are so relocated, **GRANTOR** shall reimburse **GRANTEE** for the cost thereof and convey to **GRANTEE** an equivalent easement at the new site.

8. **GRANTEE**'S right to assign or transfer its rights, privileges and easements, as granted herein, shall be strictly limited to the assignment or transfer of such rights, privileges and easements to any business which lawfully assumes any or all of **GRANTEE**'S obligations as a public service company or such other obligations as may be related to or incidental to **GRANTEE**'S stated business purpose as a public service company; and any such business to which such rights, privileges and easements may be assigned shall be bound by all of the terms, conditions and restrictions set forth herein.

9. If there is an Exhibit A attached hereto, then the easement granted hereby shall additionally be subject to all terms and conditions contained therein provided said Exhibit A is executed by **GRANTOR** contemporaneously herewith and is recorded with and as a part of this Right of Way Agreement.

10. Whenever the context of this Right of Way Agreement so requires, the singular number shall mean the plural and the plural the singular.

Initials: _____

(Page 2 of 5 Pages)

DEVID No(s). 82-22-0039

Right of Way Agreement

11. **GRANTOR** covenants that it is seized of and has the right to convey this easement and the rights and privileges granted hereunder; that **GRANTEE** shall have quiet and peaceable possession, use and enjoyment of the aforesaid easement, rights and privileges; and that **GRANTOR** shall execute such further assurances thereof as may be reasonably required.

12. The individual executing this Right of Way Agreement on behalf of **GRANTOR** warrants that **Grantor** is a political subdivision of the Commonwealth of Virginia and that he or she has been duly authorized to execute this easement on behalf of said **GRANTOR**.

NOTICE TO LANDOWNER: You are conveying rights to a public service corporation. A public service corporation may have the right to obtain some or all of these rights through exercise of eminent domain. To the extent that any of the rights being conveyed are not subject to eminent domain, you have the right to choose not to convey those rights and you could not be compelled to do so. You have the right to negotiate compensation for any rights that you are voluntarily conveying.

IN WITNESS WHEREOF, **GRANTOR** has caused its name to be signed hereto by its authorized officer or agent, described below, on the date first above written.

City of Staunton

By: _____

Name (print): _____

Title: _____

State of Virginia

City of Staunton, to-wit:

I, _____, a Notary Public in and for the State of Virginia at Large, do

hereby certify that this day personally appeared before me in my jurisdiction aforesaid

_____, _____, of the City of Staunton
(Name of officer or agent) (Title of officer or agent)

, whose name is signed to the foregoing writing, acknowledged the same before me

this _____ day of _____, 2023.

Notary Public (print name)

Notary Public (signature)

Virginia Notary Reg. No. _____

My Commission Expires: _____



Right of Way Agreement

Exhibit A

THIS RIGHT OF WAY AGREEMENT dated _____, 2023, by and between the

City of Staunton

a political subdivision of the Commonwealth of Virginia ("**GRANTOR**"), and VIRGINIA ELECTRIC AND POWER COMPANY, a Virginia public service corporation doing business in Virginia as Dominion Energy Virginia ("**GRANTEE**") is hereby amended as follows:

1. This Right of Way Agreement shall be limited in duration and shall remain in force for a term of forty (40) years, except for any air rights together with easements for columns for support granted hereunder, in which case such air rights together with easements for columns for support shall exist for a term of sixty (60) years. At the end of any such term, this Right of Way Agreement shall automatically terminate unless **GRANTOR** agrees to renew this Right of Way Agreement for an additional term of years,
2. In the event that this Right of Way Agreement is terminated, or if the removal of **GRANTEE**'s facilities is otherwise desired by **GRANTOR**, then **GRANTOR** agrees that it will pay the cost of removing **GRANTEE**'s wires and facilities, and, if appropriate, the cost of replacing **GRANTEE**'s wires and facilities. Upon the termination of this Right of Way Agreement, **GRANTOR** agrees to provide **GRANTEE**, if needed by **GRANTEE**, a suitable substitute easement subject to the same terms provided for herein for **GRANTEE**'s wires and facilities. In the event that this Right of Way Agreement is revoked or terminated, all facilities constructed hereunder shall remain the property of **GRANTEE**.
3. **GRANTOR** covenants that in the event that **GRANTOR** sells or conveys the real property on which **GRANTEE**'s wires and facilities are located by this Right of Way Agreement, **GRANTOR** will provide **GRANTEE** with a suitable permanent easement for **GRANTEE**'s wires and facilities and, if necessary, pay the cost of relocating **GRANTEE**'s wires and facilities to such permanent easement.

GRANTOR:

