

**WINCHESTER COMMON COUNCIL**  
**AUGUST 13, 2013**  
**AGENDA**  
**7:00 P.M.**

**CALL TO ORDER AND ROLL CALL**

**MOMENT OF SILENCE**

**PLEDGE OF ALLEGIANCE**

**APPROVAL OF MINUTES** – July 9, 2013 Special Meeting, July 9, 2013 Regular Meeting, July 16, 2013 Special Meeting, July 16, 2013 Work Session, July 23, 2013 Work Session

**REPORT OF THE MAYOR**

Presentation of the American Planning Association Virginia Chapter “Outstanding Comprehensive Plan Award”

**REPORT OF THE CITY MANAGER**

**REPORT OF THE CITY ATTORNEY**

**1.0 PUBLIC HEARINGS**

- 1.1 O-2013-19:** Second Reading - Real Estate Tax Relief for Low Income Elderly and Disabled (**REQUIRES ROLL-CALL VOTE**)(pages 4-14)
  
- 1.2 O-2013-21:** Second Reading – AN ORDINANCE AMENDING ARTICLES 18 AND 23 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO CONDITIONAL USE PERMITS FOR TRANSMITTING AND RECEIVING FACILITIES AND TOWERS AND FEES FOR TELECOMMUNICATIONS FACILITIES AND RE-ADVERTISEMENT FEES TA-13-198 (*Increasing fees for cell tower and antenna permits*) (**REQUIRES ROLL-CALL VOTE**)(pages 15-21)

**2.0 PUBLIC COMMENTS**

**3.0 CONSENT AGENDA**

- 3.1 O-2013-22:** First Reading – AN ORDINANCE TO AMEND AND RE-ADOPT SECTION 10-51 OF THE CITY CODE TO INCLUDE AN EXCEPTION FOR BLASTING OPERATIONS RELATED TO CEMETERY BURIAL OF DECEASED HUMAN REMAINS (*Reduction of insurance requirement for blasting at cemeteries*) (pages 22-25)

- 3.2 O-2013-24:** First Reading – AN ORDINANCE TO REZONE 44.44 ACRES AT 2410 AND 2416 PAPERMILL ROAD (*Map Numbers 272-01-8 AND 291-02-A-B*) FROM INTENSIVE INDUSTRIAL (M-2) DISTRICT TO HIGHWAY COMMERCIAL (B-2) DISTRICT RZ-13-289 (pages 26-31)
- 3.3 O-2013-23:** First Reading – AN ORDINANCE TO REPEAL SECTION 26-7 OF THE WINCHESTER CITY CODE WHICH WOULD ELIMINATE THE REQUIREMENT FOR THE PROPERTY OWNER OR OCCUPIER TO BE RESPONSIBLE FOR THE MAINTENANCE OF THE PUBLIC SIDEWALK ADJACENT TO THEIR PROPERTY (*with the exception of snow removal*) (pages 32-61)
- 3.4 R-2013-33:** Resolution – To amend and re-adopt sections 7.2 and 7.4 of the Winchester Comprehensive Employee Management System (“CEMS”) (pages 62-66)
- 3.5 R-2013-35:** Resolution – Authorization to apply for a Downtown Improvement Grant in the amount of \$25,000 from the Virginia Main Street Program to provide a matching source of up to \$5,000 for façade loans (pages 67-69)
- 3.6 R-2013-34:** Resolution – Authorization to apply for a Hardware Grant in the amount of \$1,000 from the Virginia Fire Service Board to support the current electronic record management software (pages 70-72)
- 3.7 R-2013-38:** Resolution – Authorization to apply and accept the Local Emergency Management Performance Grant for 2013 and to sign all documents necessary related to the grant (pages 73-75)
- 3.8 R-2013-37:** Resolution – Acceptance of grant funding and authorization to execute all documents for the Certified Local Government Grant to amend and expand the Nationally-Designated Winchester Historic District (pages 76-77)
- 3.9** Motion to re-appoint William Buettin as a member of the Economic Development Authority to a four year term expiring August 31, 2017
- 3.10** Motion to re-appoint John Schroth as a member of the Frederick-Winchester Service Authority to a three year term expiring August 31, 2016
- 3.11** Motion to re-appoint Mary Riley as a member of the Handley Board of Trustees to a six year term expiring June 30, 2019
- 3.12** Motion to direct the Clerk of Council to prepare Certificates of Appreciation for Quaiser Absar, Dane Schell, Erica N. Truban, and Steven R. Miller for their service on the Information Technology Committee.

#### **4.0 AGENDA**

- 4.1 O-2013-25:** First Reading – AN ORNDIANCE TO REZONE 8.523 ACRES OF LAND AT 1900 VALLEY AVENUE, 211 AND 301 WEST JUBAL EARLY DRIVE FROM LIMITED INDUSTRIAL (M-1), HIGH DENSITY RESIDENTIAL (HR), AND HIGHWAY COMMERCIAL (B-2) DISTRICTS TO B-2 DISTRICT WITH PLANNED UNIT DEVELOPMENT (PUD) OVERLAY RZ-13-196 (pages 78-110)
- 4.2 R-2013-36:** Resolution – Adoption of the Sidewalk Master Plan to be used as the City’s guide for future sidewalk improvements (pages 111-115)
- 4.3 R-2013-32:** Resolution – To allow Buettner Tire Distributors to enter into a contract with the City of Winchester for automotive services (pages 116-118)
- 4.4** Announce the term expirations of Kim Burke, Stan Corneal, Brenda Adams, and Scott Dawson as members of the Old Town Development Board effective October 31, 2013 and direct the Clerk of Council to advertise the vacancies. Ms. Burke is not eligible for re-appointment. Mr. Corneal, Ms. Adams, and Mr. Dawson are eligible.

## **5.0 EXECUTIVE SESSION**

- 5.1** MOTION TO CONVENE IN EXECUTIVE SESSION PURSUANT TO §2.2-3711(A)(7) OF THE CODE OF VIRGINIA FOR THE PURPOSE OF RECEIVING LEGAL ADVICE AND STATUS UPDATE FROM THE CITY ATTORNEY AND LEGAL CONSULTATION REGARDING THE SUBJECT OF SPECIFIC LEGAL MATTERS REQUIRING THE PROVISION OF LEGAL ADVICE BY THE CITY ATTORNEY AND MATTERS OF ACTUAL OR PROBABLE LITIGATION.

## **6.0 ADJOURNMENT**

# CITY OF WINCHESTER, VIRGINIA

## PROPOSED CITY COUNCIL AGENDA ITEM

CITY COUNCIL/COMMITTEE MEETING OF: 06/11/2013 CUT OFF DATE: \_\_\_\_\_

RESOLUTION \_\_\_ ORDINANCE X PUBLIC HEARING \_\_\_

ITEM TITLE: Code Amendments to Real Estate Tax Relief for the Elderly and Disabled

STAFF RECOMMENDATION: Approve

PUBLIC NOTICE AND HEARING:

ADVISORY BOARD RECOMMENDATION:

FUNDING DATA:

INSURANCE:

The initiating Department Director will place below, in sequence of transmittal, the names of each department that must initial their review in order for this item to be placed on the City Council agenda. The Director's initials for approval or disapproval address only the readiness of the issue for Council consideration. This does not address the Director's recommendation for approval or denial of the issue.

<u>DEPARTMENT</u>	<u>INITIALS FOR APPROVAL</u>	<u>INITIALS FOR DISAPPROVAL</u>	<u>DATE</u>
1. Finance _____	B		5-16-13
2. Treasurer _____	RMA		
3. _____			
4. _____			
5. City Attorney _____	[Signature]		6/10/2013
6. City Manager _____	[Signature]		5-16-13
7. Clerk of Council _____			

Initiating Department Director's Signature: [Signature] 05/16/13  
Date



APPROVED AS TO FORM:  
[Signature] 6/10/2013  
 CITY ATTORNEY

# CITY COUNCIL ACTION MEMO

**To:** Honorable Mayor and Members of City Council  
**From:** Ann T. Burkholder, Commissioner of the Revenue  
**Date:** May 16, 2013  
**Re:** Real Estate Tax Relief for the Low-Income Elderly and Disabled

**THE ISSUE:** Update Code of the City of Winchester pursuant to Code of Virginia and update program qualifying levels equivalent to those of comparable localities and reflective of our own community.

**RELATIONSHIP TO STRATEGIC PLAN:** This is a matter of fair and equitable distribution of the tax burden, which relates to Goal 2: Create a high-performing City organization.

**BACKGROUND:** The City of Winchester offers a program of real estate tax relief to elderly and handicapped homeowners who meet certain low income qualifications. This program is a local option which the City has consistently chosen to offer. Certain aspects of the program are specifically outlined in the Code of Virginia, but the legislature has adopted changes to provide localities with increasing flexibility in other aspects. The Code of Virginia also specifies an option for tax deferral rather than direct tax relief, but that option has not been explored in this study.

NOTE: This optional program is in no way related to the constitutional amendment and corresponding state and local code regarding real estate tax exemption for 100% permanently and totally disabled veterans. There are no proposed code changes regarding the disabled veteran exemption.

For 2013, the City has awarded full or partial exemption to almost 400 homeowners at a cost of approximately \$500,000.

