City of Harrisonburg, Virginia

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TO THE MEMBERS OF CITY COUNCIL
CITY OF HARRISIONBURG, VIRGINIA

SUBJECT: Public hearing to Consider a request from Northside, LLC with representative Balzer & Associates Inc. to close 62,004 +/- square feet of public street right-of-way (ROW) of two separate streets: Wilson Avenue and Boulevard Avenue. Wilson Avenue is a substandard public street (a portion of which is a paper street) that intersects North Main Street approximately 300 feet south of the North Main Street/Mt. Clinton Pike intersection and runs parallel to Mt. Clinton Pike for approximately 1,320 ft. Boulevard Avenue is an undeveloped public street located off of Wilson Avenue extending about 690 feet to the south. The applicant is requesting to close Wilson Avenue from North Main Street to just beyond its intersection with Boulevard Avenue while closing Boulevard Avenue in its entirety. The purpose of the closures is to allow development of the contiguous parcels including building over portions of the public street ROW. The public street ROW is adjacent to tax map parcels 42-A-2, 42-B-1A, 2, 3, 5, 8, 8A, 8B, 8C, 9, 9A, 32, 33, 34, & 36, and 44-A-31.

EXTRACT FROM MINUTES OF HARRISONBURG PLANNING COMMISSION MEETING HELD ON: May 14, 2014

Chair Fitzgerald read the request and asked staff to review.

Mr. Fletcher said the following land uses are located on and adjacent to the property:

Site: Wilson Avenue is a substandard public street (a portion of which is a paper street) that intersects North Main Street approximately 300 feet south of the North Main Street/Mt. Clinton Pike intersection and runs parallel to Mt. Clinton Pike for approximately 1,320 ft. Boulevard Avenue is an undeveloped public street located off of Wilson Avenue extending about 690 feet to the south.

North: Undeveloped property, zoned R-2

East: Single family homes fronting Wilson Avenue and North Main Street, zoned R-2

South: Single family homes fronting Wilson Avenue and North Main Street, zoned R-2; a non-nonconforming single family home fronting North Main Street, zoned B-2; the Harrisonburg Rockingham Community Services Board property fronting North main Street, zoned B-2; and property owned by GSW Investors, zoned M-1

West: GSW Investors property, including operations of Rockingham Construction and Special Fleet Service, Inc., zoned M-1

Northside, LLC (the applicant), a family owned LLC, is requesting to close 62,004 +/- square feet of public street right-of-way (ROW) of two separate streets: Wilson Avenue and Boulevard Avenue. The closure request is the first step of a multi-step process the applicant is initiating so they can enter into

contract with an interested buyer to construct what they hope is commercial development—conceptually, a grocery store. After this month's review of the ROW closing, a preliminary plat and rezoning request are planned to be simultaneously reviewed next month. The reason the closure request is occurring first, is because if the City is not interested in closing the ROW, then the interested buyer does not want to move forward as their conceptual building layout utilizes areas that are now public street ROW.

There are multiple layouts and maps within the packet to assist in understanding this request. The applicant has provided three different layout sheets. Sheet EX-1 illustrates the public ROW requested for closure. Sheet EX-2 demonstrates a preliminary layout of what their parcels could look like after the ROW is incorporated into their adjoining properties along with showing a planned public street ROW dedication, which essentially is an extension of Technology Drive. This same sheet also roughly depicts what the preliminary plat will look like for next month's Planning Commission meeting. Sheet EX-3 illustrates the portion of property they plan to request be rezoned to B-2 and shows a different configuration of what the surrounding parcels could look like if the area is rezoned.

