

PUBLIC HEARING NOTICE

Notice is hereby given that public hearings will be held by the Town of Town Council at 7:00 PM on July 12, 2023, in the Council Chambers of the Town Hall at 174 South Main Street, Amherst, VA, on the following matters:

An Application for Abandonment of Public Right-of-Way submitted by Mount Olive Baptist Church which, if approved, would abandon that portion of an alleyway between Mount Olive Road and West Court Street on the north side of and adjacent to Mount Olive Baptist Church.

An Application for Rezoning submitted by McDonald's Corporation which, if approved, would rezone 2,193 square feet of property adjacent to the existing McDonalds (Tax Map No. 96A4-A-174) from T-1 to B-2. The rezoning is intended for the purpose of redevelopment of the applicant's drive-thru.

All interested persons may express their views by emailing sara.mcguffin@amherstva.gov prior to the meeting. Anyone having questions regarding the above may contact the Town Hall Office at 434-946-7885.

Supporting documentation is available at amherstva.gov and for inspection in the Town Hall during normal working hours.

TOWN OF AMHERST
Office of the Town Attorney
P.O. Box 280 174 S. Main Street Amherst, VA 24521

Kelley Kemp, Esq.
Deal & Lacheny P.C.
TOWN ATTORNEY
kelley.kemp@amherstva1.us
PHONE: (804) 464-8990
FAX: (877) 457-1231



Mailing Address:
174 S. MAIN STREET
P.O. BOX 280
AMHERST, VA 24521

FROM: Kelley Kemp, Town Attorney
TO: Mayor and Town Council of the Town of Amherst
DATE: May 3, 2023
SUBJECT: Abandonment of alley by Mount Olive Baptist Church

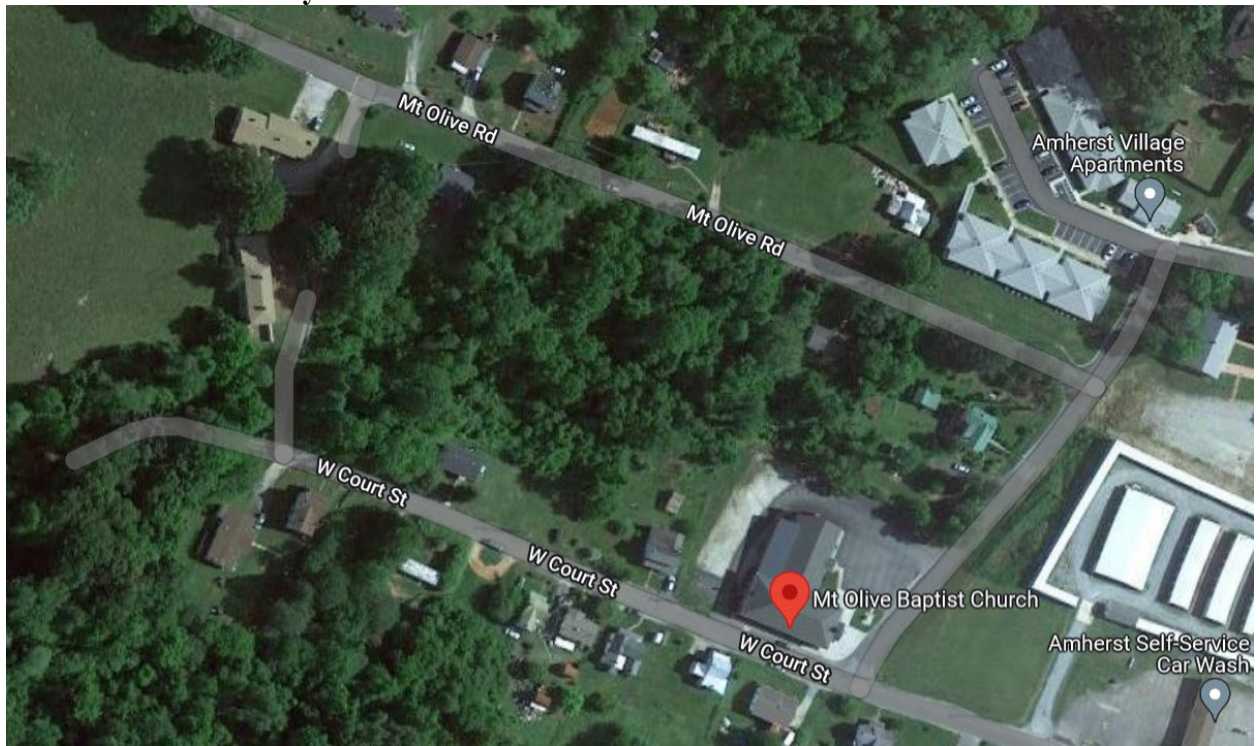
Photo of alley from Mt. Olive Road:



Alley is shown in orange:



Aerial view of the alley:



Recommendations for an Application Package

I recommend that the Council require Mt. Olive Church to apply for the abandonment, and that we put together an application package, which should include:

- A description of why the Applicant wishes the right-of-way to be abandoned, and the proposed use of the right-of-way;
- Fees and expenses, which should include:
 - \$100 application fee
 - \$250 “viewer” fee (\$50 per viewer) if the Town wants to pursue this option
 - The expenses for public advertising;
- A proposal to purchase the property (including a proposed purchase price), or some other indication of how the Applicant wishes the alley to be owned and maintained.
- A description of how far back the Applicant wishes to abandon the alley.
- A plat of the area to be abandoned, showing the location of property lines all utility easements, drainage easements, and other easements.
- A deed and title search for the ownership of the land.
- A signed commitment to undertaking the expense for any deconstruction or other costs for the abandonment.

Statutory Authority for Abandoning an Alley:

1. **Va. Code § 15.2-2006 (“Alteration and vacation of public rights-of-way”).**
 - By petition or on the governing body’s motion
 - Public advertising – published at least twice, with six days between the first and the second advertisement; cost paid by the applicant.
 - Governing body may appoint 3–5 “viewers” to examine any inconveniences from the discontinuing of the right of way.
 - Optional conditions:
 - “When an applicant requests a vacation to accommodate expansion or development of an existing or proposed business, the governing body may condition the vacation upon commencement of the expansion or development within a specified period of time.”
 - “Notwithstanding any contrary provision of law, general or special, any locality, as a condition to a vacation or abandonment, may require the fractional portion of its public rights-of-way and easements to be purchased by any abutting property owner.” Va. Code § 15.2-2008.
2. **Town Charter art. VII, § 1(1):** “The town shall have the power to acquire, establish, enter, open, widen, extend, grade, improve, construct, maintain, and clear public highways, streets, sidewalks, boulevards, parkways, alleys, and to alter, vacate, or close the same.”
3. **Va. Code § 15.2-2272, subdiv. 2 (vacation of plat).** See § 33.2-925 (“[A] road may be abandoned in accordance with the procedure for vacations in subdivision 2 of § 15.2-2272.”).
4. **Va. Code § 33.2-914 et seq. applies only to counties.**

Key issues that need resolution:

1. The applicant needs to perform a title search to ascertain ownership of the alley.
2. Applicant needs to have a plat that shows the ally, the property, utility lines, and all other easements.

3. Generally, when a right of way is abandoned, the property owners on each side split the right of way area. Each adjoining property owner takes half. The Applicant needs to involve the adjacent property owners.
4. Do we want to condition the vacation on the purchase of the property or the commencement of some new use?



Application for Abandonment of a Public Right-of-Way

Town of Amherst
P.O. Box 280 174 S. Main Street Amherst, VA 24521

Who should use this form?

You should use this form if you desire for a public right-of-way (such as a road, alley, or sidewalk) owned by the Town of Amherst to be abandoned (or "vacated"). This could involve, for example, redrawing the property lines for a grass-covered alleyway that runs behind the backyards of a neighborhood, so that the alleyway is absorbed into the backyards of the neighborhood; or it could involve scraping up the asphalt of a rarely used road, conveying the land to a private owner, and converting it to a better use.

What is the legal authority for abandoning a public right-of-way?

The Virginia General Assembly has outlined several different processes for abandoning a public right-of-way. These include Va. Code § 15.2-2006; Va. Code § 33.2-925 ("[A] road may be abandoned in accordance with the procedure for vacations in subdivision 2 of § 15.2-2272"); and Town Charter art. VII, § 1(1). The Town Council has sole discretion as to whether a public right-of-way is to be abandoned.

Instructions. Please answer the questions in the spaces provided below. If you need additional space to answer these questions, feel free to attach additional pages. Please label each page as "Attachment N," with "N" representing the question number. (For example, if you need additional space to answer Question #2, label the attachment as Attachment 2.) Once you have completed the form, enclose with it a check covering the application fee (\$100.⁰⁰) and the costs of public advertising (\$000.⁰⁰). (Total: \$000.⁰⁰.) Mail or hand-deliver this form, with the enclosed check, to the Town of Amherst at the address at the top of this form. Once a complete application is received, your application will be scheduled for a public hearing before the Town Council.

1. Name of Applicant(s) (individual(s), corporation(s), or other entity(ies)): _____

Mount Olive Baptist Church
160 W. Court Street
Amherst, VA

2. Name/description of the public right-of-way to be abandoned: Alley-way ^{at 160 W. Court St}
between Mount Olive Baptist Church ^{AND} property of Jean A. Higginbotham at
107 Mount Olive Rd

3. Do you wish for the entire extent of the public right-of-way to be abandoned, or only a portion of it? If you only wish to abandon a portion of the public right-of-way, please describe how much of the right-of-way that you wish the Town to abandon (for example, "The portion of the right-of-way to the north of my property, Tax Map No. 96A4-A-25, located at 174 S. Main Street, Amherst, VA 24521.")