City of Staunton, Virginia

a political subdivision of the Commonwealth of Virginia

By: _____

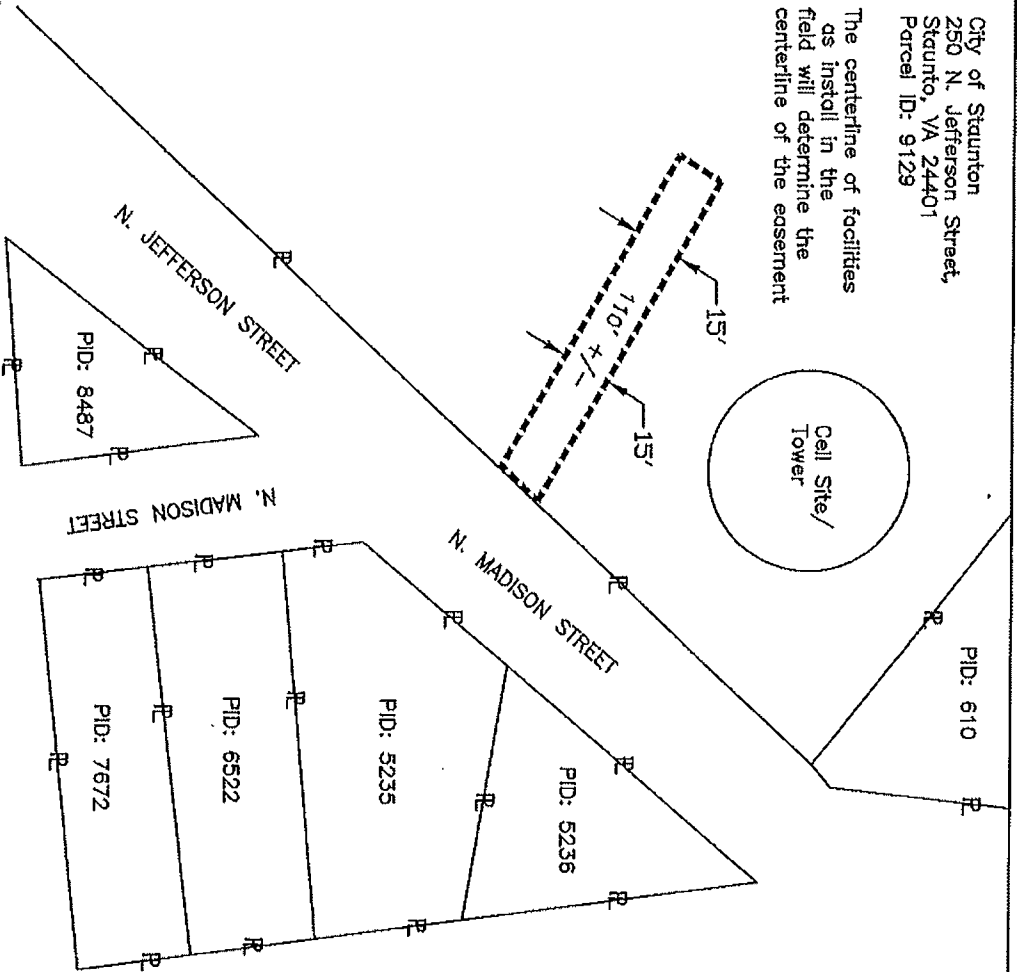
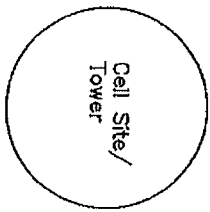
Its: _____

VAROW No(s). 82-22-0039

(Page 4 of 5 Pages)

City of Staunton
250 N. Jefferson Street,
Staunton, VA 24401
Parcel ID: 9129

The centerline of facilities
as install in the
field will determine the
centerline of the easement



LEGEND
--- Location of Boundary Lines
of Right-of-Way 15'
== Right-of-Way Boundary

District	Blue Ridge	Scale	N/A
District-Township-Borough	City of Staunton	County-City	City of Staunton
Office	Blue Ridge	State	Virginia
Work Request Number	10473819	Plot Number	82220039
		Grid Number	F1031

7/15/2022

BY Wayne A. Bartley

OWNER INITIALS _____

Page 5 of 5

PLAT TO ACCOMPANY
RIGHT-OF-WAY AGREEMENT
VIRGINIA ELECTRIC AND POWER COMPANY
doing business as
Dominion Energy Virginia

CH/JG

Attachment 3, Exhibit B

Reply to Customer Service Request and Agreement for Underground Service

Dominion Energy Virginia

City of Staunton

Date: 7/15/2022

250 Jefferson Street

Staunton, VA 24401

Thank you for your request for underground service made through your inquiry shown at right. The work request number which has been assigned to your installation is shown at right and should be referenced when contacting Dominion Energy Virginia about your service.

Inquiry Date 7/15/2022
Work Request # 10473819

The underground service is to be furnished as follows.

Customer City of Staunton
Location 250 Jefferson Street, Staunton, VA 24401

Work Description: Upgrading facilities at cell tower on Reservior Hill

The service characteristics will be approximately those shown below:

Service Panel Size Amps 120/240 Volts A Phase 3 Wire,
Delta Wye, 60 Hertz A.C.

The available fault current at the service panel will be: <10,000 (Approximately Amperes symmetrical). Applicable regulations and ordinances require the installation of a suitably rated service panel to interrupt this fault current. It is the Applicant's responsibility to advise Applicant's contractor of the characteristics of the electricity to be provided so that proper equipment may be installed.

Dominion Energy Virginia will furnish such service in accordance with applicable terms and conditions of service filed with, and authorized by, the State Corporation Commission of Virginia. It is the Applicant's responsibility to adhere to the requirements of Dominion Energy Virginia's published information and Requirements for Electric Service applicable in Virginia (the "Blue Book"). The Blue Book is available at a local Dominion Energy Virginia office or on-line at www.dom.com.

The underground **service charge** to install such underground service will be:

	For your residence.	
	For your development	
	To remove adequate overhead facilities.	
\$0.00	To install underground facilities.	
	For non-residential service.	
	Other (Explain)	cust to customer listed here then add terf 15.34%
\$0.00	Total	
	No charge required (Explain)	

The above cost has been estimated in good faith; however should unforeseen circumstances or Applicant change orders modify the magnitude of the project, Dominion Energy Virginia reserves the right to stop construction and/or amend the service cost. For such project changes, additional construction charges, not to exceed \$500 for residential customers or \$1000 for non-residential customers, will be billed to Applicant upon completion of the work. Additional construction charges in excess of the aforementioned amounts will require prior authorization from the Applicant. Dominion Energy Virginia may require payment of such additional construction charges prior to the completion of the service. It is the Applicant's responsibility to inform Dominion Energy Virginia of the possible presence of rock conditions or hazardous materials, etc. on the site upon the initial request for service.

The applicant is responsible for the following items: removing, chipping, or otherwise disposing of debris produced by right-of-way clearing; reseeding; resodding; landscaping; all current State mandated erosion control and sedimentation control and stormwater management measures and authorizations, including coverage of Dominion Energy Virginia's installation on the Virginia Stormwater Management Permit for the development if required. Therefore, the above charges do not include these services unless otherwise specified in this Agreement.

The necessary engineering and construction work is being scheduled to provide for connection of your service by the date shown at right. This completion date may vary slightly in the event of inclement weather or emergencies.

Date TBD

In order to install the underground facilities by the scheduled completion date, it will be necessary for you to complete the items below by the date shown at right.

