



VILLAGE OF VOLENTE

AGENDA

Special Called City Council Meeting
4:00 P.M., Thursday, March 9, 2017
16100 Wharf Cove, Volente, TX 78641

A. ITEMS OPENING THE MEETING

1. Call to Order
2. Call Roll and Establish a Quorum

B. CITIZEN COMMUNICATIONS. *At this time, any person with business before the Council NOT scheduled on the agenda may speak to the Council. In accordance with the Open Meetings Act, Council is prohibited from acting on or discussing (other than factual responses to specific questions) any items brought before them that are not on the agenda. There is a four (4) minute time limit on any communication and time cannot be yielded to other parties.*

C. GENERAL BUSINESS AND ACTION ITEMS

1. Close Public Meeting, Enter Executive Session. *The Village Council will announce that it will go into Executive Session, (pursuant to Chapter 551.071 of the Texas Government Code), for consultation with Attorney to discuss possible restrictive covenants and/or conditional overlay for the lots to be rezoned for Loved Homes of Volente.*
2. Close Executive Session, and Open Public Meeting.
3. Discussion on the restrictive covenants to be associated with the rezoned lots of Loved Homes of Volente (VJ's) and the possibility of using those covenants as the Village's conditional overlay.
4. Consideration and action by Council to appoint a Chair of the
 - i. Planning and Zoning Commission (pursuant to Chapter 211.007(a) of the Local Government Code and Section 30.138(C) of the VOV Zoning Ordinance), and
 - ii. Board of Adjustment (pursuant to Chapter 211.008(b) of the Local Government Code and Section 30.137(A.1.i) of the VOV Zoning Ordinance) – Council Member Hopkins

D. ADJOURNMENT

IT IS HEREBY CERTIFIED that the above agenda was posted by 4:00 p.m. on the 6th day of March, 2017.

Nicole Vicuña, City Secretary

A quorum of the Planning and Zoning Commission or Board of Adjustment may be in attendance; however, no official action by the Planning and Zoning Commission or Board of Adjustment shall be taken.

DEED RESTRICTIONS

THE STATE OF §

TEXAS §

KNOWN ALL PERSONS §

THESE PRESENT: §

COUNTY OF TRAVIS §

I.

The undersigned, **Dimitri Hammond, President of Loved Homes of Volente** ("the Owner"), is the owner of the following described properties ("the Properties"),

- Lot 1, Nicholson Lake Travis Subdivision No. 1;
- Lot 2, Nicholson Subdivision No. 1 and
- Lot 10, Nicholson Subdivision No. 1.

In the **Village of Volente** ("Village"), Travis County, Texas and being that same tract of land by deeds dated February 17, 2017; January 27, 2016, and February 24, 2017 and recorded by Instrument Nos. 2017029409; 2016013893; and 2017030456 in the Deed Records of Travis County, Texas, and being more commonly described as 15401 FM RD 2769; 7601 Reed Drive and & 7505 Reed Drive Volente, Texas 78641.

II.

Whereas the Village on January 31, 2017 rezoned the Properties as C-2 Commercial Retail with Restaurant. Whereas, The Owner and the Village agree to limit the use of the Properties. The Owner and the Village does hereby impress all of the Properties with the following deed Restrictions ("Restrictions"), to wit:

Lot 1, Nicholson Subdivision No. 1 will have the following uses:

- Coffee Shop with possible wine sales;
- Continued Non-conforming use as a Storage Warehouse Facilities located within the current Nonconforming Structure that will remain as is;
- Parking as required by the Zoning Ordinances;
- Any "Lesser included" uses that are acceptable under C-2 that do not require a Conditional Use permit such as Offices and Light Retail for day to day needs and convenience shopping.

Lot 2, Nicholson Subdivision No. 1 will have the following uses:

- Restaurant with Alcohol Sales;
- Convenience Grocery Store;
- Pad Site for possible Property Management Offices;
- Any "Lesser included" uses that are acceptable under C-2 that do not require a Conditional Use permit such as Offices and Light Retail for day to day needs and convenience shopping; and
- Parking as required by the Zoning Ordinances.

Lot 10, Nicholson Subdivision will have the following uses:

- Storm Water detention, retention and water quality ponds;
- Septic and water wells; and
- Drainage facilities and appropriate easements, if required by the Site Development Ordinances.

III.

These restrictions shall continue in full force and effect from the date of execution until amended or terminated in the manner specified in this document.

IV.