The portion that's adjacent "North Side" of Mount Olive Baptist Church property from Mount Olive Rd

4. Why do you wish for the right-of-way to be abandoned? What use do you propose for the right-of-way to be put to, if the right-of-way is abandoned?

Alley-way is overgrown and my understanding has never been used - just a divider between properties. Could be upgraded to a playground for small children / or extra parking space

5. Who do you wish to own or maintain the property, once the public right-of-way is abandoned? (For example, do you wish to purchase the property on which the right-of-way currently sits?)

Mount Olive Baptist Church

6. If you wish to purchase the property, what purchase price do you propose for the land? (If multiple applicants would purchase multiple portions of the property, be sure to be specific about the proposed price for each portion.)

Negotiable

7. Do you own land that is near or adjacent to the public right-of-way that you wish to be abandoned?

- Yes
- No

8. If yes, please describe the land you own:

Address: Mount Olive Baptist Church

Parcel ID (Tax Map Number): _____

(TIP: If you need help finding the Parcel ID for your property, you may be able to find it at amherstgis.timmons.com.)

9. Where is your land in relation to the public right-of-way? Adjacent/beside

10. Please list and describe any utilities, public works, facilities, or other valuable property (hereinafter collectively referred to as “facilities”) located in the public right-of-way that you wish to abandon.

NONE

11. Please provide any additional information you wish for the Town Council to consider.

Alley-way is not useable for traffic of any kind

12. Enclosures. Please enclose the following:

- A plat of the right-of-way to be abandoned, showing the location of property lines, all utility easements, drainage easements, and other easements, dated no more than three months prior to the date of your application. (Unless you already have such a plat, you will need to hire a surveyor for this purpose.)
- All documents associated with a deed and title search for the ownership of the land. (You will need to hire an attorney for the purpose of conducting this title search.)

13. Date that this application was mailed or hand-delivered: _____

By signing this application, I/we agree to post a bond to cover the estimated expenses for any construction, deconstruction, or other costs for the abandonment of the public right-of-way, as well as any damage to underground utilities or other facilities that we have not fully disclosed in this form and/or its enclosures, regardless of whether those facilities are known to us. I/we understand that the amount of the bond will be determined by the Town Council; and the approval of my/our application by the Town Council will be contingent upon my/our payment of the bond.

APPLICANT #1:

Cal C. Hamble
Signature

4-10-23
Date

By: Trustee (if you are signing on behalf of a corporation/entity)
Title: _____ (if you are signing on behalf of a corporation/entity)

APPLICANT #2 (if applicable):

Signature

Date

By: _____ (if you are signing on behalf of a corporation/entity)
Title: _____ (if you are signing on behalf of a corporation/entity)

APPLICANT #3 (if applicable):