2013 Averages for residential property in City:

Assessment: \$198,400

Real estate tax bill: \$1,885

2013 Averages for property receiving tax relief:

Assessment: \$142,200 (Range from \$35,600 to \$404,000)

Real estate tax bill: \$1,351 (if not receiving relief)

Current criteria for qualification:

- Net combined financial worth, excluding the primary dwelling, furnishings and land up to one acre, not to exceed \$200,000
- Annual income limits
  - \$0 - \$40,000 100% tax relief
  - \$40,001 - \$45,000 75% tax relief
  - \$45,001 - \$50,000 50% tax relief

Comparing the City of Winchester to similar regional cities:

Locality	Maximum Income	Maximum Assets (excluding dwelling)	Tax Relief Cap
Harrisonburg	\$30,000	\$75,000	\$1,000
Staunton	\$30,000	\$62,500	N/A
Waynesboro	\$27,500	\$60,000	N/A
Lexington	\$30,000	\$70,000	N/A
Winchester	\$50,000	\$200,000	N/A

The “tax relief cap” refers to the maximum amount of tax relief given, regardless of qualifying level. This comparison does not include Frederick County because of the inherent differences between typical county and city properties and thus differences in qualifying criteria.

At current levels, the City provides real estate tax relief to homeowners who are well above the City’s median income and asset levels. Thus the program significantly exceeds the “low income” tax relief intended by state and local code.

**OPTIONS:** The real estate tax relief program is a local option under State Code. Options are to

- Eliminate the program altogether
- Continue the program at current levels but with City Code changes to remain consistent with the Code of Virginia
- Implement changes to both City Code and to qualifying levels. Options from the City management team include:

- Option 1, implement the Harrisonburg model

- Net financial worth not to exceed \$75,000
- Annual income limits

\$0	-	\$15,000	80% tax relief
\$15,001	-	\$20,000	60% tax relief
\$20,001	-	\$25,000	40% tax relief
\$25,001	-	\$30,000	20% tax relief

- Maximum relief (cap) \$1,000

- Option 2

- Net financial worth not to exceed \$75,000
- Annual income limits

\$0	-	\$15,000	100% tax relief
\$15,001	-	\$20,000	80% tax relief
\$20,001	-	\$25,000	60% tax relief
\$25,001	-	\$30,000	40% tax relief

- Maximum relief (cap) \$1,500

- Option 3

- Net financial worth not to exceed \$75,000
- Annual income limits

\$0	-	\$30,000	100% tax relief
\$30,001	-	\$35,000	75% tax relief
\$35,001	-	\$40,000	50% tax relief

- Maximum relief (cap) \$1,500

---

**RECOMMENDATION:** The Commissioner of the Revenue recommends Council adopt the code changes as presented. The City management team recommends adoption of the code changes along with changes to the qualifying levels similar to the options presented. With updates to the program, the City can assist those elderly and disabled homeowners in our community most in need of real estate tax assistance while also remaining sensitive to the corresponding burden borne by the remaining taxpayers. This is precisely expressed in the City’s mission “to be a financially sound city providing top quality municipal services.”

# CITY COUNCIL ACTION MEMO

**To:** Honorable Mayor and Members of City Council  
**From:** Ann T. Burkholder  
**Date:** 06/21/2013  
**Re:** Real Estate Tax Relief for the Low-Income Elderly and Disabled Homeowners

---

**THE ISSUE:** Refer to memo presented at 06/18/2013 Council Work Session. Councilors requested additional options to include raising the qualifying annual income upper limit to \$40,000.

**OPTIONS:** Options 1-3 are as originally presented. Options 4-5 are additional.  
Qualifying annual income limit of \$30,000: Options 1-2  
Qualifying annual income limit of \$40,000: Options 3-5

- Option 1, implement the Harrisonburg model (also in 06/18/2013 memo)
  - Net financial worth not to exceed \$75,000
  - Annual income limits

\$0	-	\$15,000	80% tax relief
\$15,001	-	\$20,000	60% tax relief
\$20,001	-	\$25,000	40% tax relief
\$25,001	-	\$30,000	20% tax relief
  - Maximum relief (cap) \$1,000
  - Estimate of qualifying applicants: 175 for an aid total \$120,000
  
- Option 2
  - Net financial worth not to exceed \$75,000 (also in 06/18/2013 memo)
  - Annual income limits

\$0	-	\$15,000	100% tax relief
\$15,001	-	\$20,000	80% tax relief
\$20,001	-	\$25,000	60% tax relief
\$25,001	-	\$30,000	40% tax relief
  - Maximum relief (cap) \$1,500
  - Estimate of qualifying applicants: 175 for an aid total \$162,000
  
- Option 3
  - Net financial worth not to exceed \$75,000 (also in 06/18/2013 memo)
  - Annual income limits

\$0	-	\$30,000	100% tax relief
\$30,001	-	\$35,000	75% tax relief
\$35,001	-	\$40,000	50% tax relief
  - Maximum relief (cap) \$1,500
  - Estimate of qualifying applicants: 272 for an aid total of \$293,000

o Option 4

- Net financial worth not to exceed \$75,000
- Annual income limits

\$0	-	\$20,000	100% tax relief
\$20,001	-	\$25,000	80% tax relief
\$25,001	-	\$30,000	60% tax relief
\$30,001	-	\$35,000	40% tax relief
\$35,001	-	\$40,000	20% tax relief

- Maximum relief (cap) \$1,500
- Estimate of qualifying applicants: 272 for an aid total of \$219,000

o Option 5

- Net financial worth not to exceed \$75,000
- Annual income limits

\$0	-	\$25,000	100% tax relief
\$25,001	-	\$30,000	75% tax relief
\$30,001	-	\$35,000	50% tax relief
\$35,001	-	\$40,000	25% tax relief

- Maximum relief (cap) \$1,500
- Estimate of qualifying applicants: 272 for an aid total of \$258,000

**RECOMMENDATIONS:** The Commissioner of the Revenue recommends Council adopt the code changes as presented at the 06/18/2013 Work Session. The City management team recommends adoption of the code changes along with changes to the qualifying levels similar to the options presented. Both the Commissioner of the Revenue and City management team agree that adoption of modified qualifying levels, such as the ones presented, will offer assistance to our neediest elderly and disabled homeowners while remaining sensitive to the corresponding fiscal burden on fellow taxpayers.

### DIVISION 3. EXEMPTION FOR ELDERLY AND DISABLED.

#### SECTION 27-19. GENERAL PROVISIONS.

(a) The commissioner shall, upon application made upon the terms hereinafter provided, order exemption of tax on real property owned and occupied as the sole dwelling house of a person or persons either (i) at least sixty-five (65) years of age as of December 31st of the year preceding the year applied for; or (ii) permanently and totally disabled as defined in §58.1-3217 of the Code of Virginia, such exemption to be granted only upon the restrictions and conditions hereinafter established.

~~(b) Any owner receiving a permanent or temporary disability benefit may claim an exclusion for up to five thousand and 00/100 dollars (\$5000.00) for any permanent or temporary disability benefit, from whatever source, received by an owner. In addition, any owner who can prove to the satisfaction of the Commissioner by a preponderance of the evidence that he or she is permanently and totally disabled as defined under §58.1-3217 of the Code of Virginia may claim an exclusion of up to ten thousand and 00/100 dollars (\$10,000.00) of said owner's income. (Ord. No. 2007-30, 9-11-07; Ord. No. 2010-45, 11-9-10)~~

~~(c)~~

(b) Subject to subdivision (c) of this section, the total combined income received from all sources during the preceding calendar year by: (i) owners of the dwelling who use it as their principal residence and (ii) owners' relatives who live in the dwelling and (iii) nonrelatives of the owner who live in the dwelling except for bona fide tenants or bona fide paid caregivers of the owner, shall not exceed ~~Fifty Thousand Dollars (\$50,000.00)~~ *Recommendation of Council to be inserted here.. Six Thousand Five Hundred Dollars (\$6,500.00)* of income of each relative who is not the spouse of an owner living in the dwelling and who does not qualify for the exemption provided by subdivision (c) hereof, and ~~Six Thousand Five Hundred Dollars (\$6,500.00)~~ of income of each nonrelative who is not the bona fide tenant or bona fide paid caregiver of an owner living in the dwelling and who does not qualify for the exemption provided by subdivision (c) hereof, is excluded from the total combined income calculation. (Ord. No. 017-2004, 4-28-04; Ord. No. 2010-45, 11-9-10)

~~(d) Notwithstanding subdivision (b) of this section, if a person qualifies for an exemption or deferral under this article, and if the person can prove by clear and convincing evidence that after so qualifying the person's physical or mental health has deteriorated to the point that the only alternative to permanently residing in a hospital, nursing home, convalescent home or other facility for physical or mental care is to have a relative move in and provide care for the person, and if a relative does then move in for that purpose, then none of the relative's income shall be counted towards the income limit provided that the owner of the residence has not transferred to the relative assets in excess of Five Thousand Dollars (\$5,000.00) without adequate consideration within a three-year period prior to or after the relative moves into the residence. (Ord. No. 027-93, 10-12-93)~~

(e)(c) The net combined financial worth, including the present value of all equitable interests, as of December 31 of the immediately preceding calendar year, of the owners, and of the spouse of any owner, excluding the value of the dwelling, furnishings, and the land, not exceeding one acre, upon which it is situated shall not exceed the following amounts effective on the stated dates:

Effective January 1, 2006	\$150,000	
Effective January 1, 2007 <u>and thereafter</u>	\$200,000	
<u>Effective January 1, 2014 and thereafter</u>	<u>§xx,xxx</u>	<i>(Recommendation)</i>

Such furnishings shall include furniture, household appliances and other items typically used in a home.

(f)(d) For purposes of this article, any reference to real estate shall include manufactured homes.