The applicant owns 25 parcels adding up to about 16.66 acres of property in this area of the City with public street frontage along Wilson Avenue, Boulevard Avenue, Mt. Clinton Pike, and North Main Street. About 4.14 acres (four parcels) are located on the northern side of Mt. Clinton Pike at the corner of Mt. Clinton Pike and North Main Street. This property is zoned M-1 and is home to Harrisonburg Motor Express, a trucking company owned by a part-owner of Northside, LLC. At this time, that property has been unassociated with the development plans that have been discussed with staff. The majority of their property (12.52 acres), and the larger area desired for commercial development is located on the southern side of Mt. Clinton Pike and the western side of North Main Street. Aside from the corner parcel—a 30,881 square foot lot zoned M-1—all other property is zoned R-2. In addition to this acreage, Joseph and Linda Moore (Joseph being the owner of Harrisonburg Motor Express), own 1.99 acres made up of two parcels zoned R-2; they reside at that site. In all, 14.51 acres is the total area the applicant and Joseph and Linda Moore together are hoping to sell for development. (Staff has provided a map within the packet depicting the information just described.)

With regard to the streets requested for closure, Wilson Avenue is a substandard public street (a portion of which is a paper street) that intersects North Main Street approximately 300 feet south of the North Main Street/Mt. Clinton Pike intersection. The entire public street ROW runs parallel to Mt. Clinton Pike for about 1,320 feet, where roughly 670 feet is paved. Over half of the length of ROW is 50 feet wide, while the remaining portion is 30 feet wide. Boulevard Avenue is an undeveloped, paper street located off of Wilson Avenue extending about 690 feet to the south. Boulevard Avenue is 30 feet wide. The paved section of Wilson Avenue does not extend to its intersection with Boulevard Avenue, and it currently only serves four single family detached structures, three of which are owned by the applicant and the fourth being owned by Joseph and Linda Moore.

The applicant is requesting to close Wilson Avenue from North Main Street to just beyond its intersection with Boulevard Avenue—about 835 feet in length, most of which is 50 feet wide—while requesting to close Boulevard Avenue in its entirety. If approved as requested, there would remain approximately 485 feet in length of Wilson Avenue as undeveloped public street ROW. As planned, this remaining ROW will not be landlocked from other public street ROW because, as shown on Sheet EX-2, the planned extension of Technology Drive would intersect this undeveloped remaining portion of Wilson Avenue.

As is standard practice, all property owners adjacent to the requested areas for closure will have the opportunity to purchase up to 50 percent of the ROW width along the entire length adjoining their

property. In all, 16 parcels are adjacent to the ROW requested for closure; nine are owned by the applicant, two are owned by Joseph and Linda Moore, two are owned by GSW Investors, one is owned by Harrisonburg Rockingham Community Services Board, one is owned by Harrisonburg Rockingham Community Mental Health and Others, and one is owned by Richard and Betty Sampson.

As shown on Sheet EX-1, there is City public water and sewer infrastructure as well as overhead utility lines owned by HEC within and adjacent to the areas requested for closure. If approved, the City will reserve easements for all of these utilities in the existing ROW with the ordinance that deeds the property to the new owners. The applicant is aware of this issue and is preliminarily showing on Sheet EX-1 the locations of where easements should be established.

The applicant must understand that if the ROW is closed and purchased, the City will no longer provide snow removal or any other maintenance services on Wilson Avenue. With regard to sanitation services (trash pick-up, recycling, etc.), unless special arrangements are worked out with the Department of Public Works to continue traveling the paved section of Wilson Avenue, residents will have to place their sanitation items along the street their parcel ends up having street frontage upon. Public school bus services would be provided as is determined necessary.

Aside from the matters described herein, the City does not need to maintain ownership of the subject ROWs to provide any other City services. Staff recommends closing the 62,004 +/- square feet of ROW of Wilson Avenue and Boulevard Avenue only with the following two conditions:

1. The City shall reserve easements for all public utilities in the subject areas.
2. The recording of the street closing shall not occur until, or simultaneously with, the dedication of the extension of Technology Drive.

It should be understood that the City cannot accept the dedication of the extension of Technology Drive until the associated preliminary plat is approved by Planning Commission. The final plat that dedicates Technology Drive (which only requires administrative review), cannot be approved until the complete street is built or a form of surety is accepted by the City to cover all public improvements.

It should be further understood that staff's favorable recommendation for the ROW closure request provides no bearing upon any future development proposal—including the planned preliminary plat and rezoning.

Chair Fitzgerald asked if there were any questions for staff.

Mr. Colman asked if there would be any future consideration given to closing the rest of Wilson Avenue.