Date TBD

Check as many as apply with "X"

☐ **Install Company/Customer provided conduit for the area(s) contracted for hereunder. Ensure conduit is free of obstructions and install 1000# pull string. Conduits ends are to be capped and clearly marked.**

- ☒ Locate and mark any privately-owned underground facilities which may be in the vicinity of Dominion Energy Virginia's proposed facilities route as shown on the attached sketch.
- ☒ Cut and clear right-of-way as shown on the attached sketch.
- ☒ Execute and return the Company's easement for electrical facilities.
- ☒ Install meter base and customer's conductors.
- ☒ Identify property line control points.
- ☒ Obtain electrical inspection.
- ☒ Grade site to be at final elevation.
- ☐ Execute an agreement for the Purchase of Electricity prior to the delivery of service.
- ☐ Execute an agreement for the Purchase of Electricity prior to the construction of facilities.
- ☒ Other **CLEAR ANY OBSTRUCTIONS FROM CABLE ROUTE**

~~ROCK CLAUSE: HIDDEN ROCK AND OTHER DEBRIS THAT IMPEDES DOMINION ENERGY'S CREW FROM TRENCHING AND/OR BORING WILL BE TREATED AS A CONCEALED CONDITION, AN ADDITIONAL COST WILL OCCUR. THE CUSTOMER MAY REMOVE SUCH MATERIAL AT THE CUSTOMER'S COST OR PAY AN ADDITIONAL FEE TO DOMINION ENERGY AT A RATE DISCUSSED IF THE CONDITION EXISTS.~~

~~WE WILL TRENCH AND BACKFILL, THAT IS IT, NO SEED, AND NO STRAW, NO COMPACTION OF SOIL. THIS TRENCHING WILL RESULT IN ROCKS COMING TO THE SURFACE.~~

~~***IF WE CROSS ANY GRAVEL ROAD, WE WILL RESTORE BUT NOT COMPACT***~~

Applicant shall also be responsible for locating and marking any privately owned underground facilities which may be in the vicinity of Company's proposed cable route as shown on the attached sketch. Dominion Energy Virginia will not be responsible for damage done to customer's underground facilities if their location is not marked.

If Applicant's schedule will permit completion of these items before the required date, please contact the Dominion Energy Virginia representative identified below. In the event that the Applicant has not completed these items by the required date, connection of the Applicant's service will be rescheduled and Applicant will be notified of the new scheduled completion date.

Dominion Energy Virginia Representative Wayne A. Bartley Telephone 540-280-3820

After the service cables have been installed, it shall be the Applicant's responsibility to adequately waterseal all cable and conduit entrances (Including spares) in accordance with the latest edition of the National Electrical Code. The watersealing compound must be compatible with the crosslinked polyethylene insulation on the service cables. An electrical inspection will also be required before Applicant's electric service facilities are energized.

If any of the following occur before installation of the electric facilities required to provide one or more of the services for which Applicant has contracted, then this Agreement will, as the case may be, terminate or be modified as to any service contracted for and for which electric facilities have not been installed:

- 1 An electrical permit or similar required authorization from a government entity is not received within six (6) months of the date of this Agreement.
- 2 The State Corporation Commission of Virginia (the "Commission") has terminated or modified the electric service plan under which the charges, terms or conditions for service under this Agreement have been established and Dominion Energy Virginia (i) has filed a new service plan with the Commission containing different charges or conditions and (ii) such new service plan has become effective.
- 3 Dominion Energy Virginia has not received Applicant's payment and authorization within sixty (60) days from the date of this Agreement. In this case, Applicant's request for service will automatically be cancelled without notice to Applicant.

In the event of termination of this Agreement for facilities not installed as outlined above, Dominion Energy Virginia will provide such electric service facilities as required under the provisions of a new agreement in accordance with Company's then applicable electric service plan and charges as filed with the Virginia State Corporation Commission.

If you agree to the foregoing, enclose the payment shown at right and return this signed Agreement in the enclosed return envelope. If we have not received your payment and authorization within 60 days from the date of this Agreement, your request for service will be canceled.

Amount	\$0.00
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Virginia Electric and Power Company d/b/a Dominion Energy Virginia

Accepted this _____
(Date)

By: _____

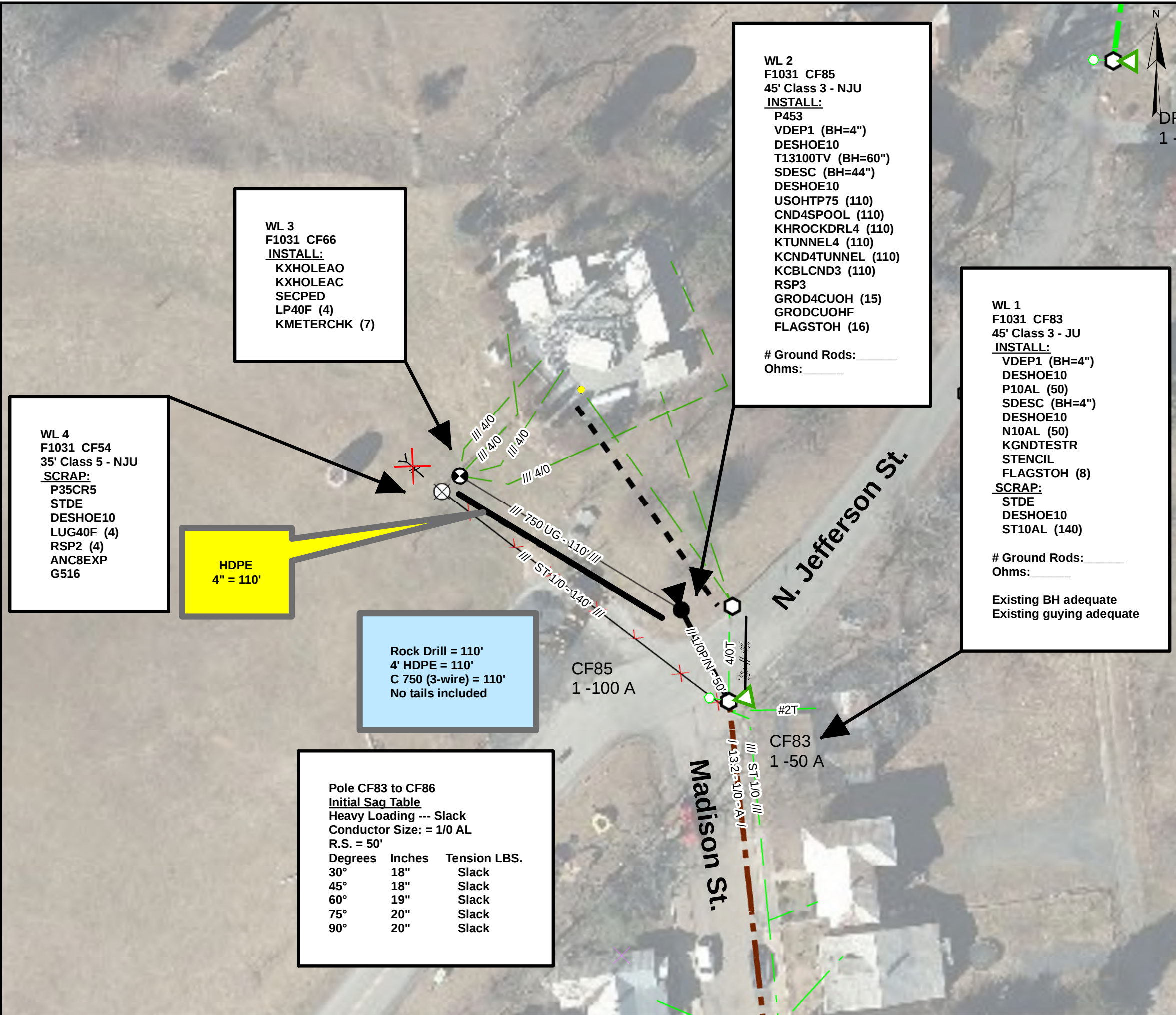
Signed By: _____
(Builder, Developer or Customer)