(Note: The effective date of this Ordinance shall be January 1, 2006)

(Ords. of 1-14-75, 4-13-76, 12-14-76; Ord. Nos. 017-80, 10-14-80; 011-82, 7-13-82; 004-84, 3-14-84; 003-88, 1-12-88; 018-91, 4-23-91; 044-91, 11-12-91; Ord. No. 017-92, 11-10-92; Ord. No. 046-2001, 12-11-01-effective 1-1-02; Ord. No. 017-2004, 4-28-04; Ord. No. 015-2005, 5-10-05; Ord. No. 2007-30, 9-11-07)

**State Law References**--Code of Virginia, §58.1-3210, §58.1-32111, §58.1-3212.

## **SECTION 27-20. ANNUAL APPLICATION AND AFFIDAVIT.**

- (a) The person claiming such exemption shall file annually with the commissioner on forms supplied by the City, an affidavit setting forth (i) the names of the related persons occupying such real estate and (ii) that the total combined net worth, including equitable interests and the combined income from all sources, of the persons specified in Section 27-19 do not exceed the limits prescribed in that section.
- (b) If such person is under sixty-five years of age such form shall have attached thereto a certification by the Social Security Administration, the Department of Veterans Affairs or the Railroad Retirement Board, or if such person is not eligible for certification by any of these agencies, a sworn affidavit by two medical doctors who are either licensed to practice medicine in the Commonwealth or are military officers on active duty who practice medicine with the United States Armed Forces, to the effect that the person is permanently and totally disabled, as defined in Virginia Code §58.1-317; however, a certification pursuant to 42 U.S.C. 423 (d) by the Social Security Administration so long as the person remains eligible for such social security benefits shall be deemed to satisfy such definition in Virginia Code Ann. §58.1-3217. The affidavit of at least one of the doctors shall be based upon a physical examination of the person by such doctor. The affidavit of one of the doctors may be based upon medical information contained in the records of the Civil Service Commission which is relevant to the standards for determining permanent and total disability as defined in Code of Virginia, §58.1-3217.

(c) Such application with affidavit shall be filed no later than the first day of April of each year, except that the Commissioner may accept up until April 15, later filings from owners otherwise meeting the provisions of this section who are unable to file by the first day of April due to personal or family illness or other ascertainable hardships, provided that such real estate tax exemption affidavit is accompanied by a sworn affidavit of a licensed medical doctor or other documentation deemed satisfactory by the Commissioner. ~~The Commissioner may also accept later filings from owners and at the time of a purchase of a house. Any false statements made in connection with the filing of an application under this section shall constitute a misdemeanor, punishable by a fine not exceeding one hundred dollars (\$100.00).~~ (Ord. No. 044-88, 11-15-88; Ord. No. 044-91, 11-12-91; Ord. No. 017-92, 11-10-92; Ord. No. 2010-45, 11-9-10)

**State Law Reference--** Code of Virginia, §58.1-3213-F.

#### **SECTION 27-21. INQUIRIES BY THE COMMISSIONER.**

The Commissioner shall make further inquiry of persons seeking such exemption as may be reasonably necessary in determining the qualifications therefor. The Commissioner may require production of certified tax returns to establish the financial worth or income of any applicant. Such further inquiries shall be answered under oath. (Ord. No. 044-88, 11-15-88; Ord. No. 044-91, 11-12-91; Ord. No. 017-92, 11-10-92)

**State Law Reference--**Code of Virginia, §58.1-3213-F.

#### **SECTION 27-22. NOTICE OF LOCAL REAL ESTATE TAX EXEMPTION OR DEFERRAL PROGRAM FOR THE ELDERLY AND DISABLED.**

The Treasurer shall enclose written notice, in each real estate tax bill, of the terms and conditions of the real estate tax exemption program established in this article. The Treasurer shall also employ any other reasonable means necessary to notify residents of the City about the terms and conditions of the real estate tax exemption program for elderly and disabled residents of the City. (Ord. No. 017-92, 11-10-92)

**State Law Reference--** Code of Virginia, §58.1-3213.1.

#### **SECTION 27-23. AMOUNT OF EXEMPTION.**

For eligible claimants, the amount of exemption from real estate tax for any taxable year shall be as follows:

\$ 0 - \$25,000	100%
\$25,001 - \$30,000	80%
\$30,001 - \$35,000	60%
\$35,001 - \$40,000	40%
\$40,001 - \$50,000	20%

Beginning January 1, 2007, and thereafter, the following shall apply:

<u>Income Level</u>	<u>Exemption</u>
\$ 0 - \$30,000	100%
\$30,001 - \$35,000	75%
\$35,001 - \$40,000	50%
\$40,001 - \$50,000	25%

Proposed eEffective January 2008

<u>Income Level</u>	<u>Exemption</u>
\$ 0 - \$35,000	100%
\$35,001 - \$40,000	75%
\$40,001 - \$45,000	50%
\$45,001 - \$50,000	25%

Proposed eEffective January 2009

<u>Income Level</u>	<u>Exemption</u>
\$ 0 - \$40,000	100%
\$40,001 - \$45,000	75%
\$45,001 - \$50,000	50%

Effective January 2014 and thereafter

Recommendation by Common Council to be inserted here

**(Note: The effective date of this Ordinance shall be January 1, 2008)**

(Ords. of 1-14-75, 4-13-76, 12-14-76; Ord. No. 018-80, 10-14-80; Ord. No. 011-82, 7-13-82; Ord. No. 004-84, 3-14-84; Ord. No. 003-88, 12-12-88; Ord. No. 018-91, 4-23-91; Ord. No. 044-91, 11-12-91; Ord. No. 017-92, 11-10-92; Ord. No. 046-2001, 12-11-01-effective 1-1-02; Ord. No. 017-2004, 4-28-04; Ord. No. 015-2005, 5-10-05; Ord. No. 2007-20, 6-26-07)

**State Law Reference--** Code of Virginia, §58.1-~~3210~~3212.

**SECTION 27-24. EXEMPTION CERTIFICATE, WARRANT OR DRAFT.**

~~An exemption certificate, warrant or draft shall be in the amount of the exemption and mailed with the real property tax bill. The tax bill shall be in the full amount of the taxes before any exemption. The certificate, warrant or draft shall expire at 5:00 P.M. on the last day to pay such taxes without penalty. (Ord. No. 044-88, 11-15-88; Ord. No. 044-91, 11-12-91; Ord. No. 017-92, 11-10-92)~~

#### **SECTION 27-25. PROCEDURES.**

The Commissioner shall indicate on the land books of the City of Winchester the amount of tax exempted pursuant to the provisions of this article. He shall adopt and promulgate rules and regulations not inconsistent with the provisions of this article, as deemed necessary for the effective administration of this article. (Ord. No. 044-88, 11-15-88; Ord. No. 004-91, 11-12-91; Ord. No. 017-92, 11-10-92)

#### **SECTION 27-26. ABSENCE FROM RESIDENCE.**

The fact that persons who are otherwise qualified for tax exemption by this article are residing in hospitals, nursing homes, convalescent homes or other facilities for physical or mental care for extended periods of time shall not be construed to mean that the real estate for which tax exemption is sought does not continue to be the sole dwelling of such persons during such extended periods of other residence so long as such real estate is not used by or leased to others for consideration. (Ord. No. 017-92, 11-10-92)

**State Law Reference--** Code of Virginia, §58.1-3214.

#### **SECTION 27-27. CHANGE IN CIRCUMSTANCES.**

- (a) Changes in income, financial worth, ownership of property or other factors occurring during the taxable year for which an affidavit is filed and having the effect of exceeding or violating the limitations and conditions provided herein shall nullify any exemption for the remainder of the current taxable year and the taxable year immediately following.
- (b) A change in ownership to a spouse, when such change resulted solely from the death of the qualifying individual, or a sale of such property shall result in a prorated exemption for the then current taxable year. The proceeds of the sale which would result in the prorated exemption shall not be included in the computation of net worth or income as provided in subsection (a). Such prorated portion shall be determined by multiplying the amount of the exemption or deferral by a fraction with the number of complete months of the year such property was properly eligible for such exemption or deferral as the numerator and the number twelve as the denominator. (Ord. No. 017-92, 11-10-92)

**State Law Reference--** Code of Virginia, §58.1-3215.

CITY OF WINCHESTER, VIRGINIA

PROPOSED CITY COUNCIL AGENDA ITEM

CITY COUNCIL MEETING OF: 6/25/13 (work session), CUT OFF DATE: 6/18/13
7/9/13 (1st Reading) 8/13/13 (2nd Reading/Public Hearing)

RESOLUTION \_\_\_ ORDINANCE X PUBLIC HEARING X

ITEM TITLE:

TA-13-198 AN ORDINANCE AMENDING ARTICLES 18 AND 23 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO CONDITIONAL USE PERMITS FOR TRANSMITTING AND RECEIVING FACILITIES AND TOWERS AND FEES FOR TELECOMMUNICATIONS FACILITIES AND RE-ADVERTISEMENT FEES

STAFF RECOMMENDATION:

Approval.

PUBLIC NOTICE AND HEARING:

Public hearing for 8/13/13 Council mtg

ADVISORY BOARD RECOMMENDATION:

Planning Commission recommended approval.

FUNDING DATA: N/A

INSURANCE: N/A

The initiating Department Director will place below, in sequence of transmittal, the names of each department that must initial their review in order for this item to be placed on the City Council agenda.

Table with 4 columns: DEPARTMENT, INITIALS FOR APPROVAL, INITIALS FOR DISAPPROVAL, DATE. Rows include Planning, City Attorney, City Manager, and Clerk of Council.

