



**AGENDA
CITY OF HARRISONVILLE
BOARD OF ALDERMEN
REGULAR MEETING
CITY HALL
NOVEMBER 2, 2015
7:00 PM**

- 1. Call to Order & Pledge of Allegiance**
- 2. Roll Call**
 - A. Roll Call**
- 3. Ceremonial Matters**
- 4. Public Participation**
- 5. Approval of Minutes**
- 6. Agenda Items**
 - A. Public Hearing for an Amendment to Chapter 405, Sections 405.275 and 405.315 of the Zoning Regulations regarding Permitted Uses of the City of Harrisonville, Missouri**
 - B. Council Bill 088: An Ordinance to Amend Chapter 405, Sections 405.275 and 405.315 of the Zoning Regulations regarding Permitted Uses of the City of Harrisonville, Missouri**
 - C. Council Bill 089: An Ordinance Authorizing the City Administrator to Enter into a Settlement Agreement with Cass County, Missouri Concerning the Electrical Power Generator Located at the Cass County Justice Center**
 - D. Council Bill 090: AN ORDINANCE TO AMEND THE CODE OF ORDINANCES OF THE CITY OF HARRISONVILLE, CHAPTER 215, SECTION 215.610, DEFINITIONS, AND SECTION 215.620, UNLAWFUL TO SELL OR DISTRIBUTE TOBACCO PRODUCTS TO MINORS - VENDING MACHINE REQUIREMENTS.**
- 7. Aldermen and Committee Reports**
- 8. Report from the City Administrator**
- 9. Report from the Mayor**
- 10. Questions from the Media**

- 11. Adjourn to Executive Session**
- 12. Adjourn From Regular Session**

Posted on City Hall Bulletin Board this 29th day of October 2015

Kim Hubbard, City Clerk

The Board of Aldermen meeting is an open meeting but is not a meeting of the public. There is a place on the agenda for comments of citizens under PUBLIC PARTICIPATION. Our rule is that comments by any individual or group shall not exceed (4) minutes. The Board of Aldermen request that concerns be initially addressed at the appropriate action level before coming to the Board of Alderman



TO: Board of Aldermen
FROM: Rick Deluca, Director
DATE: October 28, 2015
SUBJECT: Public Hearing for an Amendment to the Zoning Regulations

Type of Item: *Public Hearing*

Type of Item: Public Hearing - Amendment to zoning ordinance

Attached is a draft of the zoning amendment and the power point that was used for the meeting. I have also attached a map showing the boundaries of the parcels to be incorporated into the district. Chris Brewster will be giving a presentation during the meeting.

A. Discussion Item (ID # 2046)

Public Hearing for an Amendment to Chapter 405, Sections 405.275 and 405.315 of the Zoning Regulations regarding Permitted Uses of the City of Harrisonville, Missouri

Attachments:

June 30 power point BOA 11-2-15 (PDF)

Zoning Change Map BOA 11-2-15 (PDF)

Public Meeting
Residential Zoning and Historic Overlay

Harrisonville, Missouri
June 30, 2015

Agenda

Current Conditions

Issues with Current Zoning

Options

Discussion

Next Steps



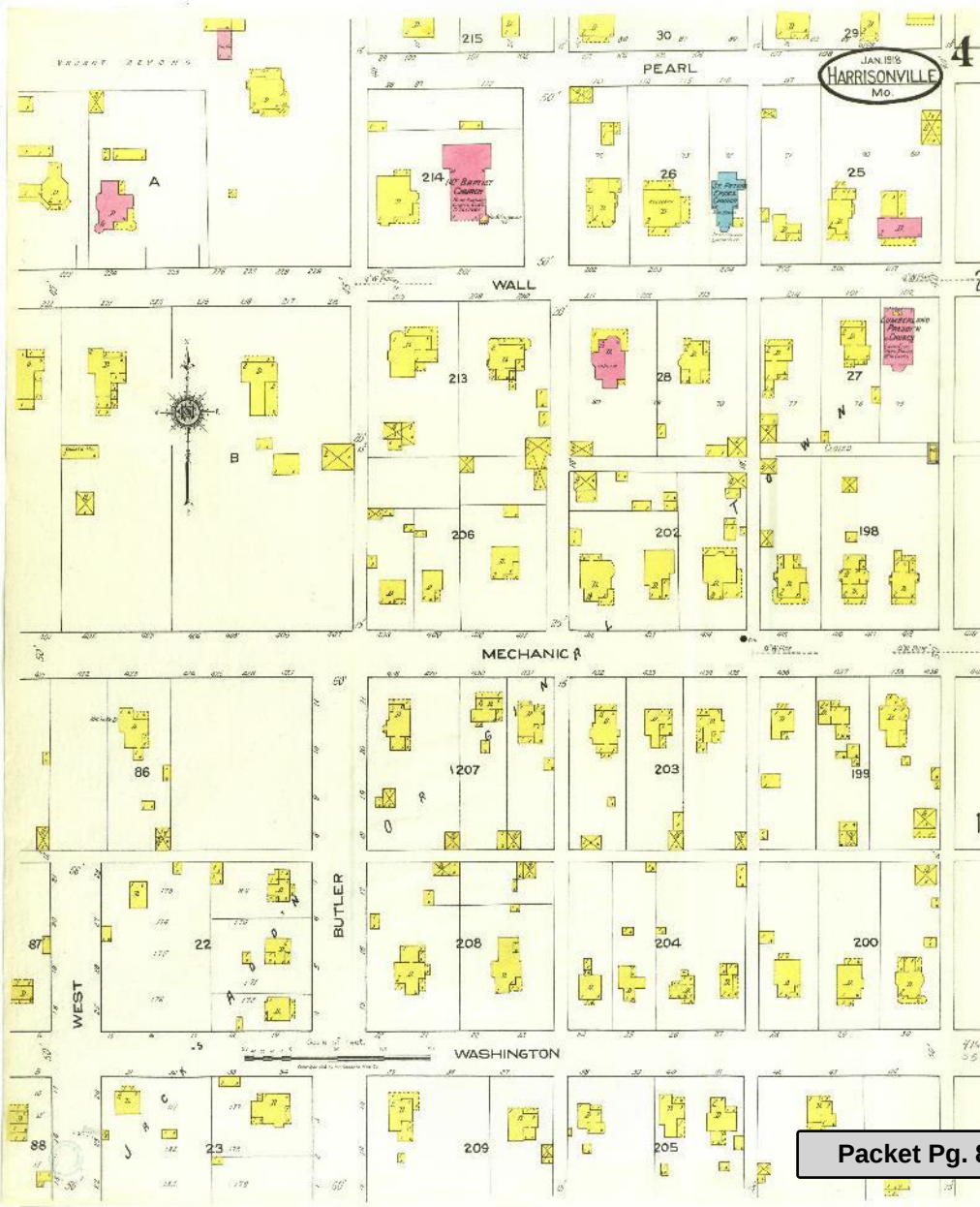
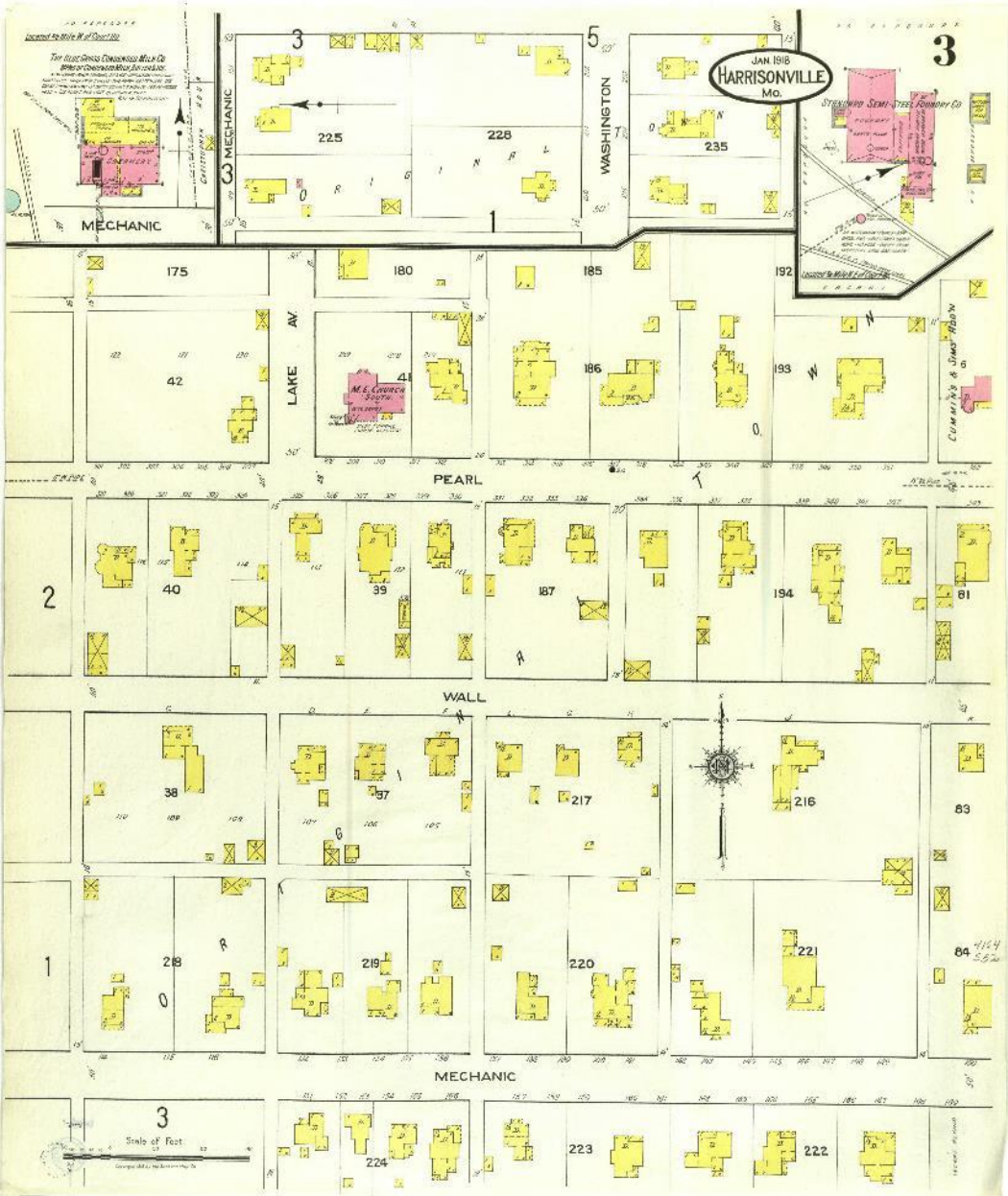
Issues

R1 and R2 Zoning Issues

- Existing Narrow Lots
- Existing Shallow Setbacks
- Transition of Uses on Some Streets (Mechanics and Independence)
- Character in Historic Areas



Issues

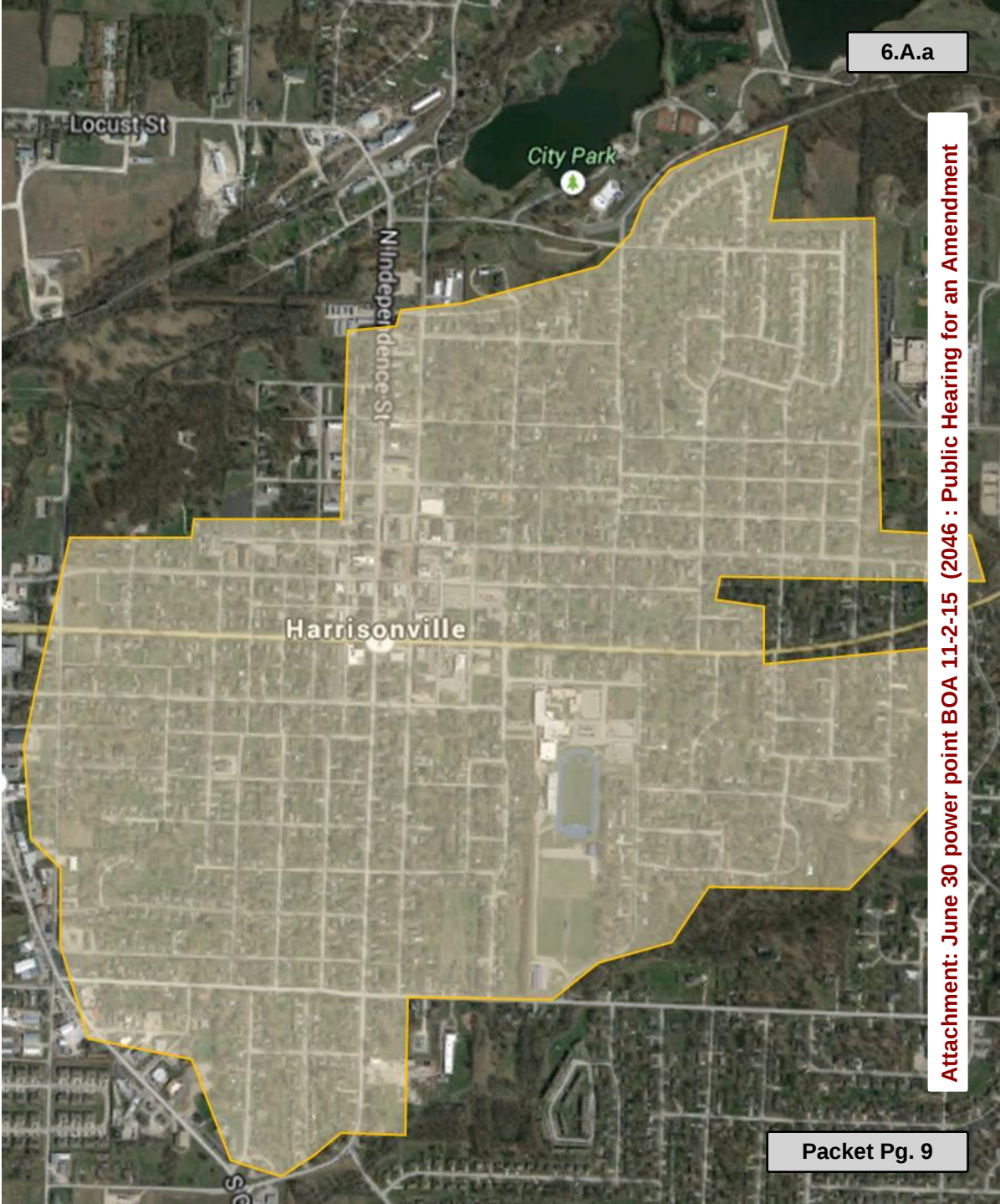


Attachment: June 30 power point BOA 11-2-15 (2046 : Public Hearing for an Amendment