☐ Enclosed is the payment of the service charge shown above for work request #

10473819

Please note: The signing of this form constitutes an agreement for the installation of underground facilities only and is not a formal application for electric service. Please contact our Customer Service Center at 1-888-667-3000 to apply and have the electric service turned on and placed in your name. If you have any questions, please contact me at the provided telephone number.

If you are excavating, REMEMBER to call Miss Utility before you dig at 811.



VICINITY MAP

Attachment 3, Exhibit C

Cross Street On Sketch

Voltage Issue needing corrected

WL#1 --- Remove triplex, install P/N slack to new pole, megger

WL#2 --- Install pole, OH TX, drill 750UG to ped location

WL#3 --- Install pedestal, make up 4 existing services

WL#4 ---- Pull pole, remove guying, and all hardware

Design Bartley 540-280-3820

LEGEND

Existing	Proposed	Replace	Return	Dominion Pole	Existing	Proposed	Replace	Return	Manhole
○	●	◐	⊗	Foreign Pole	□	■	◐	⊗	Vault
○	●	◐	⊗	OH Transformer	□	■	◐	⊗	Spice Box
△	▲	◐	⊗	OH Step Transformer	□	■	◐	⊗	Secondary Ped
□	■	◐	⊗	UG Transformer	□	■	◐	⊗	Conduit
□	■	◐	⊗	Dummy Transformer	□	■	◐	⊗	Closed Conduit Span
□	■	◐	⊗	UG Step Transformer	□	■	◐	⊗	Duct Bank
□	■	◐	⊗	Fuse	□	■	◐	⊗	Street Light
□	■	◐	⊗	Recloser	□	■	◐	⊗	Watch Light
□	■	◐	⊗	Voltage Regulator	□	■	◐	⊗	OH Fault Indicator
□	■	◐	⊗	Sectionalizer	□	■	◐	⊗	Existing/Proposed
□	■	◐	⊗	OH Switch	□	■	◐	⊗	UG Sec. Current
□	■	◐	⊗	Capacitor	□	■	◐	⊗	Limiting Fuses
□	■	◐	⊗	UG Switch	□	■	◐	⊗	Existing/Proposed
□	■	◐	⊗		□	■	◐	⊗	Open Points
□	■	◐	⊗		□	■	◐	⊗	UG Open Point
□	■	◐	⊗		□	■	◐	⊗	Exist./Pro. OV Arrestor
□	■	◐	⊗		□	■	◐	⊗	Push Brace
□	■	◐	⊗		□	■	◐	⊗	Down Guy & Anchor
□	■	◐	⊗		□	■	◐	⊗	Span Guy
□	■	◐	⊗		□	■	◐	⊗	OH or UG Conductors
□	■	◐	⊗		□	■	◐	⊗	See Sketch for:
□	■	◐	⊗		□	■	◐	⊗	Voltage, Phase,
□	■	◐	⊗		□	■	◐	⊗	Number & Size

PROJECT DATA

Volts: 120/240	Amps: N/A	Phase: A	Est. Demand: 92kva
Volt. Drop: 2.99%	Flicker: N/A	Fault Current: 9,909	
Sub Station: West Staunton			
Circuit #: 82 438	Facility ID: F1031 CF85	TRS #: 82 438 F185	
Tax District: 22000	Easement #: Pending	Premise ID: N/A	
Project Designer: Wayne A Bartley			EID: WAYN022
Phone #: 540-245-4191			Scale: 1 inch = 36.4 feet

VIRGINIA ELECTRIC AND POWER COMPANY
doing business as
Dominion Energy Virginia
or
Dominion Energy North Carolina

Work Description:
INSTALL P/N, POLE, OH TX, DRILL SECONDARY, INSTALL PEDESTAL

Location: 250 JEFFERSON ST STAUNTON VA

WR#: 10473819	Designer: Wayne A Bartley	Date: 4/11/2022
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CITY COUNCIL



AGENDA BRIEFING

Staunton, Virginia

Meeting Date:	September 14, 2023	Maggie Ragon Commissioner of Revenue
Item #	E	
Department:	Commissioner of Revenue	
Alignment with Staunton Plan (Value/Strategic Area):	Value: Excellence	
Subject:	Resolution Establishing the Percentage of Relief at 33% for Purposes of the Personal Property Tax Relief Act (PPTRA)	

Background: The Personal Property Tax Relief Act of 1998 (PPTRA) was modified by legislative action taken during the 2004 and 2005 General Assembly sessions. The legislative enactments required the City to take affirmative steps to implement changes and to provide for computation and allocation of relief. The legislative enactments also provided for an appropriation to the City, commencing in 2006, for a fixed sum to be used exclusively for the provision of tax relief to owners of vehicles subject to the City's personal property tax, and to provide the opportunity for the City to fashion a program of tax relief that best serves the citizens.