The Owner agrees that these restrictions inure to the benefit of the Village. The Owner hereby grants the Village the right to enforce these restrictions by any lawful means, including filing an action in a court of competent jurisdiction, at law or in equity, against the person violating or attempting to violate these restrictions, either to prevent the violation or to require its correction. If the Village substantially prevails in a legal proceeding to enforce these restrictions, the Owner agrees that the Village shall be entitled to recover damages, reasonable attorney's fees, and court costs. For further remedy, the Owner agrees that the Village may withhold any certificate of occupancy or final inspection necessary for the lawful use of the Property until these restrictions are complied with. The right of the Village to enforce these restrictions shall not be waived, expressly or otherwise.

V.

The Owner agrees to defend, indemnify, and hold harmless the Village from and against all claims or liabilities arising out of or in connection with the provisions of this document.

VI.

The provisions of this document are hereby declared covenants running with the land and are binding on all successors, heirs, and assigns of the Owner who acquire any right, title, or interest in or to the Property until such time as the Village passes and approves the Conditional Overlay Ordinance. Once the Conditional Overlay Ordinance has been passed, these Restrictions will terminate and be replaced by a Conditional Overlay consistent with the terms outlined herein.

VIII.

The Owner understands and agrees that this document shall be governed by the laws of the State of Texas. Notice for the Owner shall be given via regular or certified mail at 1125 Byers Lane, Austin, TX 78753-6896. Notice for the Village shall be given via regular or certified mail at 16100 Wharf Cove, Volente, TX 78641

IX.

The invalidation of any provision in this document by any court shall in no way affect any other provision, which shall remain in full force and effect, and to this end the provisions are declared to be severable.

EXECUTED at the Village of Volente, Travis County, Texas, on this the _____ day
of _____, 2017

X _____

Dimitri Hammond, President
Loved Homes of Volente, LLC. Owner

ACKNOWLEDGEMENT

STATE OF TEXAS §

COUNTY OF TRAVIS §

This instrument was acknowledged before me on _____ day of March, 2017.

By _____

(seal) My commission expires: _____

Action by Planning and Zoning Commission at the January 31st Public Hearing

Scudder motioned for Planning and Zoning to recommend that Council re-zone lots 1 and 10 to C2 and lots 3, 4 and 5 to C1. Motion seconded by Carufel. Motion carried.

Action by City council at the January 31st Public Hearing

Fogarasi motioned to accept Planning and Zoning's recommendation to change the zoning, per their recommendation, under the specific restrictive covenants that will be reviewed and defined over the next 60 days that must include in the covenants that Loved Homes use lots 10, 1 and 2 for restaurant, grocery store, coffee shop and storage, and other restrictive covenants that are mutually negotiated. Hopkins seconded the motion.

Ayes - 5 Nays - 0 Abstentions - 0



VILLAGE OF
VOLENTE

VOV USE
ONLY:

Total Deposit:

4792.25

Date Submitted:

11/23/16

Receipt No.

603100

Date Approved
by Engineer:

Rezoning & CSP
Site Development and Building Application

Project Address: 15401 FM 2769
Existing Use: C2, R1 Proposed Use: C2
Existing Zoning: C2, R1 Gross Acres: 3.35 acres

Description of Proposal (provide a brief description of the project to be covered by this permit):

VJ's Grocery & Restaurant, COFFEE SHOP
& existing Building

Total Valuation of Construction:

Applicant: Kellie Rush-Frie Company: Frie Planning, Dev
Address: 201 RR 6205 Lakeway, TX 78734
Tel #: 512-983-0611 Email: Kellie@FriePDC.com

Property Owner: Loved Homes of Volente
Address: 1125 Byers LN. Austin, TX 78753
Tel #: 512-931-1193 Email: Dimitri@lovedhomes.com
Kyle@lovedhomes.com

The following items or information must be submitted along with this application:

- Description:** Written proposal for the project and/or site plan. Describe in as much detail as possible the current and proposed uses/activities. Attach separate sheets as necessary.
- Plans:** 1 printed copy of the building plans (if applicable) for the property and electronic submission of the plans to the Village of Volente via email.
- Deposit:** Paid as described in the Development Review Fee Schedule.
- OSSF:** Proof of submission of an application for an OSSF permit with LCRA.
- Tax Receipt, Closing Statement or Deed, Authorized Agent Form, Permission to Inspect/Enter Property, Variance Application as applicable.**

SIGNATURE OF PROPERTY OWNER OR APPLICANT

X [Signature]
Printed Name: Kellie L. Rush-Frie

STAFF:
[Signature]



TBPE F-15009

www.sectexas.com

1775 CR 279, Ste D101

office@sectexas.com

December 08, 2016

Village of Volente
16100 Wharf Cove
Volente, Texas 78641

RE: Engineer's Summary Letter
VJ's Retail
SEC Project No.: 16310

To whom it may concern:

On behalf of Loved Homes (client), SEC Solution LLC is submitting this Engineer's Summary Letter for VJs Retail Master Plan Zone Change Application approval. Below is a summary of the proposed project.