Initiating Department Director's Signature: [Signature] 6/18/13
(Zoning and Inspections)



APPROVED AS TO FORM:

[Signature] 6/18/2013
CITY ATTORNEY

# CITY COUNCIL ACTION MEMO

**To:** Honorable Mayor and Members of City Council  
**From:** Aaron Grisdale, Director of Zoning and Inspections  
**Date:** June 18, 2013  
**Re:** Zoning Text Amendment (TA-13-198) – Telecommunications Facility Fees

---

**THE ISSUE:**

The proposed Zoning Ordinance text amendment will modify the existing Zoning Ordinance language pertaining to fees for telecommunications facilities and increasing the public re-advertisement fees.

**RELATIONSHIP TO STRATEGIC PLAN:**

Goal #2: Develop a High Performing Organization.

**BACKGROUND:**

The goal of this text amendment is to better recover the costs associated with a review and application for a telecommunications facility conditional use permit application, as well as better recovering the costs associated with re-advertisement costs for items requiring a public hearing.

**BUDGET IMPACT:**

No funding is required.

**OPTIONS:**

- Adopt the Zoning Ordinance Text Amendment
- Decline to adopt the Zoning Ordinance Text Amendment

**RECOMMENDATIONS:**

Planning Commission and staff recommend approval.

**TA-13-198 AN ORDINANCE AMENDING ARTICLES 18 AND 23 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO CONDITIONAL USE PERMITS FOR TRANSMITTING AND RECEIVING FACILITIES AND TOWERS AND FEES FOR TELECOMMUNICATIONS FACILITIES AND RE-ADVERTISEMENT FEES**

---

**REQUEST DESCRIPTION**

This publicly sponsored text amendment is to serve as an update to the existing language pertaining to the conditional use permit provisions of transmitting and receiving facilities and towers as well as required fees.

**STAFF COMMENTS**

Presently, the Zoning Ordinance outlines requirements for conditional use permit applications for transmitting and receiving facilities and towers (telecommunications facilities). However, during staff review of the current language, it was observed that the Limited High Density Residential (HR-1) district was excluded from the provisions of 18.2-1.2 outlining the requirements for maximum tower height. This ordinance will correct that and place the HR-1 district within the same height threshold as the other residential districts with a maximum height of 75 feet.

Additionally, staff has proposed the establishment of a separate conditional use permit fee for telecommunications facilities. The original proposal during the Planning Commission's initiation of this text amendment had two separate fees for a new structure and for a modification of existing facility, \$7000 and \$2500 per antennas, respectively.

One of City Council's goals for 2018 in the Strategic Plan is "creating a more livable City for all." The uniform development, especially pertaining to telecommunication facilities is part of that goal. These minor adjustments will ensure the continued uniform development for new towers and tower modifications as well as establishing a fee structure that will cover the costs for administering the Zoning Ordinance requirements and conditional use permit process.

Since the initiation of the text amendment at the Commission's meeting in April, staff is considering revisions following closer review of the enabling legislation in §15.2-2286, providing for the collection of fees. Staff is researching and preparing new language that will provide an amended fee structure to more closely reflect the cost of administering the conditional use permit process.

**Update for June 18, 2013 PC meeting:**

Following research of the enabling legislation in the Code of Virginia, how other localities and municipalities conduct their reviews, and discussions with staff, we have come up with a revised proposal. This amendment proposes an increase from \$500 to \$1500 per application for a telecommunications facility. This revised fee will apply to new facilities, modification of existing facilities and collocations of antennas/equipment.

Many other municipalities and localities charge much higher amounts for their conditional use/special use permits; however, the reason for the higher cost is that majority of these governments use a third-party entity to handle the entire technical review/public hearing process for these types of permits. This proposal is a reflection on the current departmental costs for review, inspections, and administration of such permits.

#### **RECOMMENDATION**

During their June 18, 2013 meeting, the Planning Commission unanimously recommended approval and adoption of this text amendment because it represents good planning practice by providing for clear regulations and reasonable fees for such telecommunications facilities.

**RESOLUTION ADOPTING AN ORDINANCE AMENDING ARTICLES 18 AND 23 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO CONDITIONAL USE PERMITS FOR TRANSMITTING AND RECEIVING FACILITIES AND TOWERS AND FEES FOR TELECOMMUNICATIONS FACILITIES AND RE-ADVERTISEMENT FEES**

**TA-13-198**

**WHEREAS**, the Code of Virginia provides that one of the purposes of a Zoning Ordinance is to facilitate the creation of a convenient, attractive and harmonious community; and,

**WHEREAS**, Section 15.2-2286 of the Code of Virginia, provides that Zoning Ordinances may provide for the collection of fees to cover the cost of making inspections, issuing permits, advertising of notices and other expenses incident to the administration of a zoning ordinance; and,

**WHEREAS**, the proposed Ordinance amendments will establish reasonable fees for such administration of the Zoning Ordinance for applications for telecommunications facilities and public re-advertisement costs.

**NOW, THEREFORE, BE IT RESOLVED** that the Common Council of the City of Winchester hereby adopts the following text amendment:

AN ORDINANCE AMENDING ARTICLES 18 AND 23 OF THE WINCHESTER ZONING ORDINANCE  
PERTAINING TO CONDITIONAL USE PERMITS FOR TRANSMITTING AND RECEIVING FACILITIES  
AND TOWERS AND FEES FOR TELECOMMUNICATIONS FACILITIES AND RE-ADVERTISEMENT FEES

**13-00000198**

Draft 3 – June 18, 2013

Ed. Note: The following text represents an excerpt of Articles 18 and 23 of the Zoning Ordinance that is subject to change. Words with strikethrough are proposed for repeal. Words that are boldfaced and underlined are proposed for enactment. Existing ordinance language that is not included here is not implied to be repealed simply due to the fact that it is omitted from this excerpted text.

**ARTICLE 18**

**GENERAL PROVISIONS**

**SECTION 18-2.           CONDITIONAL USE PERMIT.**  
(10/11/83, Case 83-06, Ord. No. 034-83)

**18-2-1           CONDITIONAL USE PERMIT.**

- 18-2-1.2           Proposals for transmitting and receiving facilities and towers for cellular communications systems and similar communications systems shall demonstrate the following: (2/14/96, Case TA-95-07, Ord. No. 002-96)**
- All possible means for sharing space on existing towers or on existing buildings or other structures have been exhausted and no alternative other than constructing a new tower exists, and if a new tower is proposed, the applicant has executed a Letter of Intent to share space on their tower and negotiate in good faith with other interested parties.;
  - The height of any tower is no more than the minimum to accomplish required coverage and any new tower is separated from property lines in a residential district by not less than the height of the tower. In no case shall any tower exceed 75 feet in height in a LR, MR, HR, HR-1, RO-1, RB-1 or HS Districts, nor 100 feet in the B-1, B-2, CM-1, PC, MC or HE-1 Districts, nor 200 feet in the M-1 or M-2 Districts;
  - The tower construction is of a design which minimizes the visual impact and the tower and other facilities have been camouflaged and/or screened from adjacent properties and rights of way to the maximum extent practicable. To this end, the proposal must provide for retention of existing stands of trees and the installation of screening where

existing trees do not mitigate the visual impact of the facility. Such screening must, at a minimum, meet the requirements of Section 19-5-6.4d of this Ordinance. The Planning Commission may recommend and the City Council may require additional trees and screening when the minimum provisions do not mitigate adverse visual impacts of the facility;

- The electromagnetic fields do not exceed the radio frequency emission standards established by the American National Standards Institute or standard issued by the Federal Government subsequent to the adoption of this Ordinance.

## ARTICLE 23

### ADMINISTRATION AND INTERPRETATION

**SECTION 23-8. FEES.** (10/13/99, Case TA-99-04, Ord. No. 029-99; 10/9/02, Case TA-02-07, Ord. No. 024-2002)

23-8-1	Conditional Use (when applied for at same time as site plan) (10/8/02, Case TA-02-07, Ord. No. 024-2002)	\$200
	Conditional Use (when applied for separate from site plan) (10/8/02, Case TA-02-07, Ord. No. 024-2002)	\$500
	<u>Conditional Use –Telecommunications Facility/Tower (New, Modification, or Collocation)</u>	<u>\$1500</u>
23-8-7	Re-advertisement Fee (10/8/02, Case TA-02-07, Ord. No. 024-2002; 3/14/06, Case TA-05-07, Ord. No. 09-2006)	<del>\$75</del> <u>\$100</u>

0-2013-22

CITY OF WINCHESTER, VIRGINIA

PROPOSED CITY COUNCIL AGENDA ITEM

CITY COUNCIL/COMMITTEE MEETING OF: July 16, 2013 CUT OFF DATE:

RESOLUTION ORDINANCE X PUBLIC HEARING

ITEM TITLE:

Ordinance to amend and re-adopt section 10-51 of the City Code to include an exception for blasting operations related to Cemetery burial of deceased human remains.

STAFF RECOMMENDATION:

Approve as recommended

PUBLIC NOTICE AND HEARING: N/A

ADVISORY BOARD RECOMMENDATION:

N/A

FUNDING DATA:

N/A

INSURANCE:

As required

The initiating Department Director will place below, in sequence of transmittal, the names of each department that must initial their review in order for this item to be placed on the City Council agenda.

Table with 4 columns: DEPARTMENT, INITIALS FOR APPROVAL, INITIALS FOR DISAPPROVAL, DATE. Rows include Finance/Risk Management, Fire & Rescue Department, City Attorney, City Manager, Clerk of Council.

Initiating Department Director's Signature: Mary Blowe Date: 6-24-13



# CITY COUNCIL ACTION MEMO

**To:** Honorable Mayor and Members of City Council  
**From:** Mary Blowe, Finance Director  
**Date:** July 16, 2013  
**Re:** Ordinance change for blasting requirement relating to insurance

---

**THE ISSUE:** City staff has been presented with a request to decrease the insurance amounts relating to blasting at Mt. Hebron Cemetery from \$5M to \$2M.