On April 13, 2006, Council adopted an ordinance that defined procedures and responsibilities for implementing the changes to the PPTRA, including the method of computing the tax relief and allocation of tax relief, plus transitional provisions. The ordinance requires that Council shall set the percentage of tax relief at such a level that is anticipated to fully exhaust PPTRA relief funds provided to the City by the Commonwealth. The Commissioner of Revenue recommends the rate of 33 percent for calendar year 2023. The Commissioner of Revenue, the City Treasurer, and the Chief Financial Officer have worked as a team to bring this matter to Council so as to implement Council's April 13, 2006 ordinance.

Attached is a copy of the April 13, 2006 ordinance, codified as Section 3.10.015 of the Staunton City Code, and a proposed resolution setting the PPTRA rate at 33 percent, as recommended by the Commissioner of Revenue.

Attachments:

1—Personal Property Tax Relief Code

2—Proposed Resolution

City Manager's Recommendation: I concur with the Commissioner of Revenue's recommendation and also recommend that the percentage be established at 33 percent.

Suggested Motion: I move that a resolution, as proposed, be adopted, establishing the Personal Property Tax Relief Act (PPTRA) percentage at 33 percent.

City Manager: Leslie Beauregard

3.10.015 Personal property tax relief.

(1) Purpose – Definitions – Relation to Other Ordinances.

(a) The purpose of this section is to provide for the implementation of the changes to the Personal Property Tax Relief Act of 1998 (PPTRA) effected by legislation adopted during the 2004 Special Session I and the 2005 Regular Session of the General Assembly of Virginia.

(b) Terms used in this section that have defined meanings set forth in PPTRA shall have the same meanings as set forth in the Code of Virginia Section 58.1-3523, as amended.

(c) To the extent that the provisions of this section conflict with any prior ordinance or provision of the city code, this section shall control.

(2) Method of Computing and Reflecting Tax Relief.

(a) For tax years commencing in 2006, the City adopts the provisions of Item 503.E of the 2005 Appropriations Act, providing for the computation of tax relief as a specific dollar amount to be offset against the total taxes that would otherwise be due but for PPTRA and the reporting of such specific dollar relief on the tax bill.

(b) The city council shall, by resolution, set the percentage of tax relief at such level that is anticipated to fully exhaust PPTRA relief funds provided to the city by the Commonwealth of Virginia.

(c) Personal property tax bills shall set forth on their face the specific dollar amount of relief credited with respect to each qualifying vehicle, together with an explanation of the general manner in which relief is allocated.

(3) Allocation of Relief Among Taxpayers.

(a) Allocation of PPTRA relief shall be provided in accordance with the general provisions of this section, as implemented by the specific provisions of a resolution adopted annually, after the personal property tax book is certified by the commissioner of revenue and delivered to the treasurer.

(b) Relief shall be allocated in such a manner as to eliminate personal property taxation of each qualifying vehicle with an assessed value of \$1,000 or less.

(c) Relief with respect to qualifying vehicles with assessed values of more than \$1,000 shall be provided at a percentage, annually fixed and applied to the first \$20,000 in value of each such qualifying vehicle, that is estimated fully to use all available state PPTRA relief.

(4) Transitional Provisions.

(a) Pursuant to authority conferred in Item 503.D of the 2005 Appropriations Act, the city treasurer is authorized to issue a supplemental personal property tax bill, in the amount of 100 percent of tax due without regard to any former entitlement to state PPTRA relief, plus applicable penalties and interest, to any taxpayer whose taxes with respect to a qualifying vehicle for tax year 2005 or any prior tax year remain unpaid on September 1, 2006, or such date as state funds for reimbursement of the state share of such bill have become unavailable, whichever earlier occurs.

(b) Penalty and interest with respect to bills issued pursuant to subsection (4)(a) of this section shall be computed on the entire amount of tax owed. Interest shall be computed at the rate provided in SCC [3.10.040](#). (Ord. 2006-05).

RESOLUTION
IMPLEMENTING ORDINANCE 2006-05, CODIFIED AS SECTION 3.10.015 OF THE
STAUNTON CITY CODE,
TO FURTHER IMPLEMENT THE 2004-2005 CHANGES
TO THE PERSONAL PROPERTY TAX RELIEF ACT OF 1998

WHEREAS, by Ordinance 2006-05, adopted April 13, 2006, and codified as Section 3.10.015 of the Staunton City Code, the Council of the City of Staunton fashioned a local program of tax relief that serves the best interests of the citizenry regarding personal property tax on qualifying use vehicles, pursuant to modifications made by the General Assembly of Virginia to the Personal Property Tax Relief Act of 1998 (PPTRA);

WHEREAS, the City's program of tax relief contemplates the allocation of PPTRA relief provided by the Commonwealth of Virginia pursuant to the provisions of Ordinance 2006-05, codified as Section 3.10.015 of the Staunton City Code, as further implemented by resolution adopted annually after the personal property tax book is certified by the Commissioner of Revenue and delivered to the Treasurer;

WHEREAS, on August 31, 2023, the Commissioner of Revenue delivered to the Treasurer a certified personal property tax book; and

WHEREAS, the Commissioner of Revenue has recommended to the Council of the City of Staunton, Virginia, that with respect to qualifying vehicles with assessed values of more than \$1,000 the percentage of relief to be applied to the first \$20,000 in value of each such qualifying vehicle should be 33%, which the Commissioner of Revenue estimates will fully use all available state PPTRA relief.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Staunton, Virginia, that 33% shall be the percentage of relief to be applied to the first \$20,000 in value of each qualifying vehicle with an assessed value of more than \$1,000, pursuant to and in accordance with the provisions of Section 3.10.015 of the Staunton City Code.

Adopted this 28^h day of September, 2023.

Approved: _____
Mayor

Attest: _____
Kiley Kesecker
Clerk of Council

CITY COUNCIL



AGENDA BRIEFING

Staunton, Virginia

Meeting Date:	September 14, 2023	John C. Blair, II City Attorney Chris Tuttle Parks and Recreation Director
Item #	F	
Department:	City Attorney	
Alignment with Staunton Plan (Value/Strategic Area):	Value: Engagement	
Subject:	Consideration of Resolution Authorizing Stadium License Agreement Between the City and Mary Baldwin University	

Background: The City owns and operates John Moxie Memorial Baseball Stadium in Gypsy Hill Park. Mary Baldwin University (MBU) has requested the use of the stadium for the purpose of playing baseball in preparation for and during the collegiate baseball fall and spring seasons. The attached draft resolution authorizes the license agreement which sets forth the terms and conditions for MBU's use of the stadium.