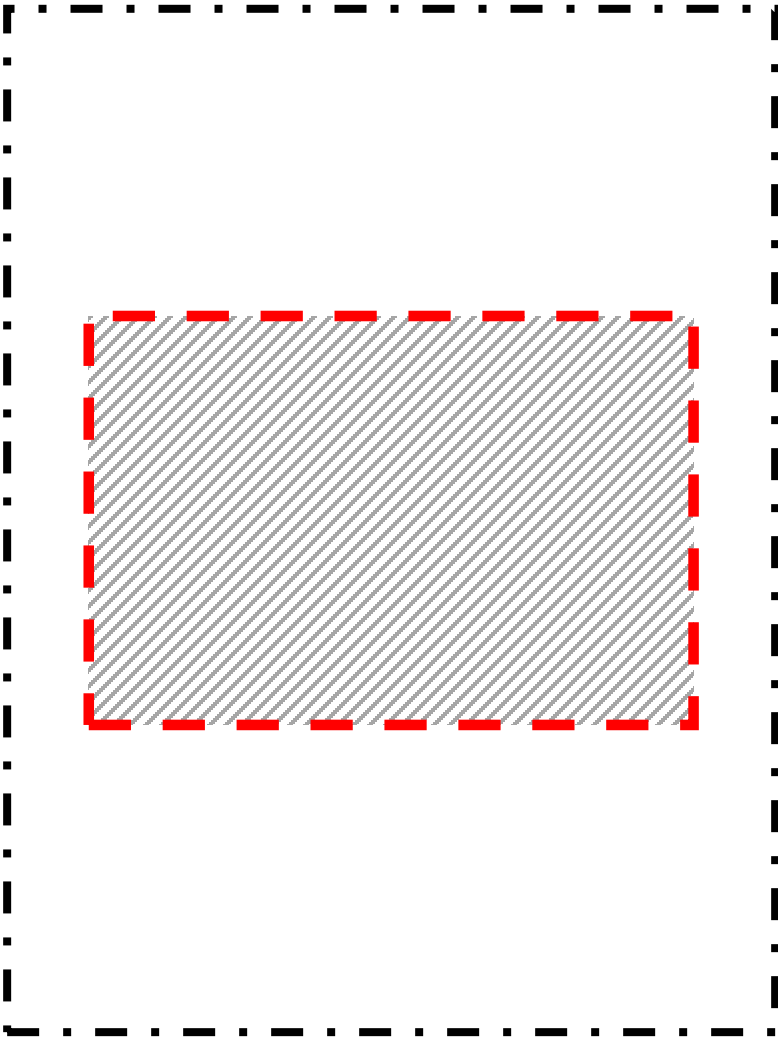
Current Zoning

Current R1 and R2 Zoning Summary

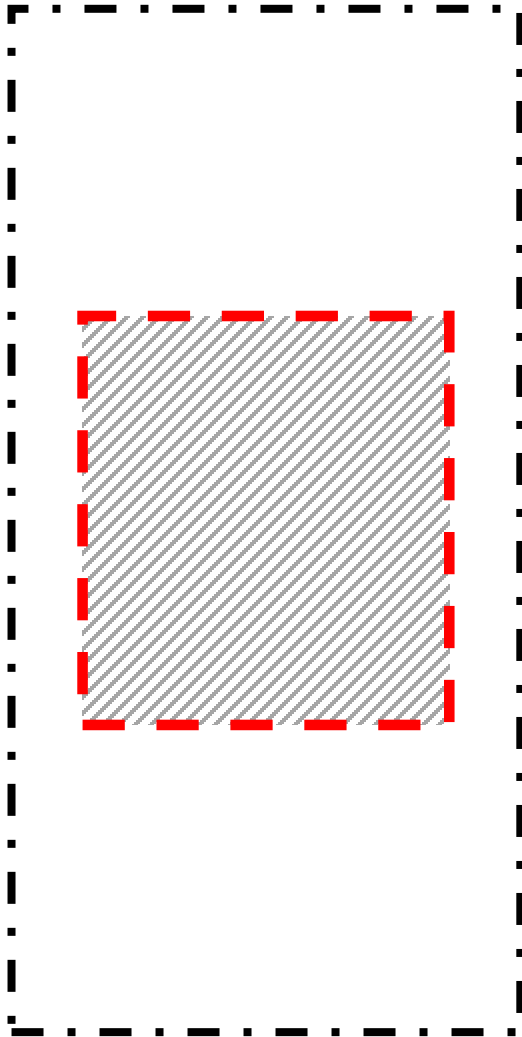
	R-1	R-2
Front Setback	30 feet	30 feet
Side Setback	8 feet	7.5 feet
Lot Area	8.5K s.f.	12K s.f.
Lot Width	75 feet	80 feet
Lot Depth	N/A	N/A



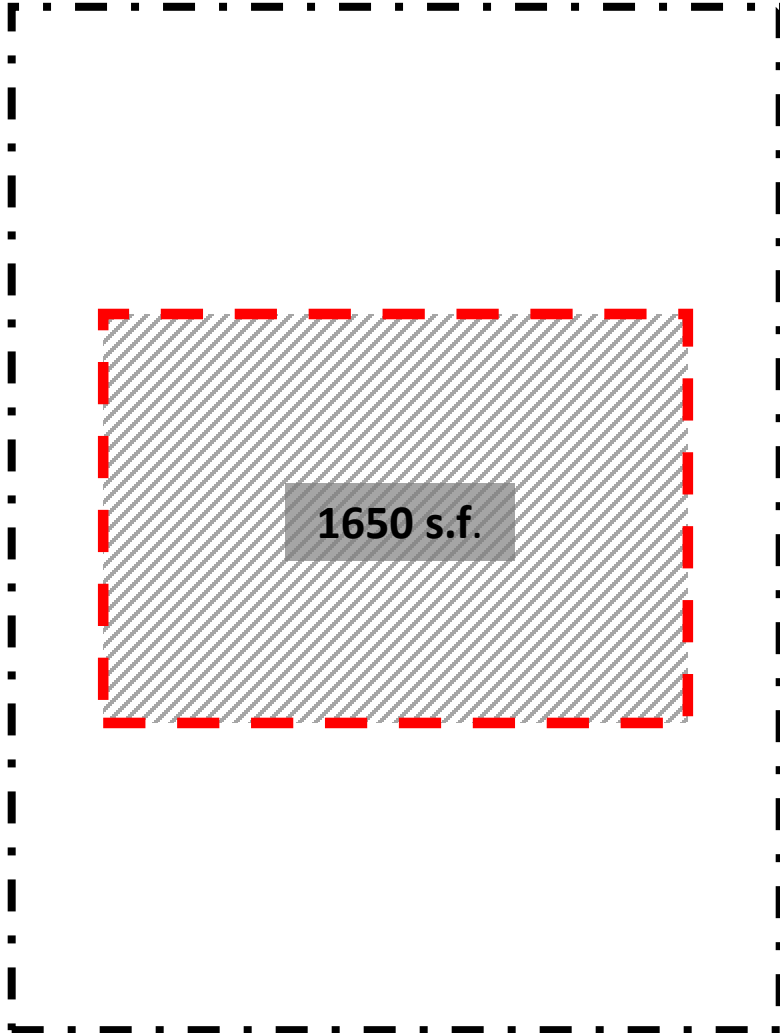
Current Typical R-1 Lot
(75' x 100')



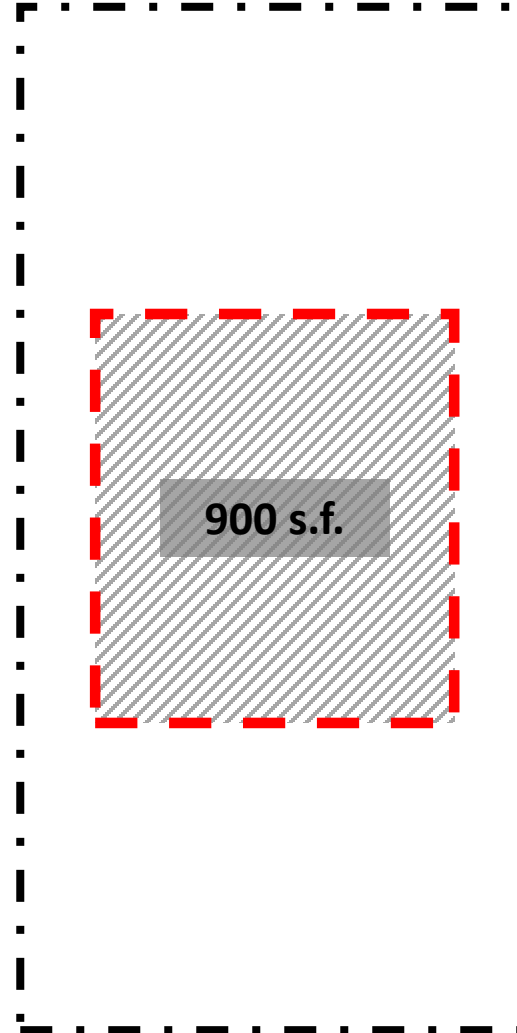
Existing Narrow R-1 Lot
(50' x 100')



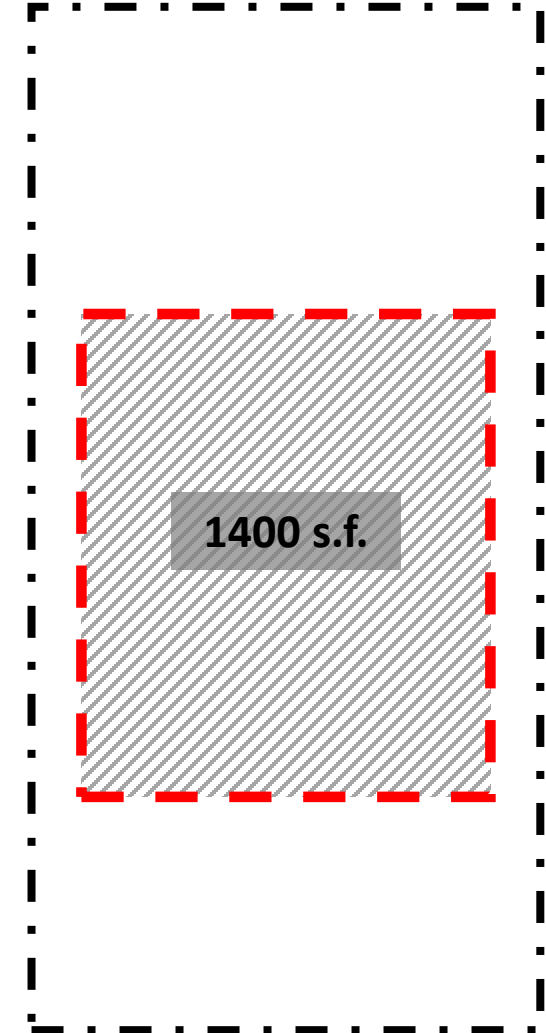
Current Typical R-1 Lot
(75' x 100')



Existing Narrow R-1 Lot
(50' x 100')



Proposed Narrow R-1 LOT
(50' x 100')