**RELATIONSHIP TO STRATEGIC PLAN:** With this change, we can work with our community to create a more livable City for all.

**BACKGROUND:** City Staff have been asked to review the requirement for Mt. Hebron Cemetery to carry insurance in the combined single limit of \$5M. This created a hardship for the cemetery so staff began to research the necessity of this limit. We spoke with our insurance carrier to ensure that the requested \$2M is adequate and they are comfortable with this reduced limit of liability. This insurance is required before a permit can be issued.

**BUDGET IMPACT:** No budget impact to the City.

**OPTIONS:** Add this exception to the existing code section:

Exception: An applicant for blasting operations related to cemetery burial of deceased human remains may be permitted to obtain a permit with insurance in the amount of \$2,000,000 rather than \$5,000,000, provided its operations are conducted on its privately owned property and further provided that the blasting operations shall be inspected and approved by the Fire Marshall not less often than once a year.

**RECOMMENDATIONS:** Staff recommends the proposed document as submitted.

**AN ORDINANCE TO AMEND AND RE-ADOPT SECTION 10-51 OF THE CITY CODE TO INCLUDE AN EXCEPTION FOR BLASTING OPERATIONS RELATED TO CEMETERY BURIAL OF DECEASED HUMAN REMAINS**

WHEREAS, Section 27-97 of the Code of Virginia authorizes municipalities to adopt fire prevention regulations that are more extensive in scope than the Statewide Fire Prevention Code; and

WHEREAS, the City of Winchester has adopted the Statewide Fire Prevention Code with such amendments in Section 10-51 of the Winchester City Code; and

WHEREAS, the Virginia Statewide Fire Prevention Code only requires a level of \$500,000.00 minimum insurance for blasting operations; and

WHEREAS, Common Council had previously, at the request of the Fire Marshal, approved an Ordinance to increase the insurance requirements of Section 3301.2.4 of the Virginia Statewide Fire Prevention Code to require a level of \$5,000,000.00 as minimum required blasting insurance; and

WHEREAS, Mount Hebron Cemetery has requested an exception to this amount for blasting operations associated with cemetery burial of deceased human remains as such blasting operations have been represented to utilize a minimum of explosive charge, are conducted under relatively controlled conditions, and are believed to be less likely to cause significant damage to life or property; and

WHEREAS, such blasting operations by Mount Hebron Cemetery have been conducted in the City of Winchester for a considerable period of time with no known instances of claims against the City arising from such operations; and

WHEREAS, the City has confirmed with its insurance company (VML) that Mount Hebron's request for an exception for blasting related to cemetery burial of deceased human remains is not unreasonable and unlikely to result in excessive exposure upon the City of Winchester; and

WHEREAS, it is the belief of Common Council that the adoption of said exception is in the best interests of the City.

NOW THEREFORE BE IT ORDAINED that Section 10-51 of the Winchester City Code is hereby amended and readopted to include the following exception:

**SECTION 10-51. AMENDMENTS, ADDITIONS AND DELETIONS TO THE VIRGINIA STATEWIDE FIRE PREVENTION CODE.**

Pursuant to Code of Virginia, § 27-97, the City is empowered to adopt fire prevention regulations that are more restrictive or more extensive in scope than the Statewide Fire Prevention Code provided such regulations do not affect the manner of construction, or materials to be used in the erection, alteration, repair, or use of a building or structure, including the voluntary installation of smoke alarms and regulation and inspections

thereof in commercial buildings where such smoke alarms are not required under the provisions of the Code. The City hereby adopts the Statewide Fire Prevention Code with the following amendments:

[ . . remaining portions of ordinance remain unaltered . . . ]

*Change Section 3301.2.4 to read:*

**3301.2.4 Financial responsibility.** Before a permit is issued as required by Section 3301.2, the applicant shall file with the city a certificate of insurance which shows that the applicant has general liability insurance in the amount of at least \$5,000,000 combined single limit for bodily injury and property damage provided by an insurance company authorized to sell insurance in Virginia by the Virginia State Corporation Commission. Commercial General Liability is to include bodily injury and property damage, personal injury and advertising injury, products and completed operations coverage. The City of Winchester must be named by endorsement to the policy as additional insured and provided a copy prior to the event. Certificate holder: City of Winchester, 15 N. Cameron Street, Winchester, VA 22601. This insurance policy shall become available for the payment of any damage arising from the acts or omissions of the applicant, his agents, or his employees in connection with the permitted activity. The applicant shall ensure that the insurance policy is in effect at the time of the commencement of the activities authorized by the permit, and remains continuously in effect until such activities are completed.

**Exception: An applicant for blasting operations related to cemetery burial of deceased human remains may be permitted to obtain a permit with insurance in the amount of \$2,000,000 rather than \$5,000,000. provided its operations are conducted on its privately owned property and further provided that the blasting operations shall be inspected and approved by the Fire Code Official not less often than once a year.**

0-2013-24

**CITY OF WINCHESTER, VIRGINIA**

**PROPOSED CITY COUNCIL AGENDA ITEM**

**CITY COUNCIL MEETING OF:** 7/23/13 (work session), **CUT OFF DATE:** 7/17/13  
8/13/13(1<sup>st</sup> Reading) 9/10/13 (2<sup>nd</sup> reading)

**RESOLUTION**     **ORDINANCE**   X   **PUBLIC HEARING**   X  

**ITEM TITLE:**  
**RZ-13-289** AN ORDINANCE TO REZONE 44.44 ACRES OF LAND AT 2410 AND 2416 PAPERMILL RD  
(Map Numbers 272-01-8 AND 291-02-A-B) FROM INTENSIVE INDUSTRIAL (M-2) DISTRICT TO  
HIGHWAY COMMERCIAL (B-2) DISTRICT

**STAFF RECOMMENDATION:**  
Approval

**PUBLIC NOTICE AND HEARING:**  
Public hearing for 9/10/13 Council mtg

**ADVISORY BOARD RECOMMENDATION:**  
Planning Commission recommended approval.

**FUNDING DATA:** N/A

**INSURANCE:** N/A

The initiating Department Director will place below, in sequence of transmittal, the names of each department that must initial their review in order for this item to be placed on the City Council agenda.

<u>DEPARTMENT</u>	<u>INITIALS FOR APPROVAL</u>	<u>INITIALS FOR DISAPPROVAL</u>	<u>DATE</u>
1. Economic Development	<u>[Signature]</u>	_____	<u>7/17/13</u>
2. City Attorney	<u>[Signature]</u>	_____	<u>7/17/2013</u>
3. City Manager	<u>[Signature]</u>	_____	<u>7-17-13</u>
4. Clerk of Council	_____	_____	_____

Initiating Department Director's Signature: [Signature] 7/17/13  
(Planning)



**APPROVED AS TO FORM:**  
[Signature] 7/17/2013  
**CITY ATTORNEY**

# CITY COUNCIL ACTION MEMO

**To:** Mayor and Members of City Council  
**From:** Tim Youmans, Planning Director  
**Date:** August 2, 2013  
**Re:** **RZ-13-289** AN ORDINANCE TO REZONE 44.44 ACRES OF LAND AT 2410 AND 2416 PAPERMILL RD (*Map Numbers 272-01-8 AND 291-02-A-B*) FROM INTENSIVE INDUSTRIAL (M-2) DISTRICT TO HIGHWAY COMMERCIAL (B-2) DISTRICT

---

## **THE ISSUE:**

Proactively rezoning 44.44 acres of underutilized industrial land where Federal Mogul recently ceased operations to Highway Commercial to allow for commerce area revitalization/infill consistent with the recommendation in the Comp Plan.

## **RELATIONSHIP TO STRATEGIC PLAN:**

Goal 1: Grow the Economy

-Short Term Challenges and Opportunities #2: Attracting businesses that are right for the Winchester community.

The current M-2 zoning of the property limits its marketing to uses that are primarily of an industrial nature or other uses that are likely to create nuisance and which are not particularly compatible with commercial or residential uses in close proximity. In addition to onsite nuisances, such uses could also very well introduce additional heavy truck traffic along this corridor which would not mix well with commercial-oriented travel in the area.

## **BACKGROUND:**

See attached staff report

## **BUDGET IMPACT:**

## **OPTIONS:**

- Approve rezoning as proposed
- Deny; leave existing M-2 zoning in place

## **RECOMMENDATIONS:**

Planning Commission unanimously recommended approval.

The ordinance was reviewed at the July 23, 2013 Council work session and forwarded on for First Reading on August 13, 2013.

Council Work Session  
July 23, 2013

**RZ-13-289 AN ORDINANCE TO REZONE 44.44 ACRES OF LAND AT 2410 AND 2416 PAPERMILL RD (*Map Numbers 272-01-8 AND 291-02-A-B*) FROM INTENSIVE INDUSTRIAL (M-2) DISTRICT TO HIGHWAY COMMERCIAL (B-2) DISTRICT**

---

**REQUEST DESCRIPTION**

The request is for the City to rezone underutilized Intensive Industrial (M-2) land to Highway Commercial (B-2) to support economic redevelopment of the property in a manner more compatible with the major commercial development extending along both sides of S. Pleasant Valley Road in the general vicinity.

**AREA DESCRIPTION**

The land to the north is zoned CM-1 and contains retail and restaurant uses along S. Pleasant Valley Rd and contractor establishments along Abrams Creek Drive. Land to the east across Pleasant Valley Rd is zoned B-2 and CM-1 and contains major commercial retail and restaurant development. Land immediately to the south is zoned M-2 and contains a wholesale plumbing supply and showroom establishment. Land further to the south is zoned CM-1 and contains commercial uses. Land across the railroad to the west is zoned B-2 and contains commercial uses. Land further to the west is zoned HR and contains multifamily use.