Attachments:

Attachment 1—Draft Resolution
Attachment 2—Draft License Agreement

City Manager's Recommendation: Authorize the license agreement between the City and Mary Baldwin University for the use of John Moxie Memorial Baseball Stadium as noted in the license agreement and further authorize and direct the City Manager to sign the license agreement with such modifications as in final form as approved by the City Attorney.

Suggested Motion: I move that City Council approve the resolution authorizing a license agreement between the City and Mary Baldwin University for the use of John Moxie Memorial Baseball Stadium as noted in the license agreement and further authorize and direct the City

Manager to sign the license agreement with such modifications an in final form as approved by the City Attorney.

City Manager: Leslie Beauregard

DRAFT 09.06.23

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**RESOLUTION
OF THE
COUNCIL OF THE CITY OF STAUNTON
AUTHORIZING A NON-EXCLUSIVE LICENSE AGREEMENT BETWEEN
THE CITY OF STAUNTON, VIRGINIA
AND
MARY BALDWIN UNIVERSITY
FOR THE LIMITED USE OF THE BASEBALL FIELD
AT
JOHN MOXIE MEMORIAL BASEBALL STADIUM**

RECITALS

1. The City of Staunton owns and operates John Moxie Memorial Baseball Stadium in Gypsy Hill Park;

2. Mary Baldwin University has requested the use of John Moxie Memorial Baseball Stadium for the purposes of playing baseball in preparation for and during its collegiate fall and spring baseball seasons; and

3. The Mary Baldwin University baseball team provides the City and its residents with valued recreational and entertainment opportunities during the baseball seasons.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF STAUNTON, VIRGINIA that is authorizes the license agreement between the City of Staunton, Virginia and Mary Baldwin University for the limited use of the baseball field retroactively to and including September 1, 2023; and it is

FURTHER ORDAINED that the Staunton City Manager is authorized to execute the license agreement with such modifications and in final form as approved by the City Attorney.

Adopted this 14th day of September, 2023.

Stephen W. Claffey, Mayor

ATTEST: _____
Kiley A. Kesecker,
Clerk of Council

STADIUM NON-EXCLUSIVE LICENSE AGREEMENT

This **NON-EXCLUSIVE STADIUM LICENSE AGREEMENT** (the Agreement) dated as of _____, 2023, for identification, is made by and between **CITY OF STAUNTON, VIRGINIA**, a municipal corporation of the Commonwealth of Virginia (the City), and **MARY BALDWIN UNIVERSITY**, a Virginia corporation (the Licensee) (SCC #00243162).

1. Recitals.

- 1.1 The City owns and operates John Moxie Memorial Baseball Stadium (“Stadium”) in Gypsy Hill Park.
- 1.2 Licensee has requested the use of the Stadium for the purposes of playing baseball in preparation for and during collegiate baseball seasons. A sketch of the stadium area is attached as Exhibit A.
- 1.3 After approval action of the Council of the City of Staunton, Virginia, the City authorizes that the City facilities shown on Exhibit B (“Facilities”) be made available for such use in anticipation of the valued recreational and entertainment opportunities to be provided to the City and its residents by a collegiate baseball program in the City. Nonetheless, it is stipulated that Licensee’s activities, including but not limited to scheduling, programming, and participation, are not sponsored, not directed, and not managed by the City, instead being solely and completely controlled by Licensee. It is also stipulated that any decision-making is within the sole and private, independent control and exercise of discretion of Licensee and any role of the City is minimal, providing merely neutral logistical assistance, with no role whatsoever as to making agreements or adopting or enforcing any requirements.
- 1.4 These recitals are an integral part of this Agreement.

2. License. City grants to Licensee a license for the non-exclusive use of the Facilities.

3. Term. The term of this Agreement shall be retroactive from September 1, 2023, to and including May 31, 2024. Licensee shall not be required to pay to City a fee for use of the Facilities. City and Licensee presently anticipate that the Facilities will be used by Licensee during the term of this Agreement for a - fall season from approximately September 1, 2023, through October 31, 2023, and for a spring season from approximately February 1, 2024, through May 31, 2024.

4. Obligations of Licensee.

- 4.1 Licensee is required to perform all restroom cleaning within twelve (12) hours of the conclusion of any use of Facilities by Licensee. The City will provide cleaning supplies and materials for this purpose. Only the restrooms located between the Stadium

and the Winston Wine Memorial Stadium will be available for use during Licensee's use of the Facilities.

4.2 Licensee will have total responsibility for immediate trash pickup during and after each use by Licensee of the Facilities through each season. All trash shall be properly deposited into containers to be readily accessible to the City's refuse service.

4.3 Licensee shall be responsible for the maintenance of the playing field (including, without limitation, marking and dragging the field and provision of marking dust and drying agent), at its sole expense, with the exception that the City shall (a.) paint and maintain outfield boundary lines, and (b.) mow the field, including the infield, at least one (1) time each week during each season. If Licensee reasonably requests additional mowing, the City will complete such additional mowing and invoice Licensee for all costs associated with the use and operation of equipment, the materials and the labor. Such invoice shall be paid within ten (10) days by Licensee, and if not paid within such period, shall bear interest at the rate of 9% per annum.

4.4 Any other special requests by Licensee for the City to provide equipment and services will be invoiced to Licensee for all costs associated with the use and operation of the equipment, materials and labor. Such invoice shall be paid within ten (10) days by Licensee, and if not paid within such period, shall bear interest at the rate of 9% per annum. Notwithstanding the foregoing, Licensee shall have use of the batting net and batting cage owned by the City and stored in the Facilities, at no additional cost.

4.5 Licensee shall comply with all applicable laws and regulations including those regarding signs.

5. Water and Electricity. The City will furnish at the City's cost and expense water and electricity from the presently installed hookups for the use of Licensee. The water will be turned on for use by the Licensee as soon as is practicable, weather permitting.