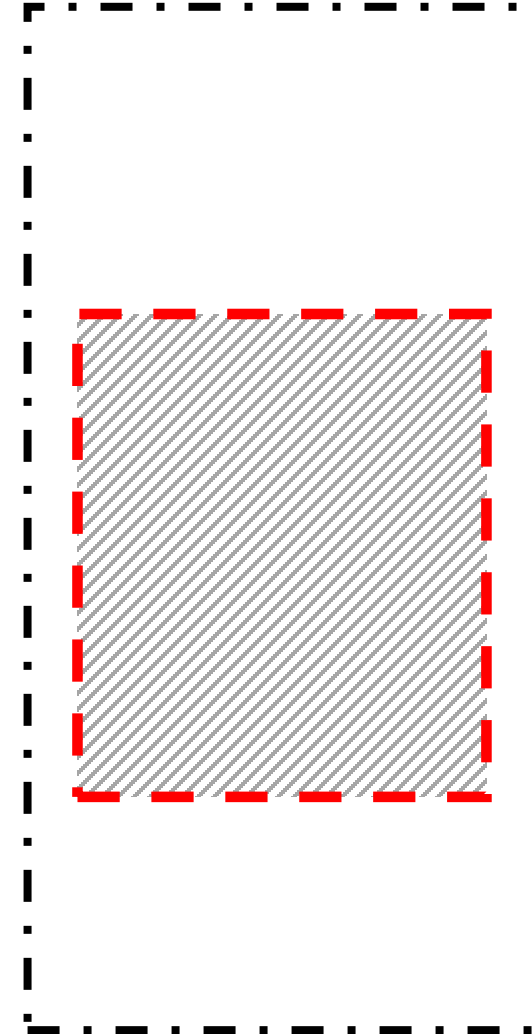


Narrow Lot

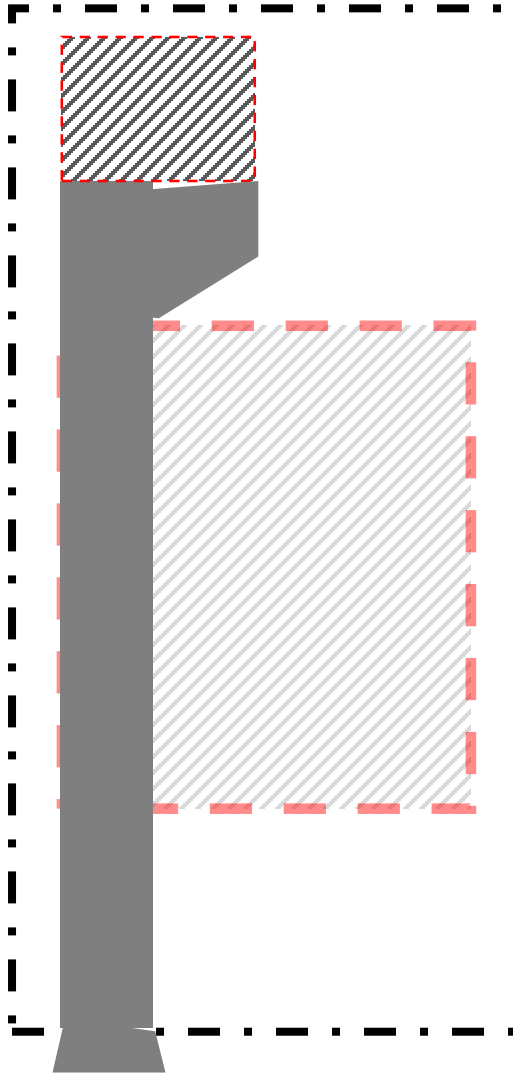
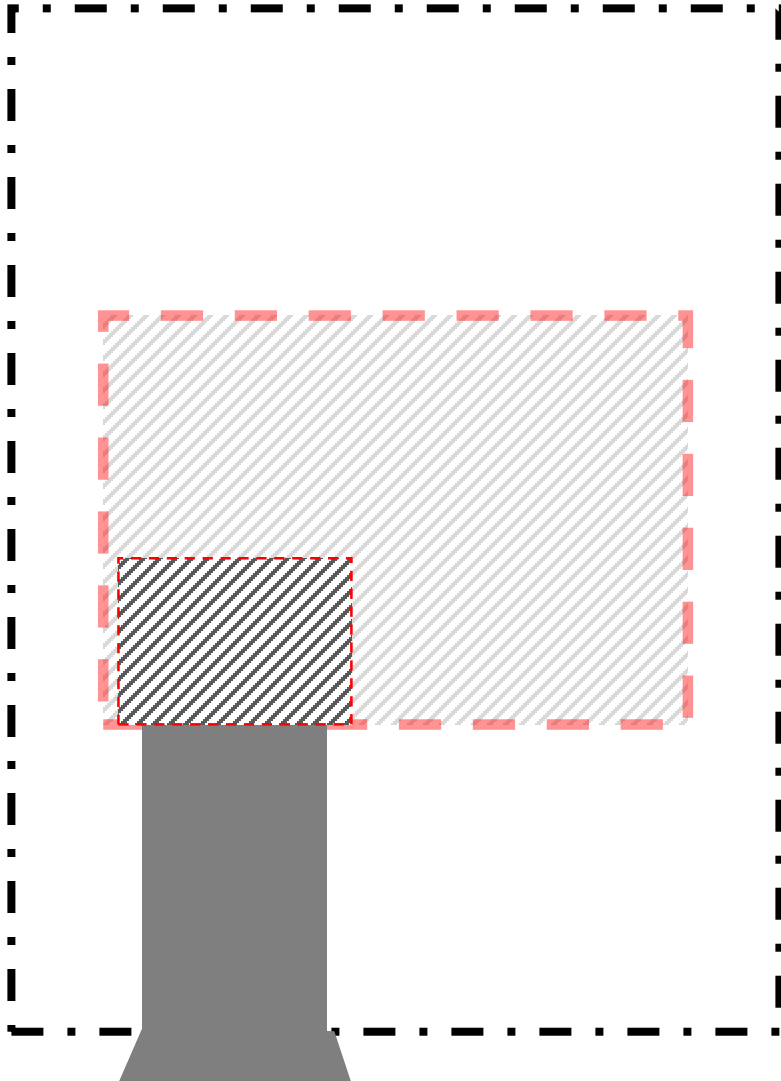
Design & Development Issues

- Lot Access
- Massing
- Frontages / Entrance Features
- Neighborhood Streetscapes

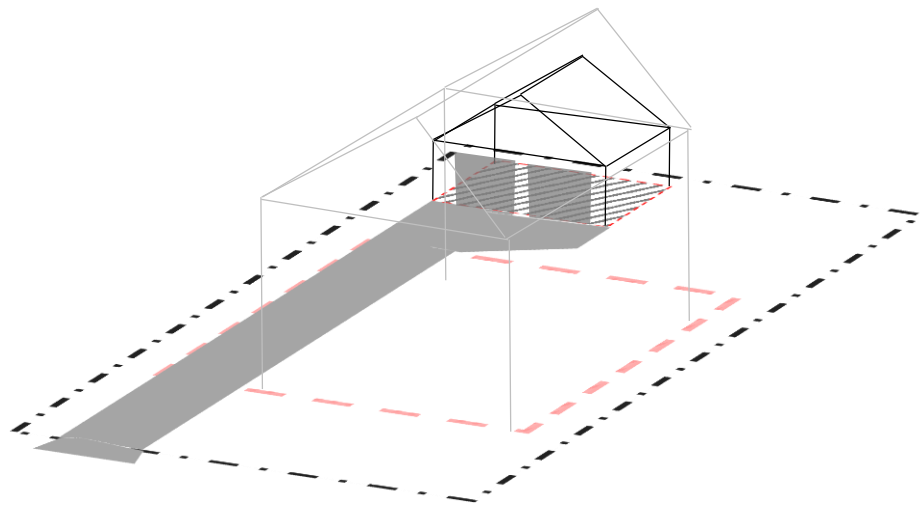
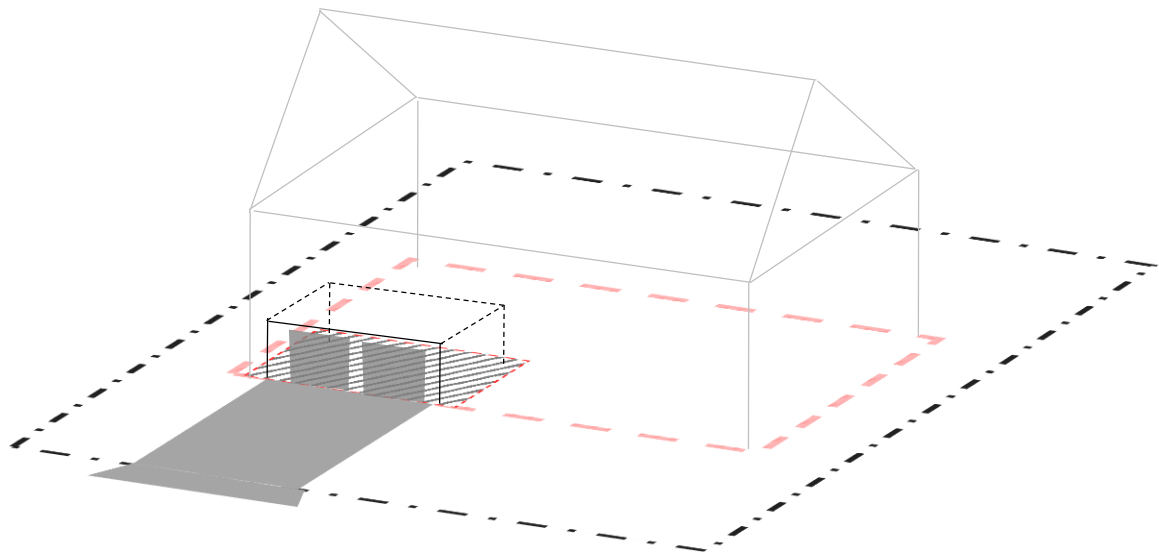
Proposed Narrow R-1 Lot
(50' x 100')



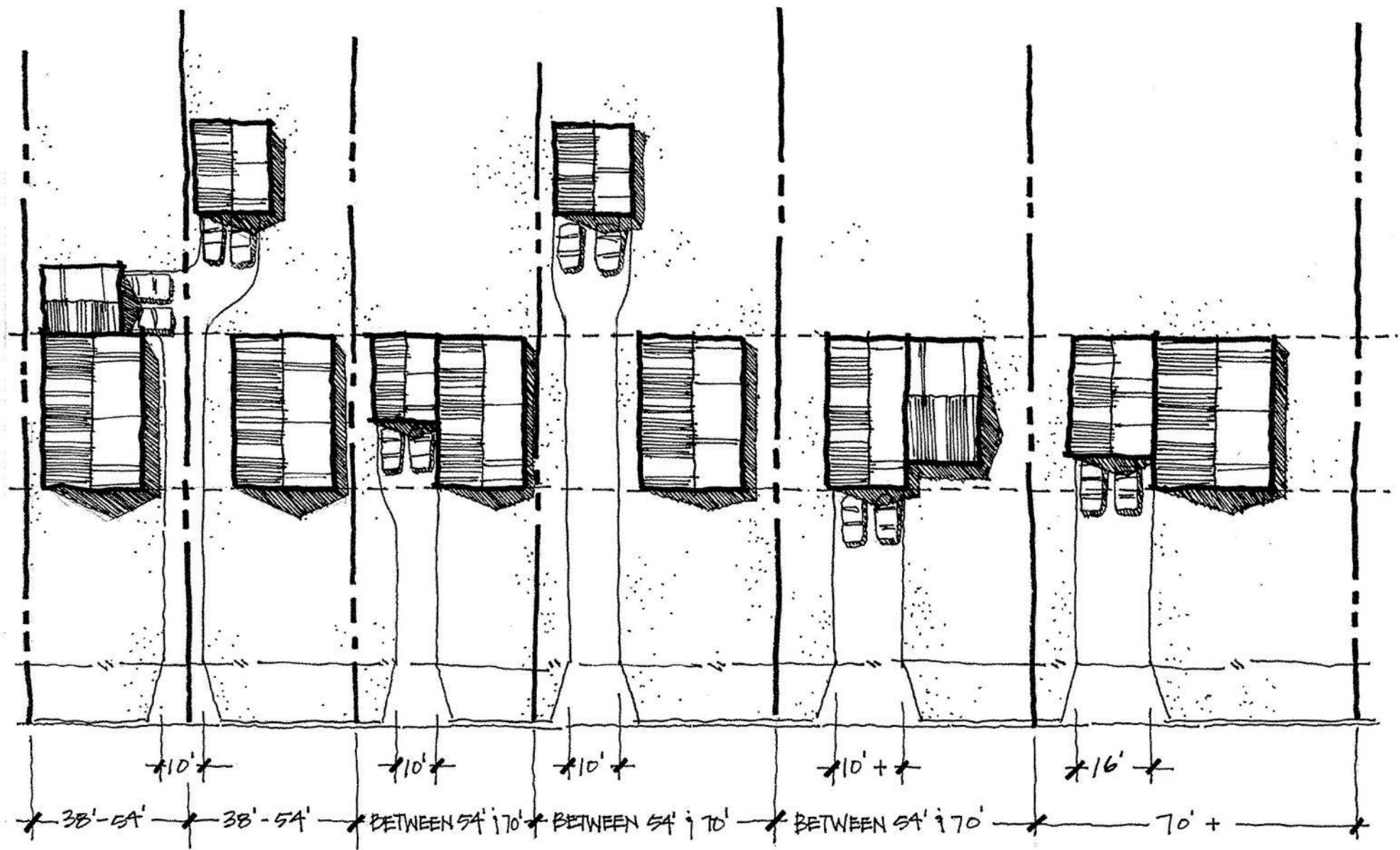
Lot Access



Lot Access

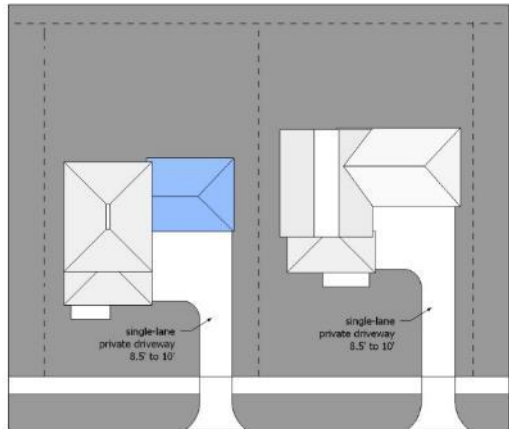
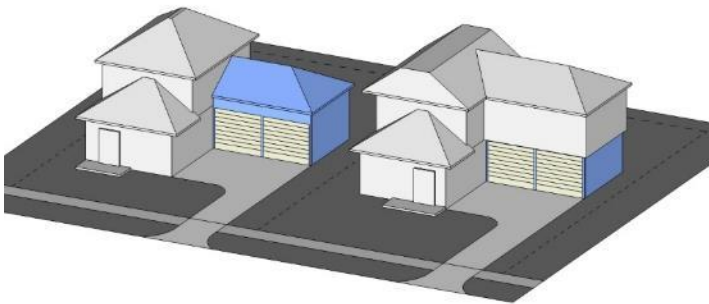
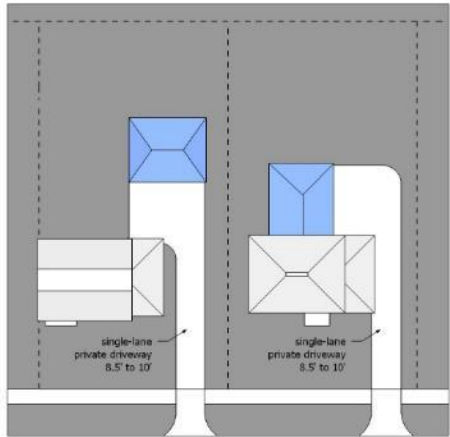
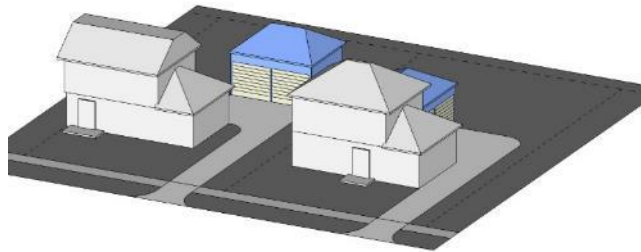
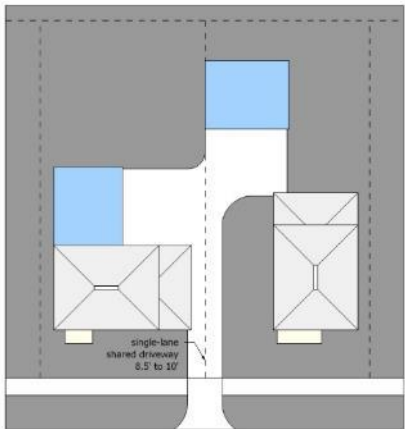
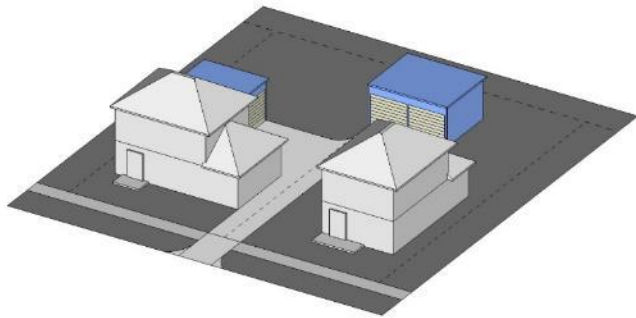