Mr. Fletcher said the original proposal requested all of Wilson Avenue be closed; however the applicant did not need the entire length of the street. After discussion between City staff and the applicant it was agreed that it made most sense to keep it open at this point so that if the adjacent properties ever developed, they could access and have a public street built off of that internal public street as opposed to multiple entrances along Mt. Clinton Pike. Of course that will require more dedication of public right-of-way to build that street because it is insufficient right-of-way at this time.

Mr. Heatwole said am I to understand that the portion of Wilson Avenue that would not be closed would eventually connect to Technology Drive right-of-way extended in this area?

Mr. Fletcher replied yes.

Mr. Da'Mes asked if all the adjacent property owners had been notified, or talked to, in regards to what the process is for obtaining that property.

Mr. Fletcher said to my understanding the applicants have spoken to everyone except Richard and Betty Sampson, they were unable to connect with them; but the applicants can probably further discuss that with you. A very large property owner adjacent to this is the GSW Investors property, and I met with them directly just to get their understanding and to find out where they fit into this plan. They do not have a position one way or the other; as long as they have access out to Mt. Clinton Pike if Boulevard Avenue gets closed.

But to answer your questions, tonight's procedure is not a public hearing; therefore, the adjacent property owners were not notified. It is a public hearing at City Council next month and all adjoining property owners will be notified.

Mr. Colman asked if the applicant's intent was to purchase all of Boulevard Avenue.

Mr. Fletcher said they do not need it; whether or not they are interested in buying it is up to them.

Mr. Colman said does that leave a potential for a "no man's land" type situation if the City closes the street and the applicant's do not purchase it?

Mr. Fletcher said the adjacent property owners would get first right of refusal on the right-of-way and if they do not want it the applicants could acquire it. You would have to ask them if they were interested in it; but the City would not just leave it open, someone would have to buy it.

Chair Fitzgerald asked if there were any further questions for staff. Hearing none, she said this is not a public hearing; however we do invite the applicant or the applicant's representative to come forward and speak.

Mr. Bill Moore with Balzer and Associates, the consulting engineer for the applicant and developer, said we can answer any questions you may have regarding the street closures. We do want to clarify one thing on the final plat – posting a bond for Technology Drive would allow the final plat to be approved, correct?

Mr. Fletcher replied yes.

Chair Fitzgerald asked if there were any questions for the applicant's representative. Hearing none, she asked if there was any further discussion.

Mr. John Serrell, 109 Fairway Drive, said he owns property at the intersection of Technology Drive and Mt. Clinton Pike, and he is in favor of this project.

Chair Fitzgerald asked if there was anything further or perhaps a motion.

Mr. Baugh said on the second recommended condition are we intending to say that the recording of the street closing could be simultaneous with the street dedication, just not before?

Mr. Fletcher replied that is correct.

Mr. Baugh said that is what I thought it meant, but when I read it I am not sure that it says that. Could we not just say "the recording of the street closing shall not occur before the dedication of the extension of Technology Drive?"

Mr. Fletcher said that is fine, that works.

Mrs. Turner said I have a question. Should we have included a condition that the roadway would not be closed unless the preliminary plat, showing that all lots will have street frontages as required, be recorded at the same time? Is there another mechanism by which that is assured to happen?

Mr. Fletcher said when I was looking at this it was with the assumption that the preliminary plat and the dedication of the street are all the same plat. But it is a good point because we do not have a plat at this time; therefore, I think it is a good condition to have. There should be a condition that the platting of the lots shall occur in the same way as the extension of Technology Drive. Perhaps it could be just as simple as a condition ensuring that all newly created lots have public street frontage.

Dr. Dilts moved to recommend approval of the street closings with the three conditions:

- the City shall reserve easements for all public utilities in the subject areas;
- the recording of the street closing shall not occur before the dedication of the extension of Technology Drive; and
- all newly created lots have public street frontage.

Mr. Colman seconded the motion.

Chair Fitzgerald called for a voice vote on the motion.

All voted in favor of the motion (6-0) to recommend approval of the street closings with the three conditions.
Chair Fitzgerald said this item will go before City Council on June 10th.

Respectfully submitted,

Alison Banks
Planner