**STAFF COMMENTS**

City staff believes that B-2 zoning of the Federal Mogul property will better result in development consistent with the Comprehensive Plan than the current M-2 zoning. The industrial use by Federal Mogul (formerly Abex) has ceased. Redevelopment of the site with. The proposed B-2 zoning would allow for uses more compatible with major commercial use along most of S. Pleasant Valley Rd and more harmonious with the residential uses in close proximity to the west.

**Relation to Comprehensive Plan**

**Chapter 4: Economic Sustainability**

Citywide Economic Development Objective #9:

“Proactively redevelop property where needed to achieve maximum sustainable potential.”

## Chapter 9 – Future Development

The Character Map identifies:

- The northern part of land as Civic/Institutional or Park. This is the portion of land not likely to be redeveloped due to environmental issues and required, ongoing monitoring of the industrial landfill site.
- The southern part of land as Commerce Area Revitalization/Infill. This is the developable portion of the site where future commercial use is envisioned.

## Chapter 11 – Southeast Planning Area

Environment:

“...mitigate documented hazards at the Abex site along the west side of S. Pleasant Valley Rd.”

### Relation to the Strategic Plan

#### Goal 1: Grow the Economy

Short Term Challenges and Opportunities #2

“Attracting businesses that are right for the Winchester community.”

The current M-2 zoning of the property limits its marketing to uses that are primarily of an industrial nature or other uses that are likely to create nuisance and which are not particularly compatible with commercial or residential uses in close proximity. In addition to onsite nuisances, such uses could also very well introduce additional heavy truck traffic along this corridor which would not mix well with commercial-oriented travel in the area.

#### RECOMMENDATION

At its July 16, 2013 meeting, the Planning Commission forwarded **RZ-13-289** to City Council recommending approval as depicted on an exhibit entitled “*Rezoning Exhibit RZ-13-289, Prepared by Winchester Planning Department, May 22, 2013*” because the request is generally consistent with the Comprehensive Plan which calls for Commerce Area Revitalization/Infill on the developable portion of the site.

AN ORDINANCE TO REZONE 44.44 ACRES OF LAND AT 2410 AND 2416 PAPERMILL RD (*Map Numbers 272-01-8 AND 291-02-A-B*) FROM INTENSIVE INDUSTRIAL (M-2) DISTRICT TO HIGHWAY COMMERCIAL (B-2) DISTRICT

**RZ-13-289**

**WHEREAS**, the Code of Virginia provides that one of the purposes of Zoning Ordinances is to facilitate the creation of a convenient, attractive and harmonious community; and,

**WHEREAS**, the adopted Comprehensive Plan calls for Commerce Area Revitalization/Infill on the developable portion of the Federal Mogul site and the Winchester Strategic Plan to grow the economy as part of the long term vision for the City of Winchester; and,

**WHEREAS**, the adopted Comprehensive Plan includes a citywide economic development objective calling for the City to proactively redevelop property where needed to achieve maximum sustainable potential; and,

**WHEREAS**, intensive industrial use of the Federal Mogul site has ceased and the predominant land use along South Pleasant Valley Road is commercial, rather than industrial; and,

**WHEREAS**, the Planning Commission resolved at its June 18, 2013 meeting to initiate the rezoning of this land; and,

**WHEREAS**, the Planning Commission forwarded the request to Council on July 18, 2013 recommending approval of the rezoning as depicted on an exhibit entitled "*Rezoning Exhibit RZ-13-289, Prepared by Winchester Planning Department, May 22, 2013*" because the request is generally consistent with the Comprehensive Plan which calls for Commerce Area Revitalization/Infill on the developable portion of the site; and,

**WHEREAS**, a synopsis of this Ordinance has been duly advertised and a Public Hearing has been conducted by the Common Council of the City of Winchester, Virginia, all as required by the Code of Virginia, 1950, as amended, and the said Council has determined that the rezoning associated with this property herein designated is consistent with the Comprehensive Plan.

**NOW, THEREFORE, BE IT ORDAINED** by the Common Council of the City of Winchester, Virginia that the following land is hereby rezoned from the existing zoning designation of Intensive Industrial (M-2) District to Highway Commercial (B-2) District:

Approximately 44.44 acres of land at 2410 and 2416 Papermill Road as depicted on an exhibit entitled "*Rezoning Exhibit RZ-13-289, Prepared by Winchester Planning Department May 22, 2013*".

# REZONING EXHIBIT

## RZ-13-289

PREPARED BY WINCHESTER PLANNING DEPARTMENT

May 22, 2013



**EXISTING**

M-2 ZONING FOR 2410 AND 2416 PAPERMILL ROAD



**PROPOSED**

B-2 ZONING FOR 2410 AND 2416 PAPERMILL ROAD

**CITY OF WINCHESTER, VIRGINIA**

**PROPOSED CITY COUNCIL AGENDA ITEM**

**CITY COUNCIL/COMMITTEE MEETING OF:** July 23, 2013 **CUT OFF DATE:** \_\_\_\_\_

**RESOLUTION X    ORDINANCE X    PUBLIC HEARING X**

**ITEM TITLE:** Proposed Sidewalk Master Plan

**STAFF RECOMMENDATION:** Approval of resolution and ordinance.

**PUBLIC NOTICE AND HEARING:** NA

**ADVISORY BOARD RECOMMENDATION:** NA

**FUNDING DATA:** See attached.

**INSURANCE:** NA

The initiating Department Director will place below, in sequence of transmittal, the names of each department that must initial their review in order for this item to be placed on the City Council agenda.

<u>DEPARTMENT</u>	<u>INITIALS FOR APPROVAL</u>	<u>INITIALS FOR DISAPPROVAL</u>	<u>DATE</u>
1. Finance	<u>JB</u>	_____	<u>7/12/13</u>
2. City Attorney	<u>[Signature]</u>	_____	<u>7/17/2013</u>
3. City Manager	<u>[Signature]</u>	_____	<u>7-17-13</u>
4. Clerk of Council	_____	_____	_____
Initiating Department Director's Signature:	<u>[Signature]</u>	_____	<u>7/12/13</u> Date



**APPROVED AS TO FORM:**  
[Signature] 7/17/2013  
**CITY ATTORNEY**

# CITY COUNCIL ACTION MEMO

**To:** Honorable Mayor and Members of City Council  
**From:** Perry Eisenach, Public Services Director  
**Date:** July 23, 2013 (Council Work Session)  
**Re:** Proposed Sidewalk Master Plan

---

**THE ISSUE:** Presentation and consideration of the proposed Sidewalk Master Plan.

**RELATIONSHIP TO STRATEGIC PLAN:** **Goal 4:** Create a More Livable City for All. Specifically, **Policy Agenda Item #5:** Develop a Sidewalk Master Plan with policy directions, project priority and funding mechanisms.

**BACKGROUND:** Making improvements to sidewalks has been identified by City residents as one of the highest priorities when looking at City services where they feel improvements need to be made. City Council has responded to this strong desire for improved sidewalks by appropriating significant funding the past few years for sidewalk improvements. In response to City Council's direction provided in the Strategic Plan, the Public Services Department has prepared the attached Sidewalk Master Plan for City Council's consideration. The goal of this plan is to provide the framework and guidance for the City's sidewalk program in future years.

**BUDGET IMPACT:** Over the past six years, the City has constructed approximately 22.7 miles of new sidewalks at a cost of approximately \$9.5 million, funded by multiple revenue sources. In the current FY14 budget, there is \$830,000 budgeted for sidewalk construction. There is currently a backlog of approximately \$24 million of construction for existing sidewalks that are in poor condition and need to be replaced. In addition, it would cost approximately \$75 million to construct sidewalks along every City street where none currently exist. These large figures show the need for significant resources for sidewalks in the future.

## **SIDEWALK MASTER PLAN SUMMARY AND RECOMMENDATIONS:**

1. The City currently maintains approximately 115 miles of existing sidewalks within the City. Approximately 50% of the existing sidewalks are in poor condition and need to be replaced or need major repairs. The estimated cost for replacing/repairing all of the existing sidewalks in poor condition is approximately \$24 million.
2. Approximately 64 miles of sidewalks would need to be constructed within the City for there to be a sidewalk on both sides of every street where none currently exist. The estimated cost to construct these 64 miles of sidewalks is approximately \$75 million. A significant amount of this total cost would be for the curb & gutter and drainage improvements that would be necessary to construct the new sidewalks.
3. During the past six years, approximately 22.7 miles of sidewalks have been constructed. This includes sidewalk replacements and constructing new sidewalks where none previously existed.
4. A proposed 5-year plan for sidewalk construction has been developed and is presented herein. This plan includes both sidewalk replacements and the construction of sidewalks in locations where none currently exist.
5. The proposed 5-year plan will require a significant amount of funding to successfully complete. Over the 5-year period, an average approximately \$3 million in funding will be needed. The primary funding sources that have been projected to meet this need are the General Fund, the Utility Fund (including a possible Stormwater Utility), and state Revenue Sharing Funds.
6. The proposed 5-year plan will complete an average of approximately \$1.1 million of sidewalk replacements per year which would be funded primarily by the General Fund. However, since the current need for existing sidewalk replacements is approximately \$24 million, it will take over 20 years to replace all of the existing sidewalks that are currently in poor condition. Should City Council wish to expedite this schedule, additional funding such as general obligation bonds or other revenue sources will be required.
7. Since economic conditions are difficult to forecast in the future and the projected funding levels may change, it is important to update this Sidewalk Master Plan, and particularly the 5-year plan of sidewalk improvements on an annual basis.
8. Section 26-7 of the City Code requires the property owner to be responsible for the costs of maintaining or replacing the sidewalk adjacent to their property. This provision has never really been enforced, especially during the past 20 years. Since the City has started an aggressive program of replacing sidewalks, it is recommended that City Council repeal Section 26-7 of the City Code. Attached is a proposed ordinance that would take that action.