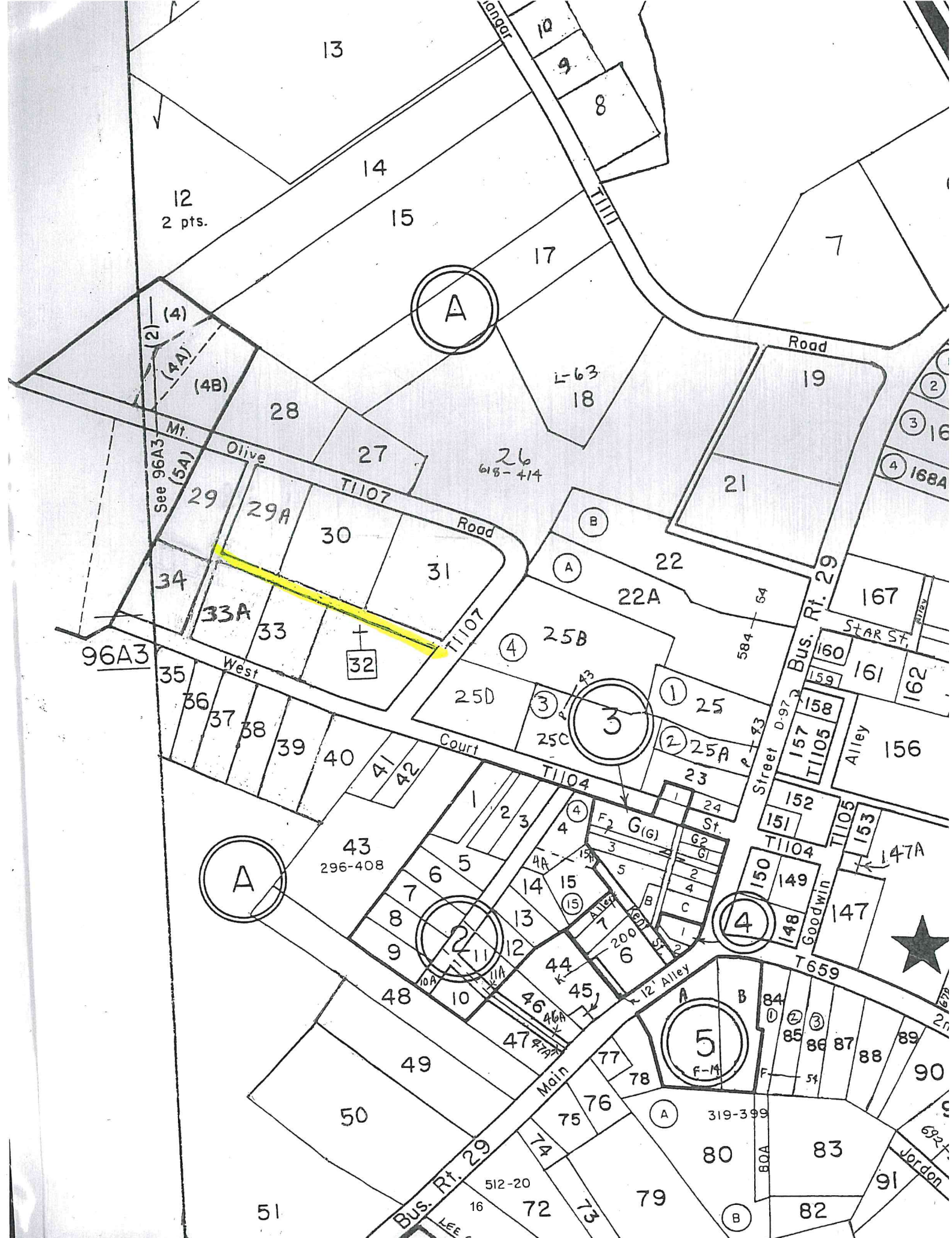
Signature

Date

By: _____ (if you are signing on behalf of a corporation/entity)
Title: _____ (if you are signing on behalf of a corporation/entity)

(If there are any additional applicants, attach additional signature page(s), as necessary)

FOR OFFICE USE ONLY	
Received on (date): _____	Received by (name): _____
Check(s) cleared on (date): _____	



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2 pts.

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(4A)
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Road

West

Court

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P-93

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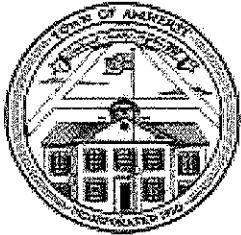
Alley

Alley



Jordan

632



DATE _____

APPLICATION FOR REZONING
TOWN OF AMHERST
POST OFFICE BOX 280
AMHERST, VIRGINIA 24521
(804) 946-7885

APPLICANT	<u>McDonald's Corporation</u>	OWNER	<u>Lillian W. Johnson</u>
ADDRESS	<u>110 N. Carpenter St., Attn: Legal Dept.</u>	ADDRESS	<u>P.O. Box 22</u>
CITY	<u>Chicago IL 60607</u>	CITY	<u>Amherst VA 24521</u>
TELEPHONE NO.	<u>(919) 695-6271</u>	TELEPHONE NO.	_____

REPRESENTATIVE Tammy Kahm ADDRESS 110 N. Carpenter St., Attn: Legal Dept.

CITY Chicago IL 60607 TELEPHONE NO. (919) 695-6271

LOCATION OF REQUEST US Route 60

TAX MAP NO. 96A4-A-174 LOT AREA .050 A (2,193 sf)

EXISTING ZONING T-1 Transitional PROPOSED ZONING CZ-1

STATEMENT BY APPLICANT

Applicant will be purchasing the 2,193 sf of land referenced above and recording a plat to incorporate that land with our existing property. The additional land will be used in conjunction with the redevelopment of the Applicant's drive thru.

Applicants are reminded that §18.1-1002 of the Town Code requires signs describing the action requested under this application to be posted on the property.

As OWNER (CONTRACT PURCHASER WITH OWNER'S WRITTEN CONSENT, ATTACHED) (OWNER'S AGENT) of the property listed above, I/we hereby petition the Amherst Town Council to rezone the above described property.

Lillian W. Johnson 2/21/23
Signature of Owner Date

PLANNING COMMISSION PUBLIC HEARING _____

Time _____ Date _____

PLANNING COMMISSION ACTION

Zoning Administrator Date

TOWN COUNCIL PUBLIC HEARING _____

Time _____ Date _____

TOWN COUNCIL ACTION

Clerk of Council Date