Introduction

This project site is located within the city limits of the Village of Volente at the southwest intersection of FM 2769 and Reed Drive. It is composed of Lots 1(0.60 Ac.), 2 (0.75 Ac.), 3 (0.50 Ac.), 4 (0.50 Ac.), 5 (0.50 Ac.) and 10 (0.50 Ac.). Lots 2 thru 5 are located along the west corridor of FM 2769 at the intersection of FM 2769 and Reed Drive. Lots 1 and 10 are along the east side of Reed Drive.

The proposed improvements will be limited to Lots 1, 2 and 10 and will be brought into compliance. The adjacent Lots 3 thru 5 will remain vacant and are proposed to be used as overflow parking.

The proposed improvements that will bring the site into compliance will consist of water quality pond, concrete driveway, septic field, public water system and a stormwater detention pond.

Land Use and Zoning

The tract is located within the city limits of the Village of Volente; it is zoned per the City's Zoning Ordinance.

The existing zoning on Lots 1, 3, 4, 5 and 10 are R-1 Single Family Residential and Lot 2 is C-2 Medium Commercial. The existing land use for Lot 1 is *one single story, single family residence* (1,061 sf), a *storage shed* (90 sf), and a *metal storage building* (2,280 sf). The existing land use for Lot 2 is currently *unoccupied* and consist of a *metal storage building* (568 sf), *stone restroom building* (167 sf), *wood/stone*

building (367 sf) and a *two-story stone building* (4,952 sf). Lots 3, 4, 5 and 10 are vacant unimproved lots.

The proposed zoning for Lots 1 thru 5 and 10 will be C-2 Medium Commercial. The proposed land use for each lot are as follow:

- Lot 1 will be to convert the existing residence into a commercial coffee shop with associated parking. The existing metal storage building will remain as is and used for storage.
- Lot 2 use will be restaurant/retail with associated parking. The existing two-story stone building (4,952 sf) will remain. It will be preserved and slightly expanded. The existing storage shed (90 sf), metal storage building (568 sf), stone restroom building (167 sf), and wood/stone building (367 sf) will be demolished.
- Lot 10 will accommodate the required sized detention pond, water quality pond, septic field and water well.
- Lot 3 thru 5 will remain unimproved and utilized as overflow parking.

Watershed, Water Quality and Stormwater Detention

Water quality proposed for this site will be in compliance with Lower Colorado River Authority (LCRA) Criteria as outlined in the Highland Lakes Watershed Ordinance. The contributing area to the pond will be the entire proposed impervious improvements.

Runoff sheet flows across the property from the east to the west and across Reed Drive. The runoff continues westward into Lake Travis. The slopes of the contributing basin are moderate to steep and ranges from 1 to 20 percent. Trees, native grasses, rural single-family residences characterize the contributing drainage areas.

Drainage calculations were performed per guidelines found in the City of Austin Drainage Criteria Manual, Soil Conservation Service (National Resources Conservation Services) Methodology for Curve Number and Time of Concentration Calculation were performed with guidance found in Technical Release No. 55 (TR-55) (2nd Edition) 210-VI and US Army Corp of Engineers, HEC-HMS 4.2 Routing Software.

Floodplain

Based on Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map Number 48453 C0220H, revised September 26, 2008, Travis County, Texas and incorporated areas, there is no regulatory floodplain on the subject tract.

Roadway (Driveway) Improvements

The proposed site will take access off-of FM 2769 and Reed Drive. Two new driveways will be constructed to replace the existing driveway and, a driveway permit from the

Texas Department of Transportation will be acquired. Refer to Master Plan for driveway location.

Water, Fire and Wastewater

The site water service to the site will be by a public water well. Wastewater service will be by an on-site sewage facility. Permitting will be through LCRA and Texas Commission on Environmental Quality (TCEQ).

Fire Protection will be provided and approved by Volente Fire Department ESD 14.