Lot Access



Attachment: June 30 power point BOA 11-2-15 (2046 : Public Hearing for an Amendment

Lot Access

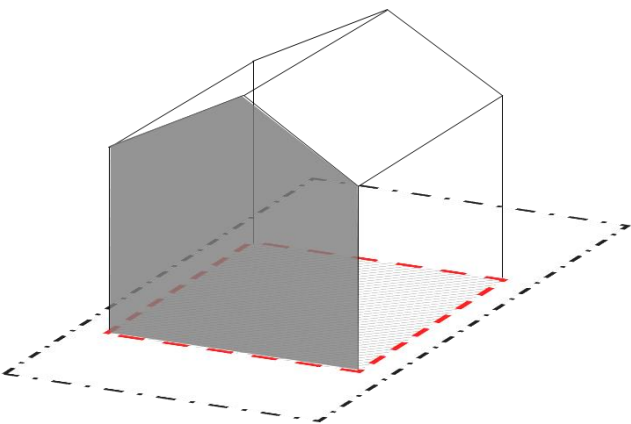
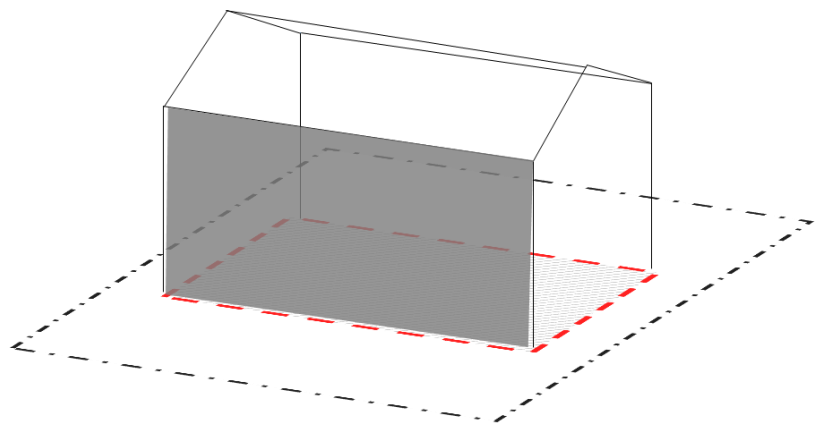


6.A.a

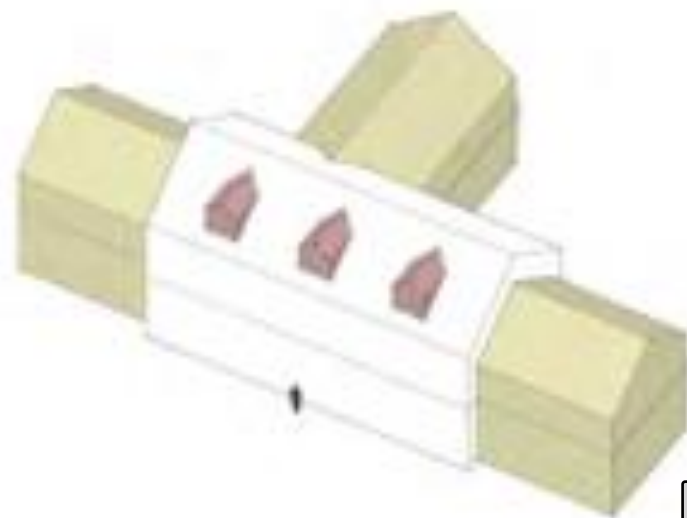


Attachment: June 30 power point BOA 11-2-15 (2046 : Public Hearing for an Amendment

Massing



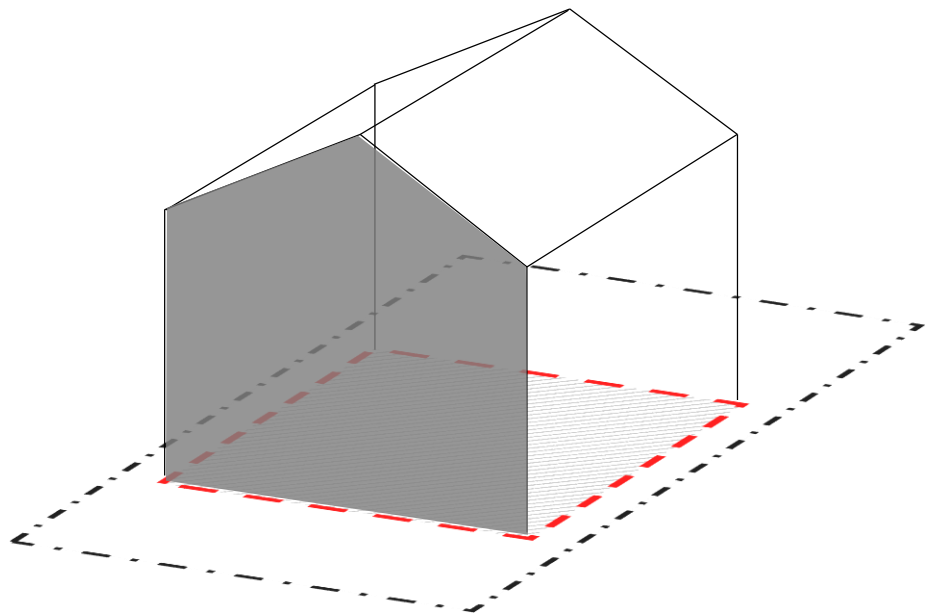
-  Main Mass
-  Side \ Rear Wings
-  Dormers



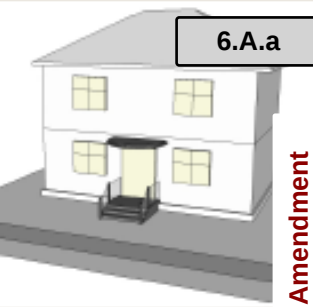
Prototypical

The diagram and photos above illustrate the prototypical organization, size, and scale of Mis-

Entrances / Frontages



6.A.a

 Without Entrance Feature	 Arch Ornamentation	 Stoop with Flat Roof	 Stoop with Semi-circle Roof
 Stoop with Peak Roof	 Stoop with Shed Roof	 Portico with Peak Roof	 Portico with Arch Roof
 Half Porch-Shifted with Flat Roof	 Half Porch-Shifted with Peak Roof	 Half Porch with Arch Roof	 Full Porch with Peak Ornament
 Full Porch with Half-Peak Roof	 Full Porch with Shed Roof	 Full Porch with Peak Roof	 Shifted and Side Porch

Packet Pg. 18

Use Transitions

- Maintain neighborhood scale
- Establish review criteria and procedures
- Limit impact of access /parking



6.A.a

Attachment: June 30 power point BOA 11-2-15 (2046 : Public Hearing for an Amendment

Use Transitions

6.A.a

-  Independence Street
-  Mechanics Street



Historic Guidelines

- Enhance the basic design (access, massing, entrances)
- Architectural Character
- Materials
- Streetscape Standards
- Process to document and self-initiate in different areas



6.A.a

Attachment: June 30 power point BOA 11-2-15 (2046 : Public Hearing for an Amendment



Packet Pg. 21

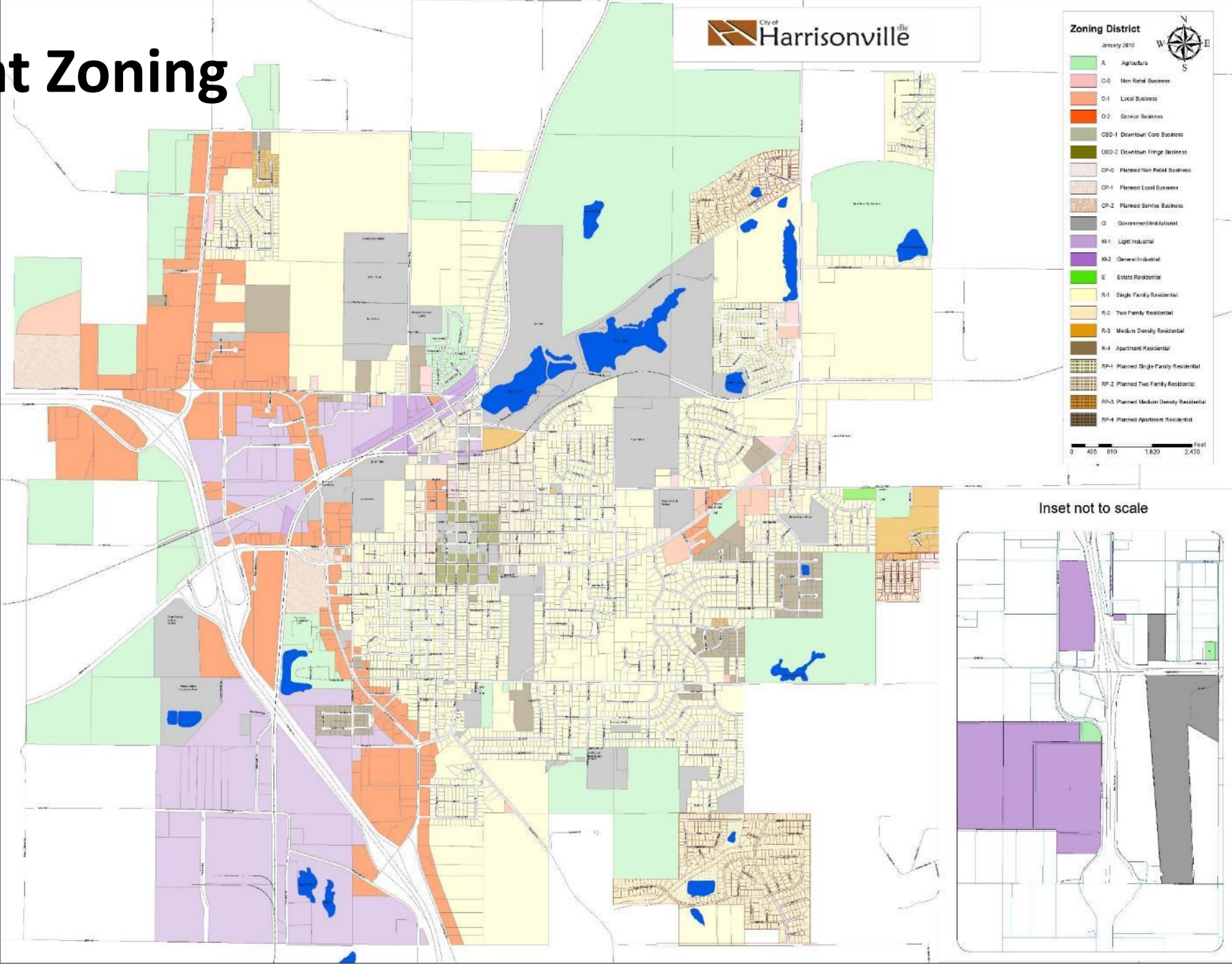
Concepts / Discussion

- Convert R1 and R2 to new R1B and R2B within older neighborhoods
- Consider more options for uses *in existing residential structures* along corridors (Mechanics and Independence.)
- Consider basic design standards (access, massing, entrance) for narrow lots to protect neighborhood streetscapes.
- Establish mechanism for special character areas to *self-initiate* greater historic protections and enhanced design standards.

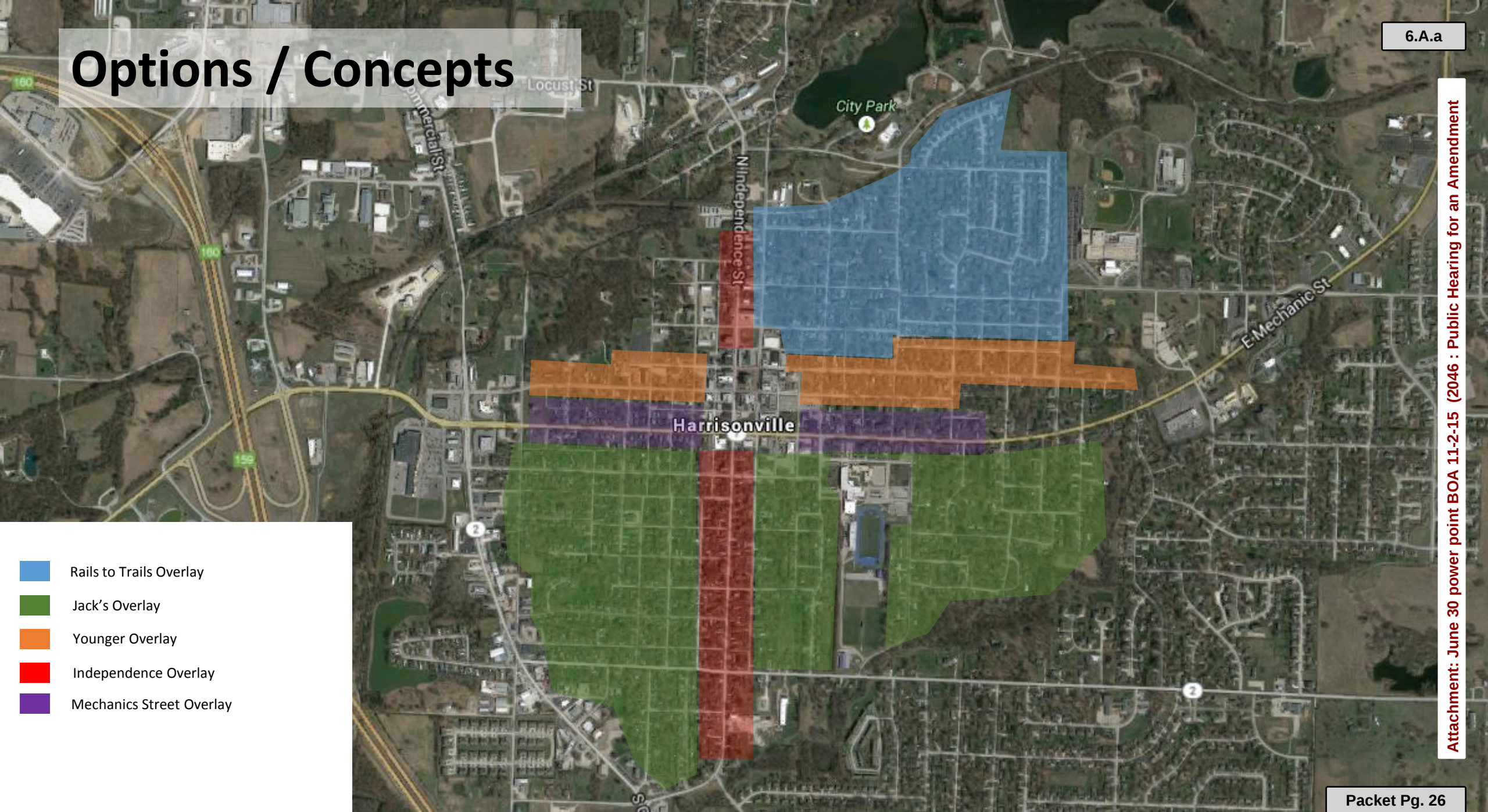
Next Steps

- Discuss and establish a direction.
- Draft proposed strategies for review.
- Have a second community meeting to review and discuss options.
- Initiate formal review and adoption process for amendments.

