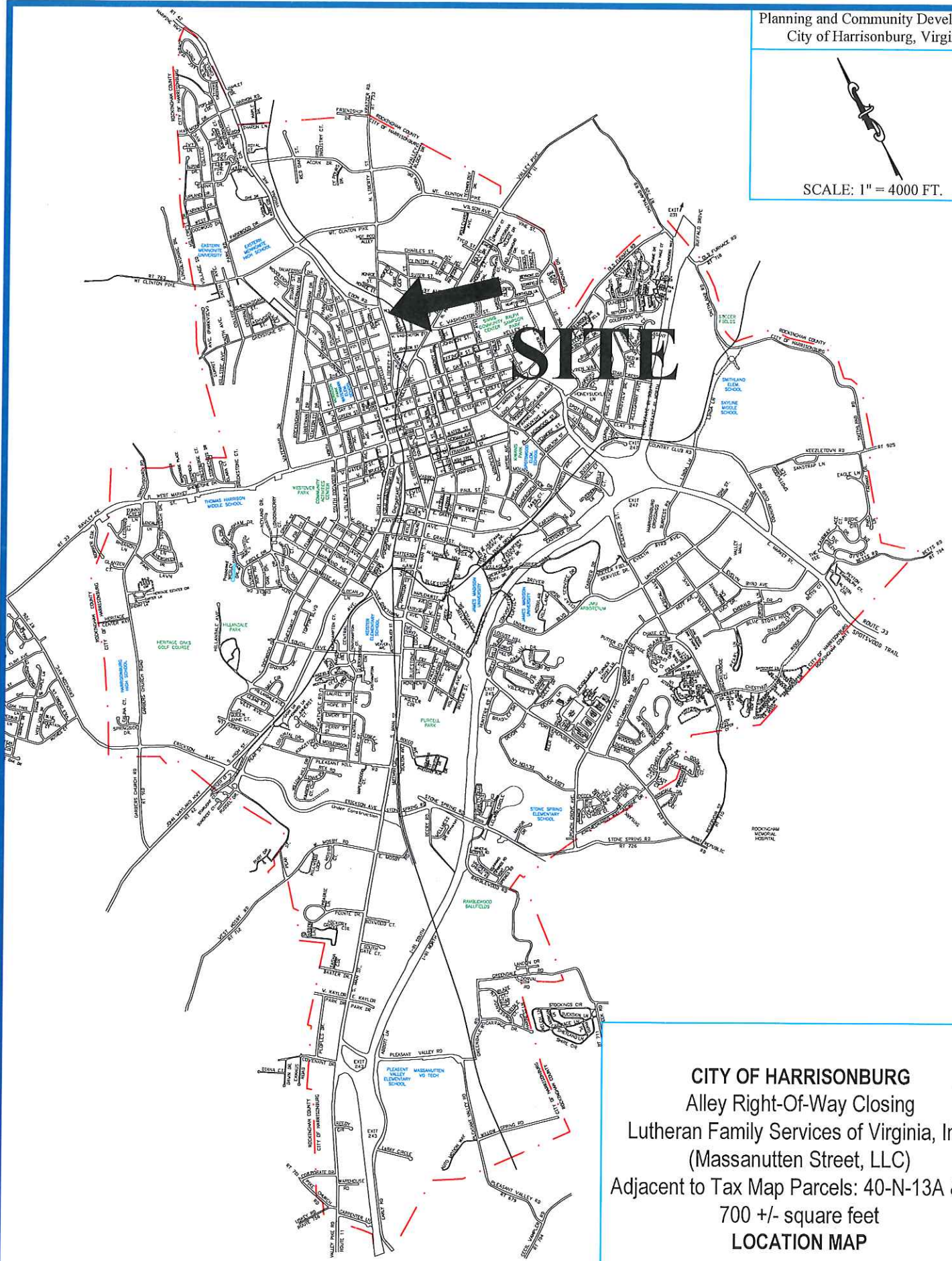




SCALE: 1" = 4000 FT.