Soils

Based on the *Soil Survey of Travis County, Texas*, websoilsurvey.nrcs.usda.gov/appl/, by the United States Department of Agriculture Soil Conservation Service; the site and contributing sub-basin areas soils consists of one soil classification. The classification is Brackett-Rock outcrop, 1 to 12 percent slopes and Tarrant soils, 5 to 18 percent slopes.

Cut/Fill

The proposed improvements will not have any cuts or fill areas in excess of 4ft in height.

Critical Environmental Features

There are no known critical environmental features on these tracts.

Waivers and Variances

There are no waivers or variances proposed for these tracts.

Should you have any questions or require additional information please feel free to contact me. I may be reached at (512) 709-9824 or by email at marcos@sectexas.com.

Sincerely,



Marcos V. Dequeiroga, P.E.
TBPE Firm No. 15009



PLANNING & ZONING REVIEW

Kellie Rush-Frie





TREE PLAN

- 80% of Desirable Trees Continue to Beautify Developed Areas
- 100% of Desirable Trees Left in Lots 3, 4, 5

Loved Homes Is Committed to Preservation of Natural Resources





PLAN OVERVIEW

- Six Lots Involved
 - Zoned C2 Commercial Retail with Restaurant – Lot 2 (“VJ’S Proper”)
 - Zoned R1 Residential -- Lots 1, 3, 4, 5, 10

- Requirements Driving Rezoning
 - Septic
 - Parking
 - Water Quality
 - Detention



-  PROPERTY LINE
-  TOPOGRAPHY
-  BUILDING SETBACKS
-  OH OVERHEAD POWER LINE
-  POWER POLE
-  PROPERTY PINS
-  SEPTIC TANK
-  WATER WELL
-  TREE TAG #/
CANOPY