Current Zoning

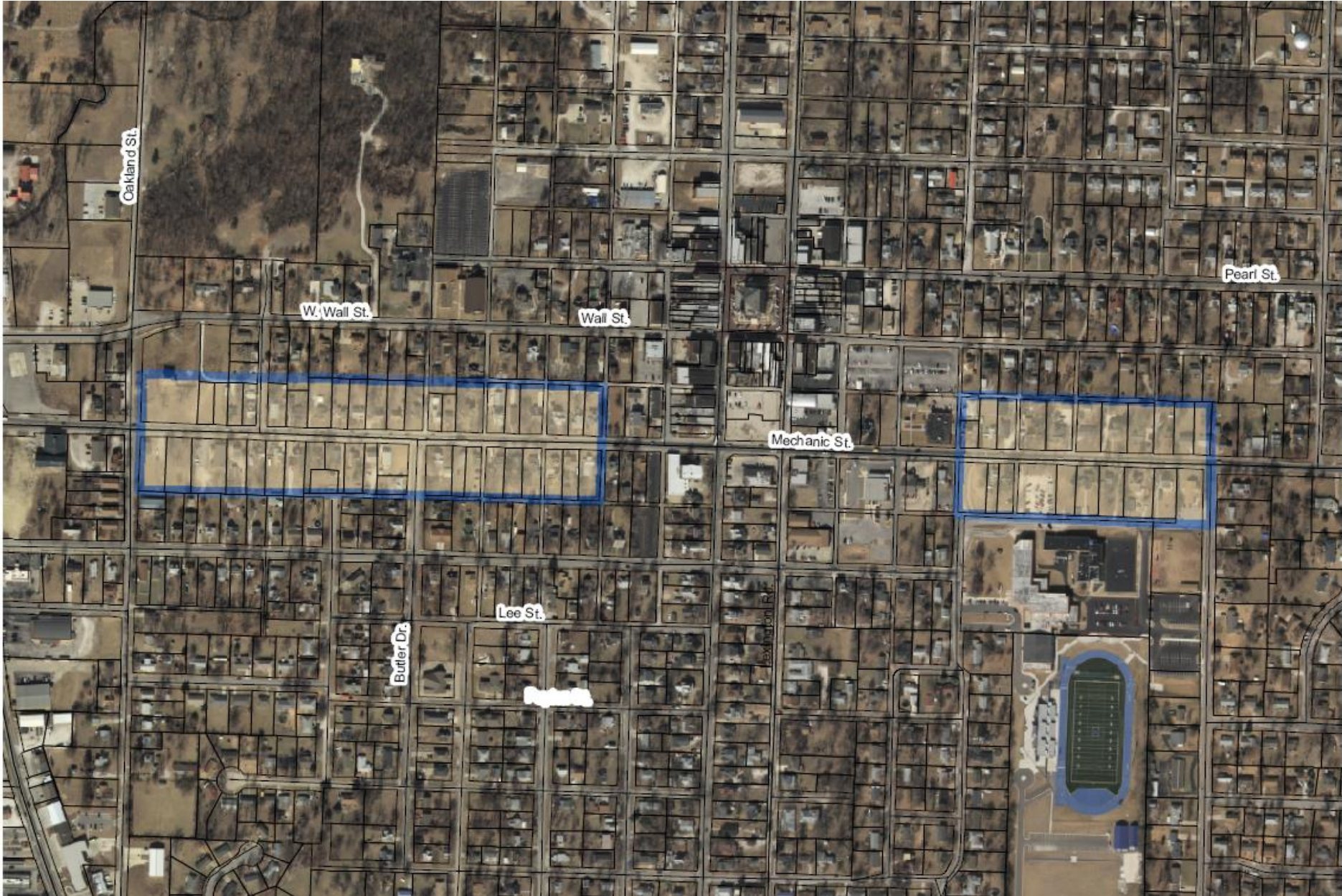


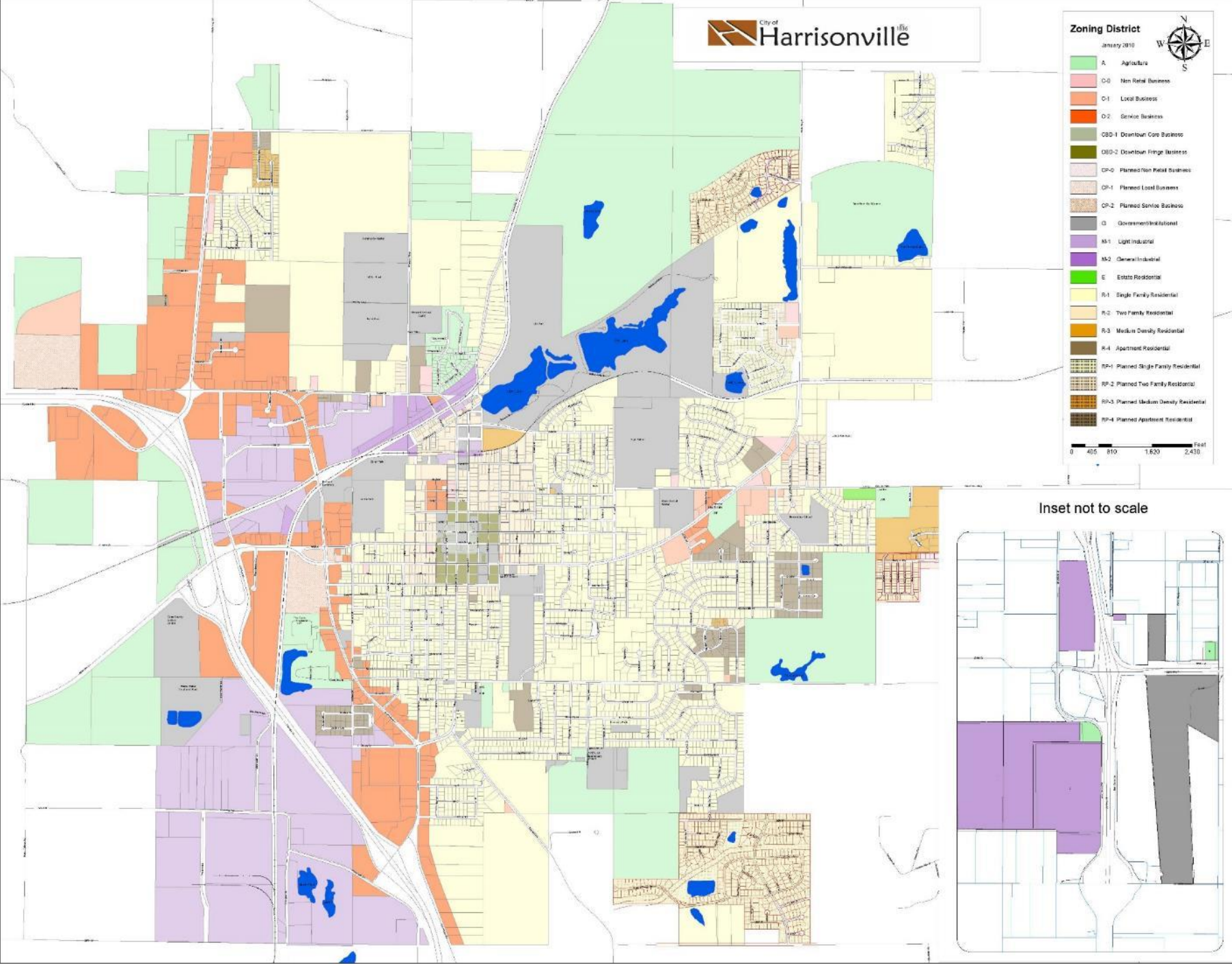
Options / Concepts



-  Rails to Trails Overlay
-  Jack's Overlay
-  Younger Overlay
-  Independence Overlay
-  Mechanics Street Overlay

Mechanics Street Overlay







The shaded area on the map shows the parcels that would be affected by the proposed amendments to the zoning map. Parcels that are currently zoned "R-1" Single Family Residential District would be changed to "R-1B" Near Downtown Single Family Neighborhood District and parcels that are currently zoned "R-2" Two Family Residential District would be changed to be "R-2B" Near Downtown Two Family Neighborhood District.



TO: Board of Aldermen
FROM: Rick Deluca, Director
DATE: October 28, 2015
SUBJECT: An Ordinance to Amend Chapter 405 of the Zoning Regulations

Type of Item: *Approval*

Council Bill No. 088

Ordinance No.

An Ordinance to Amend Chapter 405, Sections 405.275 and 405.315 of the Zoning Regulations regarding Permitted Uses of the City of Harrisonville, Missouri

WHEREAS, the Planning and Zoning Commission of the City of Harrisonville, Missouri, held a public hearing in the regard to certain sections of the zoning regulations; and

WHEREAS, the Planning and Zoning Commission has recommended to the Board of Aldermen that certain sections of the zoning regulations be amended as set forth below; and

WHEREAS, the City of Harrisonville Board of Aldermen, after careful and due deliberation, concludes that amending the Zoning Regulations as set forth below would be in the best interest of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF HARRISONVILLE, MISSOURI, AS FOLLOWS:

Section 1: That Section 405.060 of the Zoning Ordinance (Establishment of Districts) of the City of Harrisonville, Missouri, shall be amended by adding the following zoning districts:

“District R-1B Near Downtown Single-Family Neighborhood District”

“District R-2B Near Downtown Two-Family Neighborhood District”

Section 2: That Section 405.147 of the Zoning Ordinance of the City of Harrisonville, Missouri, shall be established by adding the following section.

“SECTION 405.147. DISTRICT “R-1B” NEAR DOWNTOWN SINGLE-FAMILY NEIGHBORHOOD DISTRICT.”

A. Intent.

The intent of this district is to promote single-family neighborhood development in a compact and walkable pattern in close proximity to downtown. The standards of this district enable the original development patterns of the near downtown neighborhoods and encourage new development with a compatible character, scale and pattern as the original lots and structures. The standards also facilitate effective transitions between

residences and businesses that maintain the neighborhood character near downtown and on significant corridors.

B. Permitted Uses.

In District “R-1B”, no building, structure, land or premises shall be used and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered except for one (1) or more of the following uses:

1. Dwellings, one-family.
2. Parks and playgrounds, including recreation or service buildings and swimming pools, which are owned or operated by a governmental agency.
3. Public schools, elementary and high, and private schools with curriculum equivalent to that of a public elementary or high school and institutions of higher learning, including stadiums and dormitories in conjunction, if located on the campus.
4. Golf courses and clubhouses appurtenant thereto (except miniature golf courses, driving ranges and other similar activities operated as a business).
5. Railroad rights-of-way, not including railroad yards.
6. Churches and synagogues.

C. Height and Area Regulations.

In District “R-1B”, the height of buildings, the minimum dimension of lots and yards and the minimum lot area per family permitted on any lot shall be as follows:

1. *Height.* Building or structures shall not exceed two and one-half (2½) stories or thirty-five (35) feet in height except that on lots having a natural slope, a full three (3) stories may be exposed above grade on the downhill side.
2. *Front yards.* Any building hereafter constructed shall provide for a front yard, the minimum depth of which shall be twenty-five (25) feet.
3. *Side yards.* There shall be a side yard on each side of the dwelling no less than five (5) feet. Buildings on corner lots shall provide a side yard on the street side of not less than ten (10) feet.
4. *Rear yards.* The depth of the rear yard shall be at least thirty (30) feet.

5. *Lot area per family.* Every dwelling hereafter erected, moved or altered shall provide a lot area of not less than five thousand (5,000) square feet per family.
6. *Width.* The width of a lot measured at the front building line shall be not less than fifty (50) feet.
7. *Depth.* The depth of a lot shall be not less than one-hundred (100) feet.
8. *Building Coverage.* The building coverage shall not exceed thirty-five percent (35%).

D. Parking Regulations.

Two (2) off-street parking spaces shall be provided for each single-family dwelling, at least one (1) of which shall be in a garage or carport.

E. Design Standards.

1. *Driveway & Parking*

Garages and driveways shall be limited in width to prevent wide curb-cuts and disruption of the overall streetscape design along a block:

- a. Parking and garages shall be located in the rear portion of the lot, and accessed by an alley where practical.
- b. Side-entry or front-loaded garages may be permitted provided the garage is set back at least 10' behind the front building line of the primary structure, and doors occupy no more than 35% of the front façade.
- c. Driveway width shall be limited to no more than 20% of the lot width in front of the front building line.
- d. Driveways may expand up to a maximum of 20' wide for an entry pad to any side entry or front-loaded garage that is permitted.
- e. Where access is limited by these standards, alley access or shared driveways shall be used.

2. *Building Scale and Mass*

The mass of the principle structure shall be composed to avoid large blank walls along the streetscape or within close proximity to abutting lot lines. The use of off-set, wings and setbacks shall be used to break up the volume of structures within the permitted building envelope.

- a. No wall plane at or within 5' of the front or side setback shall be greater than 600 square feet without being interrupted by any of the following:
 - (1) Architectural features such as structural bays, dormers, belvederes, chimneys or cupolas.
 - (2) Porches, porticos or other enhanced entry features.
 - (3) Off-sets or setbacks of the structure by at least 3 feet.
- b. Structures larger than permitted above should use compound massing with primary masses and secondary masses or wings.

3. *Building Orientation*

The principle structure shall relate to the neighborhood streetscape and contribute pedestrian-scale details along the block:

- a. All lots shall have at least a 4' wide walkway connecting the sidewalk (or street) to the entry of the house.
- b. All primary structures shall have a front entry feature oriented to the streetscape. Entry features may include a single-story porch, stoop, or portico.
 - (1) Porches shall be at least 8' deep, and 80 square feet, and elevate 1' to 3' above the grade. Unenclosed porches may encroach into the front setback up to 10'.
 - (2) Stoops shall be at least 6' deep, and 48 square feet, elevate 1' to 3' above the grade, and be accompanied by ornamental railings and architectural details on the door that enhance and accompany the character and materials of the structure. Unenclosed stoops may encroach into the front setback up to 8'.
 - (3) Porticos shall be at least 6' deep, and 48 square feet, elevate 1' to 3' above the grade. Porticos shall be designed with the same materials and characteristics as the principle structure.

F. Additional Uses.

To create more effective transitions between downtown and neighborhoods and allow more flexibility for uses along entry corridors, lots zoned R-1B, which front on Mechanic Street or Independence Street, shall be eligible for the following additional uses.

1. *Eligible Uses.* The following additional uses are permitted in the R-1B district on lots that front on Mechanic Street or Independence Street.

a. Offices to be used for:

- (1) Administrative functions of companies, corporations, social or philanthropic organizations or societies.
- (2) Architects and Planners.
- (3) Brokers and Accountants.
- (4) Financial Services.
- (5) Insurance Offices.
- (6) Engineers and Surveyors.
- (7) Dentists.
- (8) Lawyers.
- (9) Chiropractors.
- (10) Psychologists and Psychiatrists.

b. Barbers, Beauty Shops and Hairdressers.

c. Interior decorators.

d. Photographers.

e. Artists.

f. Seamstress and Tailoring.

2. *Special Approvals.*

The following additional uses are permitted in the R-1B district on lots that front on Mechanic Street or Independence Street, through special approval process.

a. Bed and Breakfast

b. Bridal Shops

c. Coffee Shops

- d. Cultural Exhibits and Services
- e. Flower Shops
- f. Gift Shops
- g. Jewelry Stores
- h. Libraries
- i. Real Estate Offices

The applicant shall obtain written permission from all property owners and/or residents within one-hundred and twenty (120) feet of the applicant's property. Provided written permission cannot be obtained from all adjoining property owners and/or residents, the applicant may request a special use permit under the provisions of Section 405.525, Special Use Permits. Furthermore, provided written permission has been granted for one of these commercial uses, and a written complaint regarding the commercial use has been filed with the City, the Board of Aldermen, following review of the evidence supporting the complaint, may allow the business to remain on the property, require that the commercial use be removed from the property, or grant conditional approval for the business to stay on the property.

3. *Design*

- a. Additional commercial uses shall only be allowed in structures designed primarily for residential use. Rehabilitation, additions or construction of new buildings that undermine the residential character are prohibited.
- b. All buildings and sites shall meet the residential design standards specified in subsection E.

4. *Parking and Driveway Standards*

Parking shall be provided according to Section 405.565. However, the design, location and access of parking shall be discreet and any use proposed for a lot that cannot obtain adequate parking, access or follow appropriate access management standards shall not be used for commercial purposes.

- a. All parking areas shall be setback from the lot line by at least 5 feet from the side or rear yard property lines.

- b. Any parking needs beyond what can be accommodated in a residential driveway shall be located behind the principle structure.
- c. All parking shall be paved with a minimum of 2 inches of concrete or asphalt. Curbs may not be required in order to maintain the areas residential character.
- d. Any parking area over 8 spaces shall be screened from adjacent property by a combination of fences and landscape screens.
- e. Additional access points to Mechanic Street or Independence Street will not be allowed. Access to businesses shall be off an alley or other acceptable road.

5. *Performance Standards*

Additional uses allow for the introduction of small-scale, low-intensity uses into residentially designed structures and lots. Any use, regardless of if it is listed as additional eligible uses above, shall be prohibited if it cannot meet the following performance criteria:

- a. Small scale uses shall not expand or require any additions or accessory structures that are not in keeping with the size and setback requirements of homes in the area, or as otherwise required by the lot and design standards of the R-1B district.
- b. No equipment shall be kept on the premises outside a building.
- c. No merchandise shall be handled or displayed except inside buildings.
- d. One unilluminated sign of no more than 3 square feet may be permitted. The sign shall be wood and meet all other standards of the City sign ordinance.
- e. All lighting shall be arranged to direct light away from abutting property and the right-of-way. No glare shall be created. Lighting shall be similar to that of a residential use.
- f. No deliveries shall be made between the hours of 6:00 P.M. and 8:00 A.M.

G. *Historic Overlay.*

Certain areas within the near downtown neighborhoods have a unique character and consistent replication of historic development patterns and structures. In order to encourage the restoration of historic Harrisonville and encourage the development or redevelopment of vacant lots within these areas that preserves these characteristics, property owners may petition for the designation of a historic overlay within the R-1B district. This overlay should be of sufficient size and extent to protect observable and

distinct characteristics. The overlay should be initiated at the property owners' petition and upon further study and documentation of these patterns, such as:

1. Variations on, or enhancements of, any of the basic lot and design features of the area.
2. Roof forms, such as gable, gothic, hip, hip and valley, mansard, or spires.
3. Architectural embellishments such as dormers, belvederes, masonry chimneys, cupolas.
4. Characteristics of specific architectural styles such as window and door design and orientation; primary, secondary or accent materials; scale and massing of main masses, secondary masses or wings.
5. Landscape design and outside space features that related the building or site to the neighborhood streetscape.
6. Any other important details of architecture or neighborhood design documented as important patterns for the history and integrity of the area.

Designation of an overlay shall be considered an amendment to the R-1B zoning of any proposed properties, and follow all other procedures required by these regulations.

Section 3: That Section 405.147 of the Zoning Ordinance of the City of Harrisonville, Missouri, shall be established by adding the following section.

“SECTION 405.177. DISTRICT “R-2B” NEAR DOWNTOWN TWO-FAMILY NEIGHBORHOOD DISTRICT.”

A. Intent.

The intent of this district is to promote Two-family neighborhood development in a compact and walkable pattern in close proximity to downtown. The standards of this district enable the original development patterns of the near downtown neighborhoods and encourage new development with a compatible character, scale and pattern as the original lots and structures. The standards also facilitate effective transitions between residences and businesses that maintain the neighborhood character near downtown and on significant corridors.

B. Permitted Uses.

In District “R-2B”, no building, structure, land or premises shall be used and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered except for one (1) or more of the following uses:

1. Dwelling, one-family.
2. Dwelling, two-family.
3. Parks and playgrounds, including recreation or service buildings and swimming pools, which are owned or operated by a governmental agency.
4. Public schools, elementary and high, and private schools with curriculum equivalent to that of a public elementary or high school and institutions of higher learning, including stadiums and dormitories in conjunction, if located on the campus.
5. Golf courses and clubhouses appurtenant thereto (except miniature golf courses, driving ranges and other similar activities operated as a business).
6. Railroad rights-of-way, not including railroad yards.
7. Churches and synagogues.

C. Height and Area Regulations.

In District “R-2B”, the height of buildings, the minimum dimension of lots and yards and the minimum lot area per family permitted on any lot shall be as follows:

1. *Height.* Building or structures shall not exceed two and one-half (2½) stories or thirty-five (35) feet in height except that on lots having a natural slope, a full three (3) stories may be exposed above grade on the downhill side.
2. *Front yards.* Any building hereafter constructed shall provide for a front yard, the minimum depth of which shall be twenty-five (25) feet.
3. *Side yards.* There shall be a side yard on each side of the dwelling no less than five (5) feet. Buildings on corner lots shall provide a side yard on the street side of not less than ten (10) feet.
4. *Rear yards.* The depth of the rear yard shall be at least thirty (30) feet.
5. *Lot area per family.* Every dwelling hereafter erected, moved or altered shall provide a lot area of not less than five thousand (5,000) square feet per family.

6. *Width.* The width of a lot measured at the front building line shall be not less than fifty (50) feet.
7. *Building Coverage.* The building coverage shall not exceed thirty-five percent (35%).

D. Parking Regulations.

Two (2) off-street parking spaces shall be provided for each Two-family dwelling, at least one (1) of which shall be in a garage or carport.

E. Design Standards.

1. *Driveway & Parking*

Garages and driveways shall be limited in width to prevent wide curb-cuts and disruption of the overall streetscape design along a block:

- a. Parking and garages shall be located in the rear portion of the lot, and accessed by an alley where practical.
- b. Side-entry or front-loaded garages may be permitted provided the garage is setback at least 10' behind the front building line of the primary structure, and doors occupy no more than 35% of the front façade.
- c. Driveway width shall be limited to no more than 20% of the lot width in front of the front building line.
- d. Driveways may expand up to a maximum of 20' wide for an entry pad to any side entry or front-loaded garage that is permitted.
- e. Where access is limited by these standards, alley access or shared driveways shall be used.

2. *Building Scale and Mass*

The mass of the principle structure shall be composed to avoid large blank walls along the streetscape or within close proximity to abutting lot lines. The use of off-set, wings and setbacks shall be used to break up volume of structures within the permitted building envelope.

- a. No wall plane at or within 5' of the front or side setback shall be greater than 600 square feet without being interrupted by any of the following:

- (1) Architectural features such as structural bays, dormers, belvederes, chimneys or cupolas.
- (2) Porches, porticos or other enhanced entry features.
- (3) Off-sets or setbacks of the structure by at least 3 feet.
- b. Structures larger than permitted above should use compound massing with primary masses and secondary masses or wings.

3. *Building Orientation*

The principle structure shall relate to the neighborhood streetscape and contribute pedestrian-scale details along the block:

- a. All lots shall have at least a 4' wide walkway connecting the sidewalk (or street) to the entry of the house.
- b. All primary structures shall have a front entry feature oriented to the streetscape. Entry features may include a single-story porch, stoop, or portico.
 - (1) Porches shall be at least 8' deep, and 80 square feet, and elevate 1' to 3' above the grade. Unenclosed porches may encroach into the front setback up to 10'.
 - (2) Stoops shall be at least 6' deep, and 48 square feet, elevate ornamental railings and architectural details on the door that enhance and accompany the character and materials of the structure. Unenclosed stoops may encroach into the front setback up to 8'.
 - (3) Porticos shall be at least 6' deep, and 48 square feet, elevate 1' to 3' above the grade. Porticos shall be designed with the same materials and characteristics as the principle structure.

F. *Additional Uses.*

To create more effective transitions between downtown and neighborhoods and allow more flexibility for uses along entry corridors, lots zoned R-2B which front on Mechanic Street or Independence Street shall be eligible for the following additional uses.

- 1. *Eligible Uses.* The following additional uses are permitted in the R-2B district on lots that front on Mechanic Street or Independence Street.

a. Offices to be used for:

- (1) Administrative functions of companies, corporations, social or philanthropic organizations or societies.
- (2) Architects and Planners.
- (3) Brokers and Accountants.
- (4) Financial Services.
- (5) Insurance Offices.
- (6) Engineers and Surveyors.
- (7) Dentists.
- (8) Lawyers.
- (9) Chiropractors.
- (10) Psychologists and Psychiatrists.

b. Barbers, Beauty Shops and Hairdressers.

c. Interior decorators.

d. Photographers.

e. Artists.

f. Seamstress and Tailoring.

2. *Special Approvals*

The following additional uses are permitted in the R-2B district on lots that front on Mechanic Street or Independence Street, through special approval process.

- a. Bed and Breakfast
- b. Bridal Shops
- c. Coffee Shops
- d. Cultural Exhibits and Services
- e. Flower Shops
- f. Gift Shops
- g. Jewelry Stores
- h. Libraries

i. Real Estate Offices

The applicant shall obtain written permission from all property owners and/or residents within one-hundred and twenty (120) feet of the applicant's property. Provided written permission cannot be obtained from all adjoining property owners and/or residents, the applicant may request a special use permit under the provisions of Section 405.525, Special Use Permits. Furthermore, provided written permission has been granted for one of these commercial uses, and a written complaint regarding the commercial use has been filed with the City, the Board of Aldermen, following review of the evidence supporting the complaint, may allow the business to remain on the property, require that the commercial use be removed from the property, or grant conditional approval for the business to stay on the property.

3. *Design*

- a. Additional commercial uses shall only be allowed in structures designed primarily for residential use. Rehabilitation, additions or construction of new buildings that undermine the residential character are prohibited.
- b. All buildings and sites shall meet the residential design standards specified in subsection E.

4. *Parking and Driveway Standards*

Parking shall be provided according to Section 405.565. However, the design, location and access of parking shall be discreet and any use proposed for a lot that cannot obtain adequate parking, access or follow appropriate access management standards shall not be used for commercial purposes.

- a. All parking areas shall be setback from the lot line by at least 5 feet from the side or rear yard property lines.
- b. Any parking needs beyond what can be accommodated in a residential driveway shall be located behind the principle structure.
- c. All parking shall be paved with a minimum of 2 inches of concrete or asphalt. Curbs may not be required in order to maintain the areas residential character.
- d. Any parking area over 8 spaces shall be screened from adjacent property by a combination of fences and landscape screens.

- e. Additional access points to Mechanic Street or Independence Street will not be allowed. Access to businesses shall be off an alley or other acceptable road.

5. *Performance Standards*

Additional uses allow for the introduction of small-scale, low-intensity uses into residentially designed structures and lots. Any use, regardless of if it is listed as additional eligible uses above, shall be prohibited if it cannot meet the following performance criteria:

- a. Small scale uses shall not expand or require any additions or accessory structures that are not in keeping with the size and setback requirements of homes in the area, or as otherwise required by the lot and design standards of the R-1B district.
- b. No equipment shall be kept on the premises outside a building.
- c. No merchandise shall be handled or displayed except inside buildings.
- d. One unilluminated sign of no more than 3 square feet may be permitted. The sign shall be wood and meet all other standards of the City sign ordinance.
- e. All lighting shall be arranged to direct light away from abutting property and the right-of-way. No glare shall be created. Lighting shall be similar to that of a residential use.
- f. No deliveries shall be made between the hours of 6:00 P.M. and 8:00 A.M.

H. Historic Overlay.

Certain areas within the near downtown neighborhoods have a unique character and consistent replication of historic development patterns and structures. In order to encourage the restoration of historic Harrisonville and encourage the development or redevelopment of vacant lots within these areas that preserves these characteristics, property owners may petition for the designation of a historic overlay within the R-2B district. This overlay should be of sufficient size and extent to protect observable and distinct characteristics. The overlay should be initiated at the property owners' petition and upon further study and documentation of these patterns, such as:

1. Variations on, or enhancements of, any of the basic lot and design features of the area.
2. Roof forms, such as gable, gothic, hip, hip and valley, mansard, or spires.
3. Architectural embellishments such as dormers, belvederes, masonry chimneys, cupolas.
4. Characteristics of specific architectural styles such as window and door design and orientation; primary, secondary or accent materials; scale and massing of main masses, secondary masses or wings.
5. Landscape design and outside space features that related the building or site to the neighborhood streetscape.
6. Any other important details of architecture or neighborhood design documented as important patterns for the history and integrity of the area.

Designation of an overlay shall be considered an amendment to the R-2B zoning of any proposed properties, and follow all other procedures required by these regulations.

Section 4. Severability. If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held invalid or unconstitutional by any court or competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 5. Effective Date. That this order shall become effective immediately upon its passage and approval.

READ TWO TIMES BY TITLE ONLY ON NOVEMBER ____, 2015 AND PASSED BY THE BOARD OF ALDERMEN THIS ____ DAY OF NOVEMBER, 2015.

Brian Hasek, Mayor & Ex-Officio

Chairman of the Board of Aldermen

ATTEST:

Kim Hubbard, City Clerk

APPROVED by the Mayor this _____ day of November, 2015.



STAFF REPORT

TO: Board of Aldermen
FROM: Sheryl Stanley, Deputy City Clerk
DATE: October 28, 2015
SUBJECT: Settlement Agreement w/Cass County

Type of Item: *Approval*

Interim City Administrator Tholen has received the attached letter and settlement agreement from City Attorney Mauer and requests the board's approval by ordinance. The settlement is in line with the guidelines previously given by the Board of Aldermen.

Council Bill No. 089**Ordinance No.****An Ordinance Authorizing the City Administrator to Enter into a Settlement Agreement with Cass County, Missouri Concerning the Electrical Power Generator Located at the Cass County Justice Center**

NOW, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF HARRISONVILLE, MISSOURI, AS FOLLOWS:

Section 1: That the City Administrator of the City of Harrisonville is hereby authorized and directed to enter into the attached Settlement Agreement between the City and Cass County, Missouri concerning the electrical power generator located at the Cass County Justice Center.

Section 2. That this ordinance shall become effective upon its passage and approval.

Roll Call Vote:

Ayes:

Nays:

Absent:

Abstain:

Read two times by title only on November 2, 2015 and passed by the Board of Aldermen this 2nd day of November 2015.

Brian Hasek, Mayor & Ex-Officio
Chairman of the Board of Aldermen

ATTEST:

Kim Hubbard, City Clerk

APPROVED by the Mayor this 2nd day of November 2015



Steven E. Mauer
semauer@zergermauer.com

October 14, 2015

VIA: U.S. Mail & E-Mail

Mike Tholen
City of Harrisonville
300 East Pearl Street
Harrisonville, Missouri 64701

Re: *Cass County Interconnection*

Dear Mike:

Accompanying this letter is a Settlement Agreement, which has been agreed to by Paul Campo and Cass County. I would like to get this matter resolved. I believe if it is consistent with all of the conversations we have had with the Board of Aldermen in Executive Sessions. If you feel we need another Executive Session, please let me know. Otherwise, I would like to get it approved and signed by the Mayor. I think we can do the approval via resolution. Thank you for your time and attention.

Very truly yours,

A handwritten signature in blue ink, appearing to read 'SEM', followed by a long horizontal flourish.

Steven E. Mauer

Enclosure

cc. Kim Hubbard

Attachment: Mauer letter (2044 : Settlement Agreement w/Cass County)

SETTLEMENT AGREEMENT

This Settlement Agreement and Mutual Release (“Settlement Agreement”), is entered as of this ____ day of _____, 2015 (“Effective Date”), between the City of Harrisonville, Missouri (“City”) and Cass County (“County”) (sometimes the City and the County are referred to as the “Parties”).

RECITALS

A. WHEREAS, the County owns an electrical power generator located at the Cass County Justice Center;

B. WHEREAS, in July 2011, the City was notified by the Missouri Public Utility Alliance (“MPUA”) that the County’s use of its power generator violated contracts for the purchase and resale of power;

C. WHEREAS, the City notified the County of this issue and of costs incurred directly related to the County use of the Justice Center generator for which MPUA and the City sought reimbursement;

D. WHEREAS, the parties entered into negotiations in an attempt to resolve this issue and were able to reach a mutual agreement resolving all issues surrounding the Cass County Justice Center Generator (“Generator”).

NOW, THEREFORE, for and in consideration of the mutual promises and covenants herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be bound legally, the Parties agree as follows:

AGREEMENT

1. The County agrees:

- a. That it has disconnected the Generator ;
- b. That it has reconnected to the City’s power grid;

- c. To allow the City to inspect the Generator upon reasonable request to be certain its shutdown is complete;
- d. To compensate the City in the amount of \$69,603.21 for any equipment purchased by the City to facilitate the County's use of the Generator, to be paid by the County hereby agreeing that the City retain that amount from existing PILOT payments that are otherwise due and owing to the County;
- e. To release the City, its agents, elected officials, and employees, who was or is a part of is threatened to be made a party to all potential, pending or contemplated claims, matters, complaints, charges, demands, damages, causes of action, debts, liabilities, controversies, judgments and suits of every kind and nature whatsoever, foreseen or unforeseen, known or unknown, whether civil, criminal, administrative, or investigative, and whether formal or informal, from any liability, loss, or damage arising out of the activities to be carried out pursuant to the obligations of this Agreement, including, but not limited to, any issue arising out of, or related in any manner to, the County's Generator.

2. The City agrees:

- a. To release the County, its agents, officers, officials, and employees, who was or is a party or is threatened to be made a party to all potential, pending or contemplated claims, matters, complaints, charges, demands, damages, causes of action, debts, liabilities, controversies, judgments and suits of every kind and nature whatsoever, foreseen or unforeseen, known or unknown, whether civil, criminal, administrative, or investigative, and whether formal or informal, from any liability, loss, or damage arising out of the activities to be carried out pursuant to the obligations of this Agreement, including, but not limited to, any issue arising out of, or related in any manner to, the County's Generator.
- b. To pay to the County \$28,964.00 (within fifteen days of the Effective Date), which the City held for PILOT payments which should be directed to the County.

3. Construction of Agreement. The Parties agree that this Agreement is not to be construed to be an admission of liability on the part of any party.
4. Modification. This Agreement may not be amended or modified except in writing and executed by all.
5. Execution. This Agreement may be executed in counterparts, each of which constitutes an original and all of which constitute one and the same Agreement.
6. Choice of Law. The Parties agree that this Agreement is governed by the laws of the State of Missouri.
7. Authority. Each party warrants and represents that it has full authority to enter into this Settlement Agreement and all necessary approvals have been obtained and that the person executing this Settlement Agreement on its behalf is authorized to do so.
8. Terms of Settlement Agreement Negotiated. This Settlement Agreement has been negotiated and drafted by all Parties and their representatives. No rule of construction shall apply to this Settlement Agreement construing its provisions in favor of or against any Party.
9. Severability. If any provisions of this Settlement Agreement is for any reason declared to be invalid or unenforceable or in conflict with any law, rule, or regulation, the validity and enforceability of the remaining provisions shall not be affected thereby, provided that such remaining provisions can be reasonably interpreted to accomplish substantially the same intent and objectives of the Parties with respect to entering this Settlement Agreement.
10. Releases. The City has represented to the County that the County has satisfied the Missouri Public Utility Alliance that the generator will not be used and that MPUA has waived any other financial claims, and the County has relied on these representations in making this Settlement Agreement. If MPUA or any affiliate (e.g., Missouri Joint Municipal Electric Utility Commission, Missouri Public Energy Pool) makes a claim, demand, or files a cause of action against the Country regarding any issue arising out of,

or related in any manner to, the County's Generator, then the releases contained in Section 1.e and 2.a are null and void.

IN WITNESS WHEREOF, the Parties have executed this Agreement, all with the approval of their respective counsel, on the date provided next to the signature of each party.

SO AGREED:

CITY OF HARRISONVILLE, MISSOURI

By: _____
(name)

Date: _____

Subscribed and sworn to before me, a Notary Public, this ____ day of _____, 2015.

Notary Signature

My commission expires: _____

AND

CASS COUNTY, MISSOURI

By: _____
(name)

Date: _____

Subscribed and sworn to before me, a Notary Public, this ____ day of _____, 2015.

Attachment: Settlement Agreement (2044 : Settlement Agreement w/Cass County)

Notary Signature

My commission expires: _____



TO: Board of Aldermen
FROM: John Hofer, Director
DATE: October 28, 2015
SUBJECT: Tobacco Ordinance (Sec. 215) Amendment

Type of Item: *Amendment*

Recently Missouri Statute regarding tobacco was updated to include what is known as electric or vapor cigarettes to prohibit the sale or possession of such products by individuals under the age of Eighteen (18). We would like to have City Ordinance Section 216 amended to mirror this state law (Chapter 407).

This update request was brought forward by Officer Nichols, Middle School SRO, as he has noticed an increase in these types of items during the performance of his daily duties.

A red line draft of the proposed ordinance has been attached along with a copy of the state statute for your review.

Staff recommends approval and please let me know if you have any questions or concerns regarding this proposed ordinance.

Council Bill No. 090

Ordinance No.

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES OF THE CITY OF HARRISONVILLE, CHAPTER 215, SECTION 215.610, DEFINITIONS, AND SECTION 215.620, UNLAWFUL TO SELL OR DISTRIBUTE TOBACCO PRODUCTS TO MINORS - VENDING MACHINE REQUIREMENTS.

NOW BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF HARRISONVILLE, MISSOURI, AS FOLLOWS:

Section 1. That Chapter 215 of the Code of Ordinances of the City of Harrisonville, Missouri, shall be amended as follows:

The title of Article XII to be amended to read:

Offenses Concerning Tobacco, Alternative Nicotine Products and Vapor Products

Section 215.610. Definitions. The following definitions to be amended to read:

SAMPLE -- A tobacco product, alternative nicotine product, or vapor product distributed to members of the general public at no cost or at nominal cost for product promotional purposes.

SAMPLING -- The distribution to members of the general public of tobacco product, alternative nicotine product or vapor product samples.

VAPOR PRODUCT -- Any non-combustible product containing nicotine that employs a heating element, power source, electronic circuit or other electronic, chemical or mechanical means, regardless of shape or size, that can be used to produce vapor from nicotine in a solution or other form. "Vapor product" includes any electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe or similar product or device and any vapor cartridge or other container of nicotine in a solution or other form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe or similar product or device. "Vapor product" does not include any alternative nicotine product or tobacco product.

VENDING MACHINE -- Any mechanical, electric or electronic self-service device which, upon insertion of money, tokens or any other form of payment, dispenses tobacco products, alternative nicotine products or vapor products.

Section 215.620, title and text, to be amended to read:

Section 215.620. Unlawful To Sell or Distribute Tobacco Products, Alternative Nicotine Products or Vapor Products To Minors - Vending Machine Requirements.

A. It shall be unlawful for any person to sell, provide or distribute tobacco products, alternative nicotine products or vapor products to persons under eighteen (18) years of age.

B. All vending machines that dispense tobacco products, alternative nicotine products or vapor products shall be located within the unobstructed line of sight and under the direct supervision of an adult responsible for preventing persons less than eighteen (18) years of age from purchasing any tobacco product, alternative nicotine product or vapor product from such machine or shall be equipped with a lock-out device to prevent the machines from being operated until the person responsible for monitoring sales from the machines disables the lock. Such locking device shall be of a design that prevents it from being left in an unlocked condition and which will allow only a single sale when activated. A locking device shall not be required on machines that are located in areas where persons less than eighteen (18) years of age are not permitted or prohibited by law. An owner of an establishment whose vending machine is not in compliance with the provisions of this Subsection shall be subject to the penalties contained in Subsection (D) of this Section. A determination of non-compliance may be made by a local law enforcement agency or the Division of Alcohol and Tobacco Control. Nothing in this Section shall apply to a vending machine if located in a factory, private club or other location not generally accessible to the general public.

C. No person or entity shall sell, provide or distribute any tobacco product, alternative nicotine product or vapor product or rolling papers to any minor or sell any individual cigarettes to any person in this State. This Subsection shall not apply to the distribution by family members on property that is not open to the public.

D. Any person, including, but not limited to, a sales clerk, owner or operator, who violates Subsections (A), (B) or (C) of this Section or Section 215.650 of this Article shall be penalized as follows:

1. For the first (1st) offense, twenty-five dollars (\$25.00);
2. For the second (2nd) offense, one hundred dollars (\$100.00); and
3. For a third (3rd) and subsequent offense, two hundred fifty dollars (\$250.00).

E. Any owner of the establishment where tobacco products, alternative nicotine products or vapor products are available for sale who violates Subsection (C) of this Section shall not be penalized pursuant to this Section if such person documents the following:

1. An in-house or other tobacco compliance employee training program was in place to provide the employee with information on the State and Federal regulations regarding sales of tobacco products, alternative nicotine products or vapor products to minors. Such training program must be attended by all employees who sell tobacco products, alternative nicotine products or vapor products to the general public;

2. A signed statement by the employee stating that the employee has been trained and understands the State laws and Federal regulations regarding the sale of tobacco, alternative nicotine products or vapor products to minors; and

3. Such in-house or other tobacco compliance training meets the minimum training criteria, which shall not exceed a total of ninety (90) minutes in length, established by the Division of Alcohol and Tobacco Control.

F. The exemption in Subsection (E) of this Section shall not apply to any person who is considered the general owner or operator of the outlet where tobacco products, alternative nicotine products or vapor products are available for sale if:

1. Four (4) or more violations per location of Subsection (C) of this Section occur within a one (1) year period; or

2. Such person knowingly violates or knowingly allows his/her employees to violate Subsection (C) of this Section.

G. If a sale is made by an employee of the owner of an establishment in violation of this Article, the employee shall be guilty of an offense established in Subsections (A), (B) and (C) of this Section. If a vending machine is in violation of Section 215.650, the owner of the establishment shall be guilty of an offense established in Subsections (C) and (D) of this Section. If a sample is distributed by an employee of a company conducting the sampling, such employee shall be guilty of an offense established in Subsections (C) and (D) of this Section.

H. A person cited for selling, providing or distributing any tobacco product, alternative nicotine product or vapor product to any individual less than eighteen (18) years of age in violation of Subsections (A), (B) or (C) of this Section shall conclusively be presumed to have reasonably relied on proof of age of the purchaser or recipient, and such person shall not be found guilty of such violation if such person raises and proves as an affirmative defense that such individual presented a driver's license or other government-issued photo identification purporting to establish that such an individual was eighteen (18) years of age or older.

I. Any person adversely affected by this Section may file an appeal with the Administrative Hearing Commission which shall be adjudicated pursuant to the procedures established in Chapter 621, RSMo.

Section 215.630

Minors Prohibited From Purchase or Possession of Tobacco, Alternative Nicotine Products or Vapor Products - Misrepresentation of Age.

A. No person less than eighteen (18) years of age shall purchase, attempt to purchase or possess cigarettes, tobacco products, alternative nicotine products or vapor products unless such person is an employee of a seller of cigarettes, tobacco products, alternative nicotine products or vapor products and is in such possession to effect a sale in the course of employment or an employee of the Division of Alcohol and Tobacco Control for enforcement purposes pursuant to Subsection (5) of Section 407.934, RSMo.

B. Any person less than eighteen (18) years of age shall not misrepresent his/her age to purchase cigarettes, tobacco products, alternative nicotine products or vapor products.

C. Any person who violates the provisions of this Section is guilty of an infraction and shall have any cigarettes, tobacco products, alternative nicotine products or vapor products confiscated and shall be penalized as follows:

1. For the first violation, twenty-five dollars (\$25.00);
2. For a second violation, seventy five dollars (\$75.00); and
3. For a third and subsequent violations, one hundred fifty dollars (\$150.00).

A red-lined version of the original ordinance showing deletions and additions is attached.

Section 2. That this ordinance shall become effective upon its passage and approval.

Roll Call Vote:

Ayes:

Nays:

Absent:

Abstain:

Read two times by title only on November 2, 2015 and passed by the Board of Aldermen this 2nd day of November 2015.

Brian Hasek, Mayor & Ex-Officio
Chairman of the Board of Aldermen

ATTEST:

Kim Hubbard, City Clerk

APPROVED by the Mayor this 2nd day of November 2015

ARTICLE XII: Offenses Concerning Tobacco, Alternative Nicotine Products, and Vapor Products

Section 215.610 Definitions.

For purposes of this Article, the following definitions shall apply:

DISTRIBUTE

A conveyance to the public by sale, barter, gift or sample.

MINOR

A person under the age of eighteen (18).

PROOF OF AGE

A driver's license or other generally accepted means of identification that contains a picture of the individual and appears on its face to be valid.

ROLLING PAPERS

Paper designed, manufactured, marketed or sold for use primarily as a wrapping or enclosure for tobacco which enables a person to roll loose tobacco into a smokeable cigarette.

SAMPLE

A tobacco product, alternative nicotine product, or vapor product distributed to members of the general public at no cost or at nominal cost for product promotional purposes.

SAMPLING

The distribution to members of the general public of tobacco product, alternative nicotine product or vapor product samples.

TOBACCO PRODUCTS

Any substance containing tobacco leaf including, but not limited to, cigarettes, cigars, pipe tobacco, snuff, chewing tobacco or dipping tobacco.

VAPOR PRODUCT

Any non-combustible product containing nicotine that employs a heating element, power source, electronic circuit or other electronic, chemical or mechanical means, regardless of shape or size, that can be used to produce vapor from nicotine in a solution or other form. "Vapor product" includes any electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe or similar product or device and any vapor cartridge or other container of nicotine in a solution or other form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe or similar product or

device. "Vapor product" does not include any alternative nicotine product or tobacco product.

VENDING MACHINE

Any mechanical, electric or electronic self-service device which, upon insertion of money, tokens or any other form of payment, dispenses tobacco products, alternative nicotine products or vapor products.

Section 215.620

Unlawful To Sell or Distribute Tobacco Products, Alternative Nicotine Products or Vapor Products To Minors — Vending Machine Requirements.

A.

It shall be unlawful for any person to sell, provide or distribute tobacco products, alternative nicotine products or vapor products to persons under eighteen (18) years of age.

B.

All vending machines that dispense tobacco products, alternative nicotine products or vapor products shall be located within the unobstructed line of sight and under the direct supervision of an adult responsible for preventing persons less than eighteen (18) years of age from purchasing any tobacco product, alternative nicotine product or vapor product from such machine or shall be equipped with a lock-out device to prevent the machines from being operated until the person responsible for monitoring sales from the machines disables the lock. Such locking device shall

be of a design that prevents it from being left in an unlocked condition and which will allow only a single sale when activated. A locking device shall not be required on machines that are located in areas where persons less than eighteen (18) years of age are not permitted or prohibited by law. An owner of an establishment whose vending machine is not in compliance with the provisions of this Subsection shall be subject to the penalties contained in Subsection ~~(E)~~ ~~(D)~~ of this Section. A determination of non-compliance may be made by a local law enforcement agency or the Division of Alcohol and Tobacco Control. Nothing in this Section shall apply to a vending machine if located in a factory, private club or other location not generally accessible to the general public.

C.

No person or entity shall sell, provide or distribute any tobacco product, alternative nicotine product or vapor product or rolling papers to any minor or sell any individual cigarettes to any person in this State. This Subsection shall not apply to the distribution by family members on property that is not open to the public.

D.

Any person, including, but not limited to, a sales clerk, owner or operator, who violates Subsections (A), (B) or (C) of this Section or Section 215.650 of this Article shall be penalized as follows:

1.

For the first (1st) offense, twenty-five dollars (\$25.00);

2.

For the second (2nd) offense, one hundred dollars (\$100.00); and

3.

For a third (3rd) and subsequent offense, two hundred fifty dollars (\$250.00).

E.

Any owner of the establishment where tobacco products, alternative nicotine products or vapor products are available for sale who violates Subsection (C) of this Section shall not be penalized pursuant to this Section if such person documents the following:

1.

An in-house or other tobacco compliance employee training program was in place to provide the employee with information on the State and Federal regulations regarding sales of tobacco~~sales products, alternative nicotine products or vaport products~~ to minors. Such training program must be attended by all employees who sell tobacco products, alternative nicotine products or vapor products to the general public;

2.

A signed statement by the employee stating that the employee has been trained and understands the State laws and Federal regulations regarding the sale of tobacco, alternative nicotine products or vapor products to minors; and

3.

Such in-house or other tobacco compliance training meets the minimum training criteria, which shall not exceed a total of ninety (90) minutes in length, established by the Division of Alcohol and Tobacco Control.

F.

The exemption in Subsection (E) of this Section shall not apply to any person who is considered the general owner or operator of the outlet where tobacco products, alternative nicotine products or vapor products are available for sale if:

1.

Four (4) or more violations per location of Subsection (C) of this Section occur within a one (1) year period; or

2.

Such person knowingly violates or knowingly allows his/her employees to violate Subsection (C) of this Section.

G.

If a sale is made by an employee of the owner of an establishment in violation of this Article, the employee shall be guilty of an offense established in Subsections (A), (B) and (C) of this Section. If a vending machine is in violation of Section 215.650, the owner of the establishment

shall be guilty of an offense established in Subsections (C) and (D) of this Section. If a sample is distributed by an employee of a company conducting the sampling, such employee shall be guilty of an offense established in Subsections (C) and (D) of this Section.

H.

A person cited for selling, providing or distributing any tobacco product, alternative nicotine product or vapor product to any individual less than eighteen (18) years of age in violation of Subsections (A), (B) or (C) of this Section shall conclusively be presumed to have reasonably relied on proof of age of the purchaser or recipient, and such person shall not be found guilty of such violation if such person raises and proves as an affirmative defense that: such individual presented a driver's license or other government-issued photo identification purporting to establish that such an individual was eighteen (18) years of age or older.

~~1.~~

~~Such individual presented a driver's license or other government-issued photo identification purporting to establish that such individual was eighteen (18) years of age or older.~~

I.

Any person adversely affected by this Section may file an appeal with the Administrative Hearing Commission which shall be adjudicated pursuant to the procedures established in Chapter 621, RSMo.

Section 215.630

Minors Prohibited From Purchase or Possession of Tobacco, Alternative Nicotine Products or Vapor Products — Misrepresentation of Age.

A.

No person less than eighteen (18) years of age shall purchase, attempt to purchase or possess cigarettes, ~~or other~~ tobacco products, alternative nicotine products or vapor products unless such person is an employee of a seller of cigarettes, ~~or~~ tobacco products, alternative nicotine products or vapor products and is in such possession to effect a sale in the course of employment or an employee of the Division of Alcohol and Tobacco Control for enforcement purposes pursuant to Subsection (5) of Section 407.934, RSMo.

B.

Any person less than eighteen (18) years of age shall not misrepresent his/her age to purchase cigarettes, ~~or~~ tobacco products, alternative nicotine products or vapor products.

C.

Any person who violates the provisions of this Section is guilty of an infraction and shall have any cigarettes, tobacco products, alternative nicotine products or vapor products confiscated and shall be penalized as follows:

1.

For the first ~~(1st)~~ violation, ~~the person is guilty of an infraction and shall have any cigarettes or tobacco products confiscated~~ twenty-five dollars (\$25.00);

2.

For a second ~~(2nd)~~ violation, ~~and any subsequent violations, the person is guilty of an infraction, shall have any cigarettes or tobacco products confiscated and shall complete a tobacco education or smoking cessation program, if available~~ seventy five dollars (\$75.00); and

3.

For a third and subsequent violations, one hundred fifty dollars (\$150.00).

Missouri Revised Statutes

Chapter 407 Merchandising Practices

Section 407.931.1

August 28, 2015

Unlawful to sell or distribute tobacco products, alternative nicotine products, or vapor products to minors--vending machine requirements--what persons are liable--owners exempt, when--appeal to administrative hearing commission, when.

407.931. 1. It shall be unlawful for any person to sell, provide or distribute tobacco products, alternative nicotine products, or vapor products to persons under eighteen years of age.

2. All vending machines that dispense tobacco products, alternative nicotine products, or vapor products shall be located within the unobstructed line of sight and under the direct supervision of an adult responsible for preventing persons less than eighteen years of age from purchasing any tobacco product, alternative nicotine product, or vapor product from such machine or shall be equipped with a lock-out device to prevent the machines from being operated until the person responsible for monitoring sales from the machines disables the lock. Such locking device shall be of a design that prevents it from being left in an unlocked condition and which will allow only a single sale when activated. A locking device shall not be required on machines that are located in areas where persons less than eighteen years of age are not permitted or prohibited by law. An owner of an establishment whose vending machine is not in compliance with the provisions of this subsection shall be subject to the penalties contained in subsection 5 of this section. A determination of noncompliance may be made by a local law enforcement agency or the division of liquor control. Nothing in this section shall apply to a vending machine if located in a factory, private club or other location not generally accessible to the general public.

3. No person or entity shall sell, provide or distribute any tobacco product, alternative nicotine product, or vapor product or rolling papers to any minor, or sell any individual cigarettes to any person in this state. This subsection shall not apply to the distribution by family members on property that is not open to the public.

4. Any person including, but not limited to, a sales clerk, owner or operator who violates subsection 1, 2 or 3 of this section or section [407.927](#) shall be penalized as follows:

- (1) For the first offense, twenty-five dollars;
- (2) For the second offense, one hundred dollars;

(3) For a third and subsequent offense, two hundred fifty dollars.

5. Any owner of the establishment where tobacco products, alternative nicotine products, or vapor products are available for sale who violates subsection 3 of this section, in addition to the penalties established in subsection 4 of this section, shall be penalized in the following manner:

(1) For the first violation per location within two years, a reprimand shall be issued by the division of liquor control;

(2) For the second violation per location within two years, the division of liquor control shall issue a citation prohibiting the outlet from selling tobacco products, alternative nicotine products, or vapor products for a twenty-four-hour period;

(3) For the third violation per location within two years, the division of liquor control shall issue a citation prohibiting the outlet from selling tobacco products, alternative nicotine products, or vapor products for a forty-eight-hour period;

(4) For the fourth and any subsequent violations per location within two years, the division of liquor control shall issue a citation prohibiting the outlet from selling tobacco products for a five-day period.

6. Any owner of the establishment where tobacco products are available for sale who violates subsection 3 of this section shall not be penalized pursuant to this section if such person documents the following:

(1) An in-house or other tobacco compliance employee training program was in place to provide the employee with information on the state and federal regulations regarding sales of tobacco products, alternative nicotine products, or vapor products to minors. Such training program must be attended by all employees who sell tobacco products, alternative nicotine products, or vapor products to the general public;

(2) A signed statement by the employee stating that the employee has been trained and understands the state laws and federal regulations regarding the sale of tobacco products, alternative nicotine products, or vapor products to minors; and

(3) Such in-house or other tobacco compliance training meets the minimum training criteria, which shall not exceed a total of ninety minutes in length, established by the division of liquor control.

7. The exemption in subsection 6 of this section shall not apply to any person who is considered the general owner or operator of the outlet where tobacco products, alternative nicotine products, or vapor products are available for sale if:

(1) Four or more violations per location of subsection 3 of this section occur within a one-year period; or

(2) Such person knowingly violates or knowingly allows his or her employees to violate subsection 3 of this section.

8. If a sale is made by an employee of the owner of an establishment in violation of sections [407.925](#) to [407.934](#), the employee shall be guilty of an offense established in subsections 1, 2 and 3 of this section. If a vending machine is in violation of section [407.927](#), the owner of the establishment shall be guilty of an offense established in subsections 3 and 4 of this section. If a sample is distributed by an employee of a company conducting the sampling, such employee shall be guilty of an offense established in subsections 3 and 4 of this section.

9. A person cited for selling, providing or distributing any tobacco product, alternative nicotine product, or vapor product to any individual less than eighteen years of age in violation of subsection 1, 2 or 3 of this section shall conclusively be presumed to have reasonably relied on proof of age of the purchaser or recipient, and such person shall not be found guilty of such violation if such person raises and proves as an affirmative defense that such individual presented a driver's license or other government-issued photo identification purporting to establish that such individual was eighteen years of age or older.

10. Any person adversely affected by this section may file an appeal with the administrative hearing commission which shall be adjudicated pursuant to the procedures established in chapter 621.