---

**RECOMMENDED ACTIONS FOR CITY COUNCIL:**

1. Approve attached resolution adopting the Sidewalk Master Plan.
2. Adopt the attached ordinance repealing Section 26-7 of City Code which would eliminate the current requirement that the property owner or occupier is responsible for physical maintenance of the public sidewalk adjacent to their property (not including snow or ice removal).

**OPTIONS FOR CITY COUNCIL:**

1. Adopt the proposed resolution and/or ordinance as presented.
2. Adopt the proposed resolution and/or ordinances with modifications.
3. Not adopt the proposed resolution and/or ordinance.

**AN ORDINANCE TO REPEAL SECTION 26-7 OF THE WINCHESTER CITY CODE WHICH WOULD  
ELIMINATE THE REQUIREMENT FOR THE PROPERTY OWNER OR OCCUPIER TO BE  
RESPONSIBLE FOR THE MAINTENANCE OF THE PUBLIC SIDEWALK ADJACENT TO THEIR  
PROPERTY**

**WHEREAS**, Section 26-7 of the City Code specifies that the property owner or occupier is responsible for the physical maintenance of the public sidewalk adjacent to their property; and

**WHEREAS**, this section of City Code has proven to be impractical and it is the desire of City Council for the City to be responsible for the maintenance of all public sidewalks, with the exception of snow and ice removal.

**NOW, THEREFORE, BE IT ORDAINED** that Sections 26-7 of the Winchester City Code is hereby repealed in its entirety and re-enacted to read as follows:

**SECTION 26-7. ~~PAVING, REPAVING, AND REPAIRING SIDEWALKS ON EXISTING STREETS.~~  
REPEALED.**

- ~~(a) — Every owner or occupier of lots or parts of lots abutting on existing streets in the city shall cause the existing sidewalks and driveway entrances to be paved, repaved, or repaired at the expense of such owner or occupier.~~
- ~~(b) — The public works department shall notify the owners or occupiers of lots or parts of lots abutting on existing streets to pave, repave, or repair the sidewalks when required. Such notice shall be by registered or certified letter sent to such owner or occupier at his last known address or served by a member of the police department. If, after diligent inquiry, no address can be found for such owner, such letter shall be posted in a conspicuous place on the property.~~
- ~~(c) — In the event an owner or occupier or either of them shall neglect or refuse to pave, repave, or repair the sidewalk when required pursuant to this section, the council may have such sidewalk paved, repaved, or repaired and recover the expenses therefor before the general district court or the circuit court, and in all cases where a tenant is required to pave in front of the property used in his occupation, the expenses of the paving so done shall be a good offset against so much of the rent as he shall have paid toward such paving, but no tenant shall be required to pay more for or on account of such paving than such tenant may owe at the time of the commencement of such work or as may become due to the end of his tenancy.~~
- ~~(d) — No owner or occupier of a lot or lots in front of which paving has been laid shall be required to repave or repair such sidewalk, in whole or in part, at his own expense more often than once in five (5) years; provided, further, that the expense for such paving, repaving, and repairing shall not be in excess of the peculiar benefits resulting therefrom to such abutting land. (Code 1959, §22-21.3; Ord. of 6-14-78)~~
- ~~(e) — Curb ramps shall be constructed at intersections for use of handicapped persons. No ramps shall be required for curbs in place on January 1, 1975; however, ramps shall be required on all replacement of such curbs adjoining sidewalks at intersections leading to~~

~~crosswalks. Such ramps shall comply with the Virginia Department of Transportation's Road and Bridge Standards. This section shall not apply where finalized plans for replacement of curbs had been advertised for bid, contracts awarded, and work commenced prior to June 30, 1975. (Ord. No. 042-95, 9-12-95)~~

Ordinance No. \_\_\_\_\_

**ADOPTED** by the Common Council of the City of Winchester on the \_\_\_\_ day of \_\_\_\_\_, 2013.

***Witness my hand and the seal of the City of Winchester, Virginia.***

*Deputy Clerk of the Common Council*

# City of Winchester

## Sidewalk Master Plan



**Draft: 7/12/13**

## **Introduction**

Making improvements to sidewalks has been identified by City residents as one of the highest priorities when looking at City services where they feel improvements need to be made. City Council has responded to this strong desire for improved sidewalks by appropriating significant funding the past few years for sidewalk improvements. In addition, the Strategic Plan recently adopted by City Council contains the following goal:

### **Strategic Plan Goal #4: Create a More Livable City for All**

#### **Policy Agenda #5: Develop a Sidewalk Master Plan that includes Policy Direction, Project Priority, and a Funding Mechanism.**

This document has been prepared to address this goal and policy agenda contained in the Strategic Plan.

There are three primary sidewalk issues within the City that are addressed in this Master Plan. They are:

1. Existing sidewalks that are in poor condition that need to be replaced.
2. Locations where new sidewalks need to be constructed because no sidewalks currently exist.
3. On-going maintenance of sidewalks.

Due to the high number of existing sidewalks that are in poor condition and the large number of locations where no sidewalks currently exist, it will take a sustained effort over many years and a significant amount of funding to address all of the sidewalk needs within the City.

## **Existing Sidewalks**

The City currently maintains approximately 605,000 linear feet (115 miles) of existing sidewalks within the City which are shown in Figure 1. Many of these existing sidewalks are in relatively poor condition and need to be replaced entirely because they have deteriorated past the point where spot repairs are feasible or cost effective. Figure 2 shows the existing sidewalks that are in poor condition. The approximate length of the existing sidewalks in poor condition is approximately 301,000 linear feet, or 50% of the total length of existing sidewalks.

## **Previous Sidewalk Replacements**

Over the past 6 years, the City has implemented an aggressive program of sidewalk replacements. During this period, approximately 120,100 linear feet (22.7 miles) of sidewalks have been replaced. This length also includes adding sidewalks in the project area where none previously existed and there were “gaps” in the sidewalk network. Figure 3 shows the locations of the sidewalks that have been replaced since 2007.

Some of the sidewalks replaced during this period were projects solely for the purpose of replacing the sidewalks. However, the majority of sidewalk replacements have been included as a part of utility replacement projects where the underground utilities and sidewalks have been replaced in addition to repaving the entire street. Replacing all of public infrastructure during a single project, when feasible, is more efficient and saves money when compared to completing multiple projects over several years in the same location. A breakout of the type of sidewalk projects since 2007 is provided below.

Project Type	Approximate Length of Sidewalk Replacement or New Sidewalk from 2006 - 2013 (linear feet)	% of Total
Sidewalk Replacement Project Only	44,300	37%
Combined Utility, Sidewalk, and Street Replacement Project	75,800	63%
Total	120,100 (22.7 miles)	100%

**Priority of Future Sidewalk Replacements**

With such a large number of existing sidewalks in poor condition, it is very important that sidewalk replacements be prioritized so that those sidewalks with the highest amount of use by pedestrians are replaced first. It is also important to coordinate sidewalk only replacement projects with utility replacement projects so that sidewalks are not replaced one year and then excavated a few years later to replace the underground utilities.

The following criteria have been used to prioritize future sidewalk replacements:

**Priority A:** Location along an arterial roadway with a high number of pedestrians.

**Priority B:** Location along a collector roadway or adjacent/near:

- 1) a school

- 2) Winchester Transit bus stop or other facility
- 3) Other public institution with a high number of pedestrians.

**Priority C:** All other locations (i.e. residential areas)

Based on this priority system, Figure 4 shows the proposed prioritized sidewalk replacements that are needed within the City.

### **Costs for Sidewalk Replacements**

Based on recent sidewalk replacement projects, the current cost per linear foot of sidewalk replacement (5-foot wide) is approximately \$80/linear foot. There can be a fairly wide range in the actual cost depending on factors such as if curb and gutter and drainage inlets need to be replaced as part of the sidewalk replacement. Based on this cost figure, the total cost to replace all of the sidewalks that are currently in poor condition would be approximately \$24 million.

### **Funding Sources for Sidewalk Replacements**

The following are the primary funding sources that are available to the City to fund sidewalk replacements and a brief discussion of each:

1. City's General Fund

The City's General Fund is one potential funding source for sidewalks. Most recently, the General Fund paid for one-half of the \$2 million cost of the Citywide Sidewalk Replacement Project that replaced sidewalks on Valley Avenue, S. Loudoun, Millwood, Woodstock Lane, Purcell, and Cork Street.

2. City's Utility Fund

The majority of the sidewalk replacements (63%) during the past seven years have been included as part of utility replacement projects. The Utility Department plans to continue with the program to replace underground utility lines throughout the City as part of a long term program needed to replace aging infrastructure. Replacing sidewalks as a part of these projects is expected to continue in the future.

### 3. Highway Maintenance Fund

The City receives approximately \$2.7 million per year from the state based solely on the number of lane miles of streets the City maintains. These funds can be used for sidewalk replacement. However, since this amount of funding is not adequate to properly maintain all the streets at a level desired, there is generally very little of this funding available for sidewalk replacements.