6. Use and Restrictions. Licensee's use of the Facilities during each season is subject to the following additional conditions:

6.1 The City hereby expressly reserves and excepts the use of the Facilities during each season when, in the sole discretion of the City, the Facilities are needed for civic purposes, scheduled community recreation events, or other purposes. Staunton City Schools and youth league teams shall have the right, as a matter of priority, to practice and play games during their respective seasons. The City shall, when practicable, give at least twenty-four (24) hours' notice to Licensee of any conflict of events. In case of emergency or necessity, to be determined in the City's sole discretion, the City may take control of and use the Facilities without Licensee receiving notice.

6.2 Licensee will provide the City with a fixed schedule for each season at least ninety (90) days prior to the commencement of such season. After the schedule is submitted to the City, Licensee must make reasonable effort to submit all changes of

dates and times for approval by the City at least twenty-four (24) hours prior to such changes being made. Licensee acknowledges that rescheduling of rainouts cannot conflict with scheduled Staunton High School games or practices.

6.3 All games played at Facilities must end and the crowds dispersed no later than 11:30 p.m. local time.

6.4 The Facilities, and equipment therein, shall continue to be available at all times for the use of the City or its agents, or assignees, at all times other than those when in actual use by Licensee or otherwise permitted under the terms of this Agreement.

6.5 The City will be responsible for having Facilities, including the playing field, in a reasonable condition prior to the first scheduled home game of each season; provided, however, the City disclaims any warranty about the condition of the Facilities, which are provided AS IS, and Licensee shall have the sole obligation to inspect and correct any deficiencies prior to each use by the Licensee. Thereafter, the City will be responsible only for mowing the grass portions of the baseball field, one (1) time each week, during each season. The infield portion of the baseball field will be otherwise maintained by Licensee to the satisfaction of the City's Superintendent of Parks. Should the maintenance otherwise of the infield portion of the Facilities not be performed satisfactorily, the City's grounds crew will perform the maintenance and invoice Licensee for the associated cost, which must be paid by Licensee within ten (10) days of such invoice and if not paid within such period shall bear interest at the rate of 9% per annum.

7. Concessions. Licensee's sale of concessions shall be subject to the following conditions:

7.1 Licensee, its students, and affiliated clubs and organizations, shall be permitted to sell concessions and shall supply, at their expense, all equipment necessary for the sale and operation of concessions as well as food and drink items used as concessions.

7.2 Licensee shall be responsible for the cleaning of any part of the Facilities where concessions are conducted or used, to the sole satisfaction of the City's designee, such cleaning to be completed immediately following each game.

7.3 Licensee shall be permitted to display temporary Mary Baldwin University/National Collegiate Athletic Association signage/banners. Licensee shall remove all temporary banners at the end of each Fall and Spring season. No advertising will be displayed on the exterior of any Facilities' Building. Licensee Shall not sell advertising or marketing space to or for the benefit of third parties or for licensee.

7.4 No sound system used for advertising will be permitted on the premises.

8. Environmental Indemnification.

8.1 Subject to the terms of subsections 7.1 through 7.5 of this Agreement, Licensee shall, at all times, indemnify, defend and hold harmless the City, its members of Council, officers, directors, agents and employees, against any and all demands, investigations, proceedings, claims, liens, suits, actions, debts, damages, costs, losses, obligations, judgments, and expenses (including reasonable attorney and other professional and non-professional fees) of any nature whatsoever, arising from or relating to any statutory or common law action based on a Release of any Hazardous Wastes or Toxic Substances (as hereinafter defined) unless due to the conduct of the City or a third party unaffiliated with Licensee; the threat of a Release of any Hazardous Wastes or Toxic Substances as set forth in CERCLA (as hereinafter defined) unless due to the conduct of the City or a third party unaffiliated with Licensee; or the presence of any Hazardous Wastes and/or Toxic Substances affecting Facilities, including without limitation any loss of value of, loss of use of or loss of income from Facilities as a result of any of the foregoing unless due to the conduct of the City or a third party unaffiliated with Licensee. Licensee's obligation under this Agreement shall arise whether or not any governmental authority or individual has taken or threatened any action in connection with the presence of any Hazardous Wastes or Toxic Substances.

8.2 In the event the City or Licensee becomes aware of the presence of any Hazardous Wastes or Toxic Substances affecting Facilities in violation of any federal, state or local statute or regulation related to the protection of the environment, the management of Hazardous Wastes or the control of Toxic Substances, or Licensee's failure to comply with any of the requirements of any federal, state or local statute or regulation related to the protection of the environment, the management of Hazardous Wastes or the control of Toxic Substances, the City or Licensee, as applicable, shall immediately notify the other party orally, to be followed immediately by written confirmation.

8.3 In the event of any Release or the presence of any Hazardous Wastes or Toxic Substances affecting Facilities, or in the event Licensee shall fail to comply with any of the requirements of any federal, state or local statute, ordinance, or regulation related to the protection of the environment, the management of Hazardous Wastes or the control of Toxic Substances, unless any of the aforesaid is due solely to the conduct of the City or a third party unaffiliated with Licensee, Licensee shall, using commercially reasonable, good faith efforts, diligently proceed to restore the Facilities to the original condition existing as of the date of this Agreement. If Licensee fails to use its commercially reasonable, good faith efforts or to diligently pursue restoration of the Facilities, the City may, at its election, and at Licensee's cost and expense, but without the obligation to do so, give such notice and/or cause such work to be performed at the Facilities and/or take any and all other actions as the City shall deem necessary to restore the Facilities to the original condition existing as of the date of this Agreement.

8.4 "Hazardous Wastes" shall have the same meaning as set forth in the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6901 et seq. and the regulations promulgated thereunder and in the Virginia Hazardous Waste Management Regulations,

all as amended from time to time. The term "Toxic Substances" shall include all substances defined pursuant to Section 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), 42 U.S.C. § 9601(14), as amended from time to time, without limitation, however, as to the quantity of substances released. Further, the term "Toxic Substances" shall also include petroleum as defined at 42 U.S.C. § 6991(8), whether contained above or below ground, and shall include asbestos contained in or comprising building materials or building components. The term "Release" shall have the same meaning as set forth at 42 U.S.C. § 9601(22).

8.5 The obligations of both the City and Licensee under this section shall survive termination or expiration of the Agreement.