**CITY OF HARRISONBURG**  
Alley Right-Of-Way Closing  
Lutheran Family Services of Virginia, Inc.  
(Massanutten Street, LLC)  
Adjacent to Tax Map Parcels: 40-N-13A & 14  
700 +/- square feet  
**LOCATION MAP**





**Alley Right-Of-Way Closing**  
**Lutheran Family Services of VA, Inc. (Massanutten Street, LLC)**



# City of Harrisonburg, Virginia

DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

**STAFF REPORT**  
**September 10, 2014**

## **STREET CLOSING – ADJACENT TO 40-N-13A & 14 (LFSVA)**

### **GENERAL INFORMATION**

- Applicant:** Lutheran Family Services of Virginia, Inc. (LFSVA) the sole “member” of the property owner Massanutten Street, LLC
- Tax Map:** Adjacent to 40-N-13A & 14
- Acreage:** 700 +/- square feet
- Location:** A 50 +/- foot in length section of a public alley located between Jackson Street and West Washington Street and parallel to North Liberty Street.
- Request:** Consider a request to close a 14 +/- foot wide by 50 +/- foot long section of public alley right-of-way. The area requested for closure totals approximately 700 square feet.

The following land uses are located on and adjacent to the property:

- Site:** 14-foot wide public alley right-of-way
- North:** Public street right-of-way of substandard Jackson Street and industrial uses, zoned M-1
- East:** Minnick School, zoned M-1
- South:** Continuation of the 14-foot wide, undeveloped public alley extending to West Washington Street
- West:** Undeveloped parcels, zoned R-2

### **EVALUATION**

Last month Planning Commission reviewed Lutheran Family Services of Virginia’s (LFSVA) alley closing application to close a 5,857 +/- square foot section of the 14-foot wide public alley that is adjacent to their school property addressed off of Massanutten Street. Planning Commission tabled the application to allow LFSVA to discuss matters related to access with an adjoining property owner. LFSVA has revised its request and is now only applying to close a 700 +/- square foot portion of the public alley right-of-way (ROW).

As a reminder, the entire alley runs about 660 feet between Jackson Street and West Washington Street. Last month’s request was to vacate the 410-foot in length section that is adjacent to the applicant’s property. If that request would have ultimately been approved, the remaining 250 feet of undeveloped public ROW extending to West Washington Street would have remained open. During last month’s review, Russell Showalter, one of the property owners of 776 North Liberty Street (tax



map parcel 40-N-12) spoke in opposition to the alley closing noting that if the closing were approved, although he and his wife would have the right to purchase up to 50 percent of the alley width adjacent to their property, they would no longer have public access to the rear of their property, which they and their tenants use. As discussed above, Planning Commission tabled the application until the September regular meeting to allow for further discussion to take place between the applicant and the Showalters.

Staff met with and communicated via email several times with the applicants, and separately spoke a few times with Mr. Showalter, to try and facilitate some type of an agreement among the two entities. Staff does not believe the applicants and the Showalters ever directly communicated on working out an access issue. Recently, staff was informed by the applicants that a local attorney representing the interests of LFSVA would make contact with the Showalters (before the Planning Commission meeting) to inform them of LFSVA's decision in moving forward with an amended application.

As noted by the applicant's recently submitted letter, rather than requesting to close the 410-foot in length portion of the alley that is adjacent to the school's total property, LFSVA now desires only to close the portion of the alley, where they are the property owners on both sides of the ROW. This section of the alley stretches from the Jackson Street ROW for a length of 50 feet, which totals 700 +/- square feet in area. If approved, although closing this section of the alley would restrict the Showalters from accessing the rear of their property from the Jackson Street ROW, the remaining portions of the subject alley would remain open to West Washington Street. In addition to the subject alley, there is an additional public alley located between 736 and 754 North Liberty Street, which extends from North Liberty Street and intersects the subject alley about 200 feet south of the Showalter's property.

It should be known that since last month's meeting occurred, physical improvements have been made to portions of the 700 +/- square foot alley area that is currently requested for closure. Soon after the Planning Commission meeting last month, LFSVA paved portions of their adjoining properties and paved over the remaining undeveloped portions of the alley that they want to obtain. (Remember that a small portion of this section of the alley extends into the area that is already paved and used for ingress and egress for the Minnick School and for some of the other properties in this area.) In addition to paving the alley, they also curbed over the Jackson Street entrance to the alley. Once staff was informed of what took place, we notified LFSVA that they must remove the section of the curb located over the alley. LFSVA had the curb removed. Paving an alley is not prohibited, but to correctly do so, one must first apply for and then receive approval of a public access permit—a permit which is free to review and obtain. LFSVA did not obtain a public access permit.

As discussed last month, Columbia Gas of Virginia, Inc. has a 2-inch gas line that runs the length of the entire alley, and therefore, staff will recommend the City Attorney reserve an easement over the entire section of the alley to be closed so that Columbia Gas can maintain their infrastructure. In addition, this small section of the alley that is desired for vacation is the section of the alley that staff explained last month has sanitary sewer infrastructure located within its limits. (See the aerial map included within the packet demonstrating the general location of the sewer lines within this area.) Staff will recommend the City Attorney reserve an easement within this area for the City to be able to maintain this infrastructure. The easement shall be at minimum 20-feet wide centered on the sewer line. Because easements will be located over the entire section of the alley to be closed, no structures, aside from fencing, could be located within this area.