### 4. VDOT Revenue Sharing Funds.

Revenue sharing funds administered by VDOT is another funding source for sidewalk replacements. These funds were utilized as the other half of the funding for the Citywide Sidewalk Replacement Project mentioned above. Unfortunately, the City has just learned that due to limited funds, there will be no Revenue Sharing funds available for sidewalk replacements in FY14.

### 5. Community Development Block Grant Funds (CDBG).

CDBG funds can be used for sidewalk replacements in areas of the City that are below income threshold levels. The sidewalks on National, N. Kent, Baker Lane, and Liberty that have been replaced during the past six years were paid for using CDBG funds. Over the next six years, the City has dedicated all of the CDBG funding it will receive to the Taylor Hotel Renovation Project.

### 6. Adjacent Property Owners

The current City Code requires that the adjacent property owner is responsible for the cost to maintain or replace the sidewalk adjacent to their property when it is in poor. However, this has never been strictly enforced. This topic is discussed later in more detail in the Sidewalk Maintenance section of this report.

#### 7. Federal Transit Authority Funds.

Federal Transit Authority funds are a possible funding source for sidewalk improvements where the sidewalk is necessary for the safety and access of pedestrians that utilize the Winchester Transit services.

### **Areas with No Existing Sidewalks**

There are several areas within the City where no sidewalks currently exist. These locations are shown in Figure 5. A large number of these areas are locations that were already developed when they were annexed into the City in the 1970's. Beginning in 1995, the City required that sidewalks be constructed adjacent to public streets within all new developments.

One of the primary goals in the City's Comprehensive Plan is for the City to be a "walkable community". To achieve this goal of sidewalks on both sides of all streets throughout the City, approximately 64 miles of sidewalks will need to be constructed in locations along streets where none currently exist. There are some locations, however, where a new sidewalk on one side of the street would be sufficient.

### **Priority of Locations for New Sidewalks**

The criteria for determining the locations to construct new sidewalks where none currently exist are basically the same criteria for prioritizing sidewalk replacements. They are:

**Priority A:** Location along an arterial roadway with a high number of pedestrians.

**Priority B:** Location along a collector roadway or adjacent/near:

- 1) a school
- 2) Winchester Transit bus stop or other facility
- 3) Other public institution with a high number of pedestrians.

**Priority C:** All other locations (i.e. residential areas)

Based on this priority system, Figure 6 shows the proposed prioritized locations for new sidewalks within the City.

### **Costs for New Sidewalks**

The costs for constructing new sidewalks within the City will vary greatly depending on the specific location. Most of the areas that do not have sidewalks also do not have curb & gutter. Installing curb & gutter and adequate drainage facilities is usually necessary before sidewalks can be installed and the cost for this infrastructure will be much higher than the actual cost of the sidewalk. In addition, some locations will require significant grading or retaining walls for the new sidewalks to be constructed which will greatly increase the overall cost.

For purposes of this report, the following assumptions were used to estimate the costs for new sidewalks (5-foot wide):

- Cost per Linear Foot of New Sidewalk Only: \$50/linear foot

- Cost for Curb & Gutter/Drainage/Grading per Linear Foot of New Sidewalk: \$125 - \$300+/linear foot (depends on drainage requirements) – Use average of \$175/linear foot for purposes of this report.
- Total Cost per Linear Foot of New Sidewalk and Curb & Gutter: \$225/linear ft

Based on this unit cost, the total estimated cost to construct sidewalks along both sides of all existing streets where a sidewalk does not currently exist is approximately \$75 million.

### **Funding Sources for New Sidewalks**

The following are the primary funding sources that are available to the City to fund sidewalk replacements and a brief discussion of each:

#### **1. City's General Fund**

The City's General Fund is one potential funding source for new sidewalks.

#### **2. City's Utility Fund**

During recent utility replacement projects, there were some areas where new sidewalks were constructed as a part of the project where no sidewalks previously existed. Examples of this were on East Lane, Woodstock Lane, and some sections of Amherst Street. There will be other utility replacement projects in the future where the potential will exist to include the construction of new sidewalks.

The City will also be considering the possibility of implementing a Stormwater Utility in the near future. This mechanism would allow for a dedicated revenue source for stormwater improvements, including the curb & gutter and drainage

improvements that are necessary to construct new sidewalks in most locations where none currently exist.

### 3. Highway Maintenance Fund

The City receives approximately \$2.7 million per year from the state based solely on the number of lane miles of streets the City maintains. These funds can be used for new sidewalks. However, since this amount of funding is not adequate to properly maintain all the streets at a level desired, there is generally very little of this funding available for sidewalk replacements, let alone new sidewalks.

### 4. VDOT Revenue Sharing Funds

Revenue Sharing funds administered by VDOT is another funding source for new sidewalks. Projects where new sidewalks are constructed (along with curb & gutter and drainage improvements) are eligible to receive 50% of the total project cost from state Revenue Sharing funds. Projects with new sidewalks have a higher priority than projects with sidewalk replacements when state Revenue Sharing funds are allocated.

### 5. Community Development Block Grant Funds (CDBG).

CDBG funds can be used for new sidewalks in areas of the City that are below income threshold levels. Over the next six years, the City has dedicated all of the CDBG funding it will receive to the Taylor Hotel Renovation Project.

### 6. Special Improvement Districts

Section 2-11 of the City Code describes the process where a special improvements district may be established to pay for the costs of constructing new sidewalks. An additional property tax is levied against the properties within the established district to pay for the improvements.

## 7. Federal Transit Authority Funds.

Federal Transit Authority funds are a possible funding source for sidewalk improvements where the sidewalk is necessary for the safety and access of pedestrians that utilize the Winchester Transit services.

## 8. Federal/State Safe Route to Schools Funds.

Funds may be available in the future to construct new sidewalks within the Safe Routes to School program that is administered by VDOT. These funds could be used to construct sidewalks which are necessary to allow school children to walk safely to and from schools.

## **Sidewalk Maintenance**

As the City has invested a considerable amount of funding for sidewalk replacements and new sidewalks in recent years and since this trend is expected to occur in the future, it is imperative that the City allocate adequate resources in the future to properly maintain these sidewalks. This is especially true in order to avoid the current situation where little maintenance was completed on existing sidewalks in the past resulting in the very high number of existing sidewalks that are in poor condition.

Section 26-7 of City Code addresses the responsibility for maintaining the sidewalks. In essence, current City code requires the property owner or tenant to be responsible for the cost of maintaining the sidewalk adjacent to their property. This section of the code has been in place for a long time, but has never really been enforced. This, combined with inadequate City resources devoted towards sidewalk replacements has resulted in the current situation where the majority of existing sidewalks are in poor condition. The majority of cities and localities in Virginia do not require the adjacent property owners to pay for the cost of

maintaining or replacing their sidewalk. In these locales, the cities are responsible for sidewalk maintenance.

Since the City has started an aggressive program of sidewalk replacements during the past six years, The Public Services Department recommends that City Council repeal Section 26-7 City Code, which would, in essence, mean that the City would be responsible for maintaining existing sidewalks within the public right-of-way. Section 26-7 of the existing City Code is provided in Appendix 1.

### **Proposed 5-year Sidewalk Plan**

Based on the priorities developed herein for sidewalk replacements and new sidewalks, a proposed 5-year plan for sidewalk construction has been developed and is presented in Figure 7. A detailed listing of the specific locations for the proposed sidewalk construction, the estimated costs, and the proposed funding sources for the improvements is found in Appendix 2.

A summary of the proposed 5-year program is shown in the following table:

<b>Fiscal Year</b>	<b>Length Sidewalk Replacement (linear feet)</b>	<b>Cost of Sidewalk Replacements</b>	<b>Length of "New" Sidewalks (linear feet)</b>	<b>Cost of "New" Sidewalks (Includes curb &amp; gutter and drainage)</b>
2014	10,300	\$ 800,000	0	\$ 0
2015	10,600	\$ 848,000	12,000	\$2,700,000
2016	7,800	\$ 784,000	12,200	\$2,745,000
2017	18,770	\$1,743,000	9,000	\$2,025,000
2018	18,950	\$1,516,000	8,200	\$1,845,000
<b>Totals</b>	<b>66,420 (12.6 miles)</b>	<b>\$5,715,000</b>	<b>41,400 (7.8 miles)</b>	<b>\$9,315,000</b>
<b>Average Per Year</b>	<b>13,280 (2.5 miles)</b>	<b>\$1,143,000</b>	<b>8,280 (1.6 miles)</b>	<b>\$1,863,000</b>

The proposed five-year plan will require significant funding to implement. The following are the proposed primary funding sources to construct the improvements in the 5-year plan:

- General Fund
- Utility Fund (including a possible Stormwater Utility)
- State Revenue Sharing Funds (VDOT)

A summary of the estimated funding sources for the proposed 5-year sidewalk plan is presented in the table below.

<b>Fiscal Year</b>	<b>General Fund</b>	<b>Utility Fund (including possible Stormwater Utility)</b>	<b>State Revenue Sharing Funds (VDOT)</b>	<b>Total Funding</b>
2014	\$ 800,000	\$ 0	\$ 0	\$ 800,000
2015	\$ 848,000	\$1,350,000	\$1,350,000	\$3,548,000
2016	\$ 784,000	\$1,372,500	\$1,372,500	\$3,529,000
2017	\$1,743,000	\$1,012,500	\$1,102,500	\$3,768,000
2018	\$1,516,000	\$ 922,500	\$ 922,500	\$3,361,000
Average Per Year	\$1,143,000	\$ 931,500	\$ 931,500	\$3,006,000

While the proposed 5-year plan is an aggressive plan that continues with the significant sidewalk improvements constructed during the past six years, assuming that the sidewalk replacements continue at the approximate same rate