9. General Indemnity and Hold Harmless. Licensee shall indemnify, defend and hold harmless the City, its members of Council, officers, directors, agent and employees, against and from any and all demands, claims, liens, suits, actions, debts, damages, costs, losses, obligations, judgments and expenses (including reasonable attorney and other professional and non-professional fees) arising out of, or resulting from, any and all injuries to persons or property by reason of Licensee's use of the Facilities and by reason of the use or act of any person, firm, or corporation operating upon the Facilities with Licensee's permission. The term "Licensee's use of the Facilities" means all those activities, events, equipment, displays, performances, and concessions constituting the uses referred to in this Agreement. This provision shall survive termination or expiration of this Agreement.

10. Insurance.

10.1 Licensee shall, at all times during the term hereof, at its own expense, maintain and keep in effect a comprehensive general liability insurance policy. The amount of such insurance shall not be less than \$1,000,000.00, combined single limit for personal injury or property damage. The policy shall name the City as an additional insured, as its interest may appear. No policy may be cancelled or materially amended without at least thirty (30) days' prior written notice to the City.

10.2 The policy shall contain an endorsement or agreement by the insurer that any loss shall be payable in accordance with the terms of such policy notwithstanding any act or negligence of the City or Licensee which might otherwise result in the forfeiture of the insurance and the further agreement of the insurer waiving all rights of setoff, counterclaim or deduction against the City or Licensee.

10.3 The insurance required by this section shall be carried with an insurance company licensed to do business in the Commonwealth of Virginia and rates no less than A- by A.M. Best. A certified copy of the insurance policy or other evidence of current coverage reasonably satisfactory to the City shall be delivered to the City prior to entering or occupying the Facilities. In the event of the failure of Licensee to procure the required insurance, to pay the premiums thereon, or to properly maintain and keep the insurance in force, the City shall have the right and privilege, but not the obligation, to procure the

insurance and to pay the premiums thereon, which amounts shall be due and payable within ten (10) days of written demand from the City to Licensee and if not paid within such period shall bear interest at the rate of 9% per annum.

11. Damage or Destruction of Facilities.

11.1 If Facilities are damaged by fire or other casualty, this Agreement, and all obligations hereunder, shall immediately terminate.

11.2 All insurance proceeds shall be paid to and become the sole property of the City.

12. Notices. All notices, requests, claims, demands and other communications hereunder shall be in writing and shall be given by delivery in person, mailed by courier or sent by facsimile and confirmed by telephone, or by registered or certified mail (postage prepaid, return receipt requested) or as subsequently designated otherwise as follows:

To the City: The City of Staunton
 Attention: City Manager and
 Chief Finance Officer
 116 W. Beverley St. (24401)
 P. O. Box 58
 Staunton, VA 24402-0058

with a copy to: City Attorney
 116 W. Beverley St. (24401)
 P. O. Box 58
 Staunton, VA 24402-0058

To Licensee: Mary Baldwin University
 101 East Frederick Street
 Staunton, VA 24401

13. Termination. The City reserves the right to terminate this Agreement at any time on at least twenty-four (24) hours' written notice to Licensee upon default of Licensee on any condition herein set forth, or upon violation by Licensee of any ordinances of the City or any laws of the Commonwealth of Virginia or of the United States. It is expressly understood that the City shall have the right to terminate this Agreement if it reasonably believes Licensee to be in violation of any ordinances or laws as aforesaid, and Licensee hereby waives any claim for any damages resulting from termination of this Agreement as aforesaid even though it should subsequently be shown that Licensee was not, in fact, in violation.

14. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of successors in interest and permitted assigns of the City and Licensee. Licensee assures the City that this transaction is authorized. This Agreement may not be assigned, nor any performance of any duty hereunder be delegated by either the City or Licensee, without the prior written consent of the other.
15. Severability. If any provision, clause or part of this Agreement or the application hereof under certain circumstances is held invalid or unenforceable for any reason, the remainder of this Agreement, or the application of such provision, clause or part under other circumstances, shall not be affected thereby.
16. Immunity. Nothing in this Agreement shall be construed or interpreted to be a waiver of any sovereign or other immunity of the City, its members of Council, officials, employees, agents or responsible parties or of Licensee.
17. No Third-Party Beneficiary. This Agreement is not intended to and shall not be construed to create any third-party beneficiary.
18. Waiver of Trial by Jury. The City and Licensee each hereby waive any and all right to trial by jury in any matter arising out of or in any way connected with this Agreement.
19. Appropriations. The obligations of the City are subject to and contingent upon sufficient annual appropriations of funds by the City Council for the purpose of this Agreement.
20. Governing Law and Forum Selection. This Agreement shall be governed by and construed under the laws of the Commonwealth of Virginia, without reference to its conflicts of laws rules or principles. The City and Licensee agree that any proceeding connected with the subject matter of this Agreement or otherwise related to the rights of either party, contractual or extra-contractual, shall be instituted or filed and maintained by each and both of them, unless required otherwise by law, solely in the General District or Circuit Court of the City of Staunton, Virginia.
21. Applications, Construction and Interpretation; Captions. This Agreement will be applied, construed and interpreted without any regard to any rule or principle of construction concerning the drafting or authorship of the Agreement. The headings or captions in this Agreement are for convenience of reference only and shall not affect the construction or interpretation of the provisions.
22. Entire Agreement; Amendments. The City and Licensee acknowledge that no representation, promise, inducement or agreement not herein expressed has been made in connection with this Agreement. No oral understandings, statements, promises or inducements contrary to the terms of this Agreement exist. They acknowledge that this Agreement and any documents which are to be executed in connection herewith pursuant to the terms of this Agreement contain the entire agreement between them regarding the subject matter hereof and supersede and replace any and all prior oral and written agreements, arrangements or understandings between them hereto relating to the subject

matter hereof. This Agreement may be amended only by a written instrument signed on behalf of the City, as duly authorized, and by Licensee.

WITNESS the following signatures:

CITY:

CITY OF STAUNTON, VIRGINIA

By:_____

Leslie M. Beauregard
City Manager

LICENSEE:

MARY BALDWIN UNIVERSITY

By:_____

_____ Name

_____ Title



Exhibit A

1 inch = 169 feet



Data and scale shown on this map are provided for planning and informational purposes only. STAUNTON (VA) and Vision Government Solutions are not responsible for any use for other purposes or misuse or misrepresentation of this information.

4/12/2018



1. Stadium Field
2. Concessions
3. Parking Facility
4. Restrooms

Exhibit B

1 inch = 200 feet



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4/12/2018