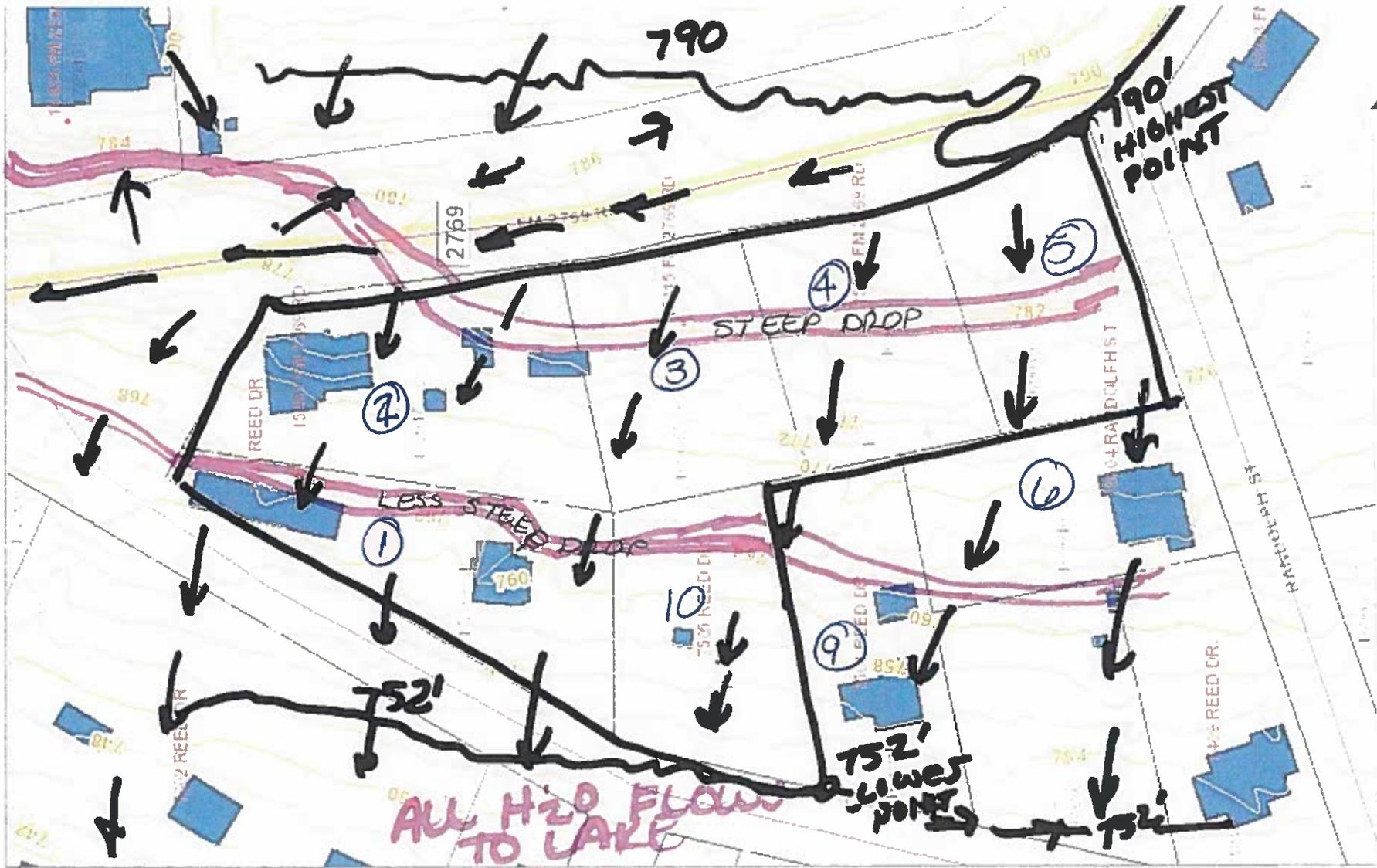




TOPOGRAPHY

- One More Driver for Use of All Lots
- Front of Development Follows High Ridge
- Stormwater Flows Perpendicular to FM 2769
- 38' Drop in Elevation from highway to back of Lot 10 – Terraced
- Septic and Detention Buffers Lower Residential Areas







LOT 2 – MARKET & RESTAURANT

- Currently Zoned C2
- 4 Buildings
 - VJ'S Main Building – Renovated with Addition and Deck
 - Market – 3,037 sf
 - Restaurant – 2,979 sf
 - 3 Utility Outbuildings – Removed
- **Safe Entry** via Single Driveway off FM 2769 (TxDOT Safety Restriction)
- Parking with **Maximum Tree Presevervation**
- Driveway at Reed Rd. – required per Fire Requirements