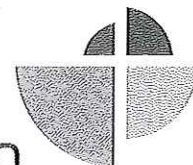
Before the second reading can occur at City Council, the survey must be revised to demonstrate the new area requested for closure and how the alley property is desired to be distributed among the

applicants' properties. The survey must also demonstrate the areas in which the City will reserve easements for the utilities discussed herein.

As was also the case last month, staff is again supporting the closure of the alley request. Aside from the utilities as described, the City does not need to maintain ownership of the alley ROW to provide any other City services. Consequently, staff recommends closing the 700 +/- square feet of alley ROW with the following two conditions:

1. The City shall reserve, at minimum, a 20-foot wide sanitary sewer easement, centered on the infrastructure within the alley.
2. The City shall reserve an easement over the entire section of the alley to be closed to allow Columbia Gas of Virginia, Inc. to maintain their infrastructure.





## Lutheran Family Services of Virginia

August 28, 2014

Mr. Adam Fletcher  
City Planner  
City of Harrisonburg  
409 South Main Street  
Harrisonburg, Virginia 22801

Dear Adam:

This letter is a follow-up to our organization's Application for Alley or Street Closing" which was filed with the City of Harrisonburg and which was tabled by the Planning Commission at their August 13, 2014 meeting.

Our organization would like to amend its petition before the Commission to ask that the undeveloped alley, which is located between Jackson Street and West Washington Street, and parallel to North Liberty Street, be closed only to the extent that the alley lies between the two existing lots owned by Lutheran Family Services of Virginia, Inc. ("LFSVA"). This would reduce the size of the property being closed from 5,857 square feet to approximately 560 square feet. (Note that, as mentioned during the last Commission meeting, our property is actually titled in the name of Massanutten Street, LLC, which is a limited liability company the sole member of which is Lutheran Family Services of Virginia, Inc.)

As stated at the August Commission meeting, our organization's only desire through this process has been to ensure the safety of the children who attend our Minnick School. With a significant increase in business traffic in front of our school due to the opening of the poultry processing plant, we were concerned about the alley being eventually developed and used for through traffic, resulting in our school being surrounded in very close proximity by traffic flow which could result in hazardous conditions for the special needs children we serve. Our desire and intent were never to deny any of the adjoining property-owners reasonable access to their properties, nor did we have any intent to use or develop the land that makes up the undeveloped alley other than the portion that lies between our two existing lots.

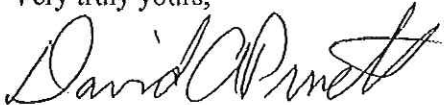
Closing this much smaller portion of the alley would address the concern voiced by the adjoining property owner at the August Commission meeting. By leaving the remainder of the alley open, the owners of the adjoining properties, will still have full access to the rear of their properties through the alley. The alley would still be fully open from Washington Street (where there is a curb cut allowing access to the alley) to the northern-most border of the property owned by Jayme and Russell Rentals LLC (lot 40-N-12). This solution would also allow our organization to accomplish our goal of providing safety measures for our children by allowing us to erect fencing and other barriers to restrict traffic flow over and access to our two existing lots.

Commission Member Gil Colman (who has worked with us on designing and developing this project), LFSVA CEO Julie Swanson and CFO David Pruett toured the subject site shortly after the August Commission meeting. Mr. Colman and Mr. Pruett walked the entire 410-foot length of the subject undeveloped alley. They also walked an additional undeveloped alley that starts on Liberty Street (where there is a curb-cut for access) and joins the subject alley. Both alleys are fully passable and would provide access to all of the adjoining properties. To confirm the alley's suitability for the stated purpose, Mr. Pruett entered the subject alley from Washington Street in a late-model Toyota Camry, and drove the entire length of the alley to Jackson Street with no difficulty.

Mr. Adam Fletcher  
City of Harrisonburg  
Harrisonburg, VA  
August 28, 2014  
Page 2

We therefore request that the Commission consider favorably our request to vacate only the portion of the alley that is situated between the two lots currently owned by Lutheran Family Services of Virginia, Inc. At the August Planning Commission meeting, an adjoining property owner expressed objection to our initial request, stating that closing the alley would restrict access to the rear of his property. The Commission tabled our request until a solution could be worked out that would not restrict access. The solution that we are hereby proposing meets the request of the Commission and does not result in any restriction of access by the adjoining property owners. Thank you in advance for your consideration.

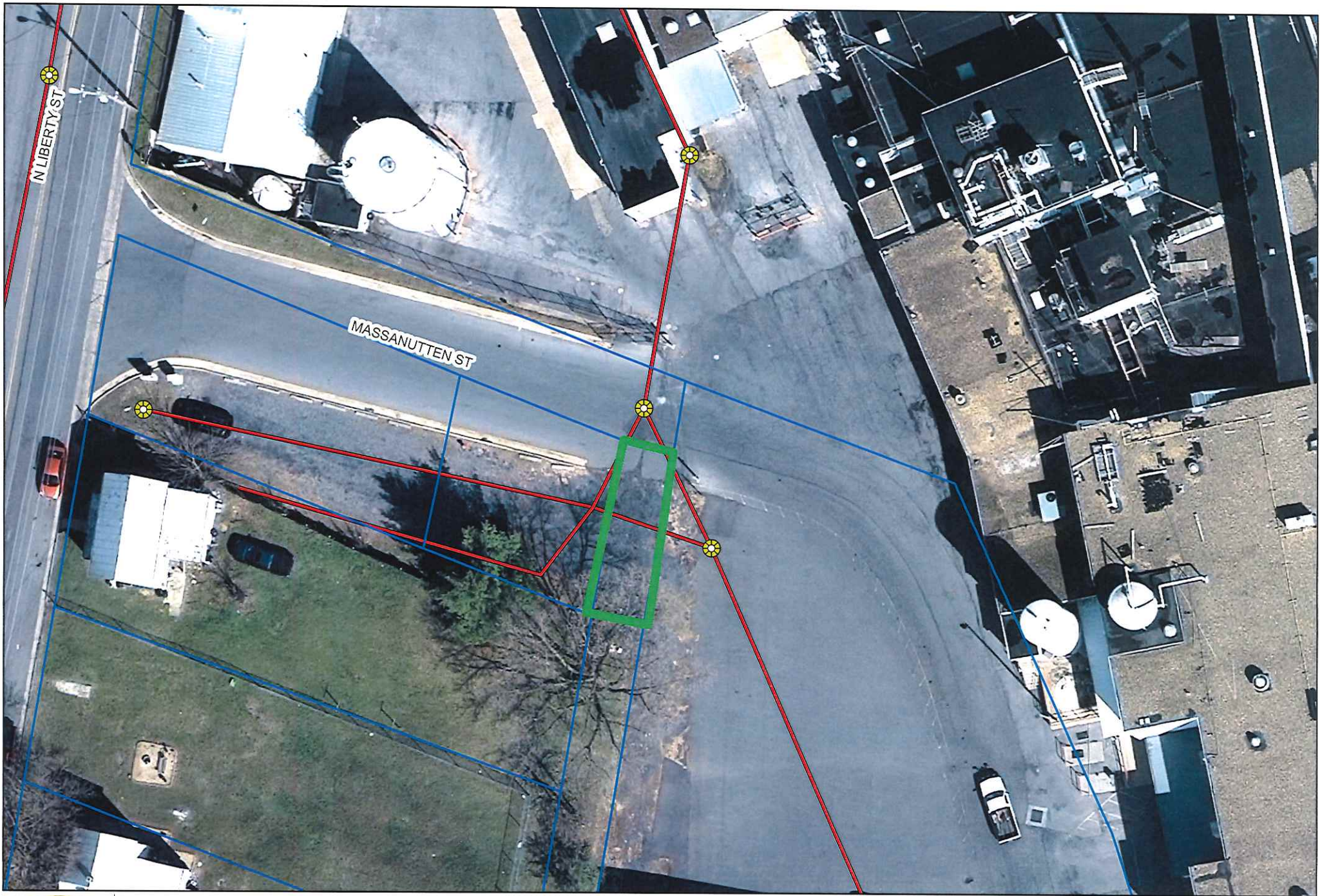
Very truly yours,





David A. Pruett, CPA  
Chief Financial Officer

cc: Julie Swanson, Chief Executive Officer  
Ray Ratke, Chief Operating Officer  
Members of City of Harrisonburg Planning Commission





**Legend**

-  MAN HOLES
-  SEWER LINES



# ALLEY VACATION SURVEY

## HARRISONBURG, VIRGINIA

SCALE: 1"=50'  
DATE: 6 MAY 14

N. LIBERTY STREET

JACKSON STREET

N 11° 32' 09" E  
50.00'  
MASSANUTTEN STREET, LLC  
3148/627  
40-N-13 & 13A

JAYNE & RUSSELL  
RENTALS LLC  
2565/98  
40-N-12

DIRUA LUDHOLTZ  
LAUTZ - 843/373  
40-N-11

DIRUA LUDHOLTZ  
LAUTZ - 843/373  
40-N-10

TUE HEUANG SYHABANDITH  
SYSOUNTHONE 894/452  
40-N-9

TUE HEUANG SYHABANDITH  
SYSOUNTHONE 894/452  
40-N-8

ALLEY  
VICTOR M. ORTIZ  
4035/614  
40-N-7

J & D PROPERTIES  
HARRISONBURG LLC  
4045/466  
40-N-6

N 65° 18' 00" W  
7.19'

JWK LAND  
LLC - 3274/575  
40-N-22

R.R. SPIKE

S 67° 01' 00" E  
14.28'

UTILITY EASEMENT TO  
CITY 1127/129

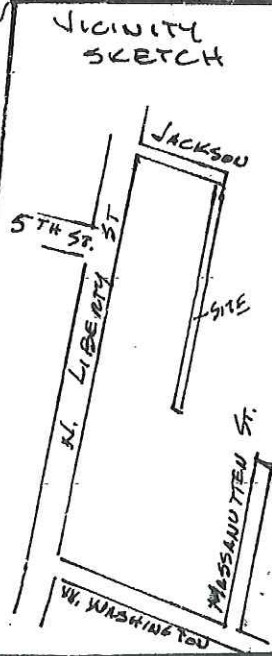
PROPERTY LINE HEREBY  
VACATED UPON APPROVAL  
OF THIS VACATION.

N 67° 01' 00" W  
7.14'

MASSANUTTEN STREET, LLC  
3148/627  
40-N-14

UTILITY EASEMENT FOR CITY  
E-F = N 22° 03' 21" W 18.33'  
F-C = S 67° 01' 00" E 10.34'  
C-E = S 11° 32' 09" W 13.22'  
67#

ACCESS EASEMENT FOR MASS. ST., LLC  
A-B = N 11° 32' 09" E 10.69'  
B-C = S 67° 01' 00" E 14.28'  
C-D = S 11° 32' 09" W 8.88'  
D-E = N 74° 17' 48" W 14.04'  
137#



Date application received: 5/19/14

**Application for Street or Alley Closing  
City of Harrisonburg, Virginia**

Review fee: \$50.00 Board of Viewers appointment \$ \_\_\_\_\_ Total Paid: \$ \_\_\_\_\_

Applicant's Name: Lutheran Family Services of Virginia, Inc.

Street Address: 2609 McVitty Road E-mail: dpruett@lfsva.org

City: Roanoke State: Virginia Zip: 24018

Telephone: Work 540-562-8462 Fax 540-774-1084 Mobile 540-353-5466

Representative (if any): Julie Swanson, CEO, David Pruett, CFO and/or Ray Ratke, COO

Street Address: 2609 McVitty Road E-mail: dpruett@lfsva.org

City: Roanoke State: Virginia Zip: 24018

Telephone: Work 540-562-8462 Fax 540-774-1084 Mobile 540-353-5466

**Description of Request**

Location Request is for the City to vacate an easement - see attached for specifics of request

Square footage of area to be closed: 5,857 +/- sq. ft. AF 700 +/- sq. ft. AF

Cost per square foot: \$ \_\_\_\_\_ Total cost: \$ \_\_\_\_\_

Please provide a detailed description of the proposed closure (  additional pages attached):

Name and addresses of adjacent property owners (  Additional names listed on separate sheet)

North: See attached for list of adjacent property owners

South: \_\_\_\_\_

East: \_\_\_\_\_

West: \_\_\_\_\_

*I hereby certify that it is my intention to have the above described Street(s) or Alley(s) closed and that the information contained herein is true and accurate. In addition, I understand that all required advertising and associated costs will be at the expense of the applicant.*

Signature: David A. Pruett, CFO Applicant

Date: 5/13/2014

**ITEMS REQUIRED FOR SUBMISSION**

- Completed application
- Letter described proposed use
- Adjacent property owners
- Survey & metes and bounds description (prepared by a surveyor, engineer, or other person duly authorized by the State)
- Value per square foot of cost to purchase
- Fees paid
- Other \_\_\_\_\_

*Please be advised, adjoining property owners shall be expected to buy that portion of the street/alley which abuts their property before second reading and final closing! The cost shall be a fair market value determined by the Commissioner of Revenue.*