LOT 1 – COFFEE SHOP

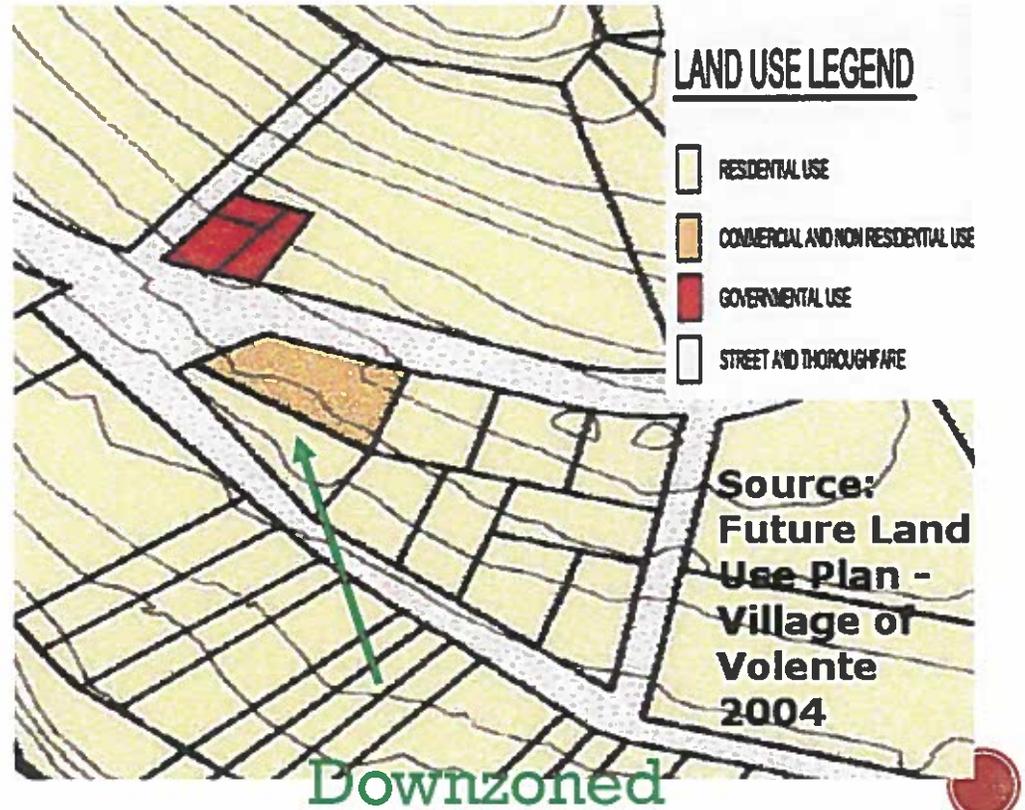
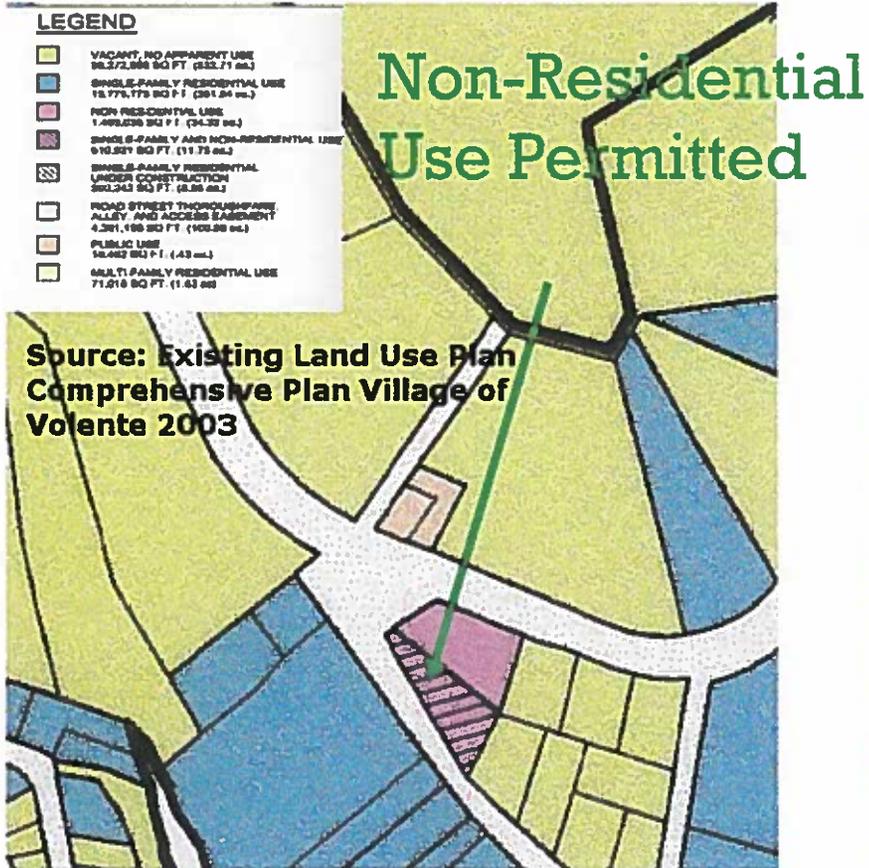
- **3 Buildings**
 - Residential Dwelling – Renovated and Transformed Into Coffee Shop
 - Commercial Storage Facility – Building and Use as Storage Facility Preserved
 - Utility Shed – Removed

- **Current Zoning Conditions**
 - Excluded from Deed Restrictions by original developer
 - Designated “Commercial lots only” in same Deed Restrictions – Sept 11, 1982
 - Labeled “Mixed Use Commercial” Use at Incorporation
 - Unintentionally ‘Down-zoned’ in Comprehensive Plan

- **Requesting Correction of Use to C2 Commercial, in accordance with former, documented zoning**



DOWNZONING LOT 1



LOT 10



- Residential Use per Deed Restrictions
- Lowest Point in Proposed Development Area
- "Naturally" Best Use for Water Quality, Detention & Septic
- Buffer To Residential Area
- Intended Use Inline with Residential



LOTS 3, 4, 5

- Vacant, Unimproved
- Reserved for Overflow Parking
- Trees Retained





COOPERATIVE ASSURANCES

- **Updating Deed Restrictions for Nicholson Subdivision**
 - Loved Homes working with residents to update and correct restrictions
 - Loved Homes covering costs to capture, document and record

- **Re-Platting of Lots 3, 4, 5**
 - As requested, Loved Homes will pursue combining individual lots into a single 1.50 Acre Lot

- **Execute Agreements for Maintenance of Water Detention & Quality Basins**



THANK YOU



Board of Adjustment

Odd year placement

Cowsert, Gary

Gold, Mike

Jordan, James

Lamoroux, Joe (Alternate)

Even Year Placement

Mowkry, Robert

Schlozauher, Judy

Murphy, Gary (Alternate)

Planning and Zoning Commission

Odd year placement

Belote, Kristi

Thrash, Allison

Scudder, Rett (Alternate)

Even year placement

Barrick, Judy

Caruel, Nancy

Mitchell, Phil

Mallow, Cynthia (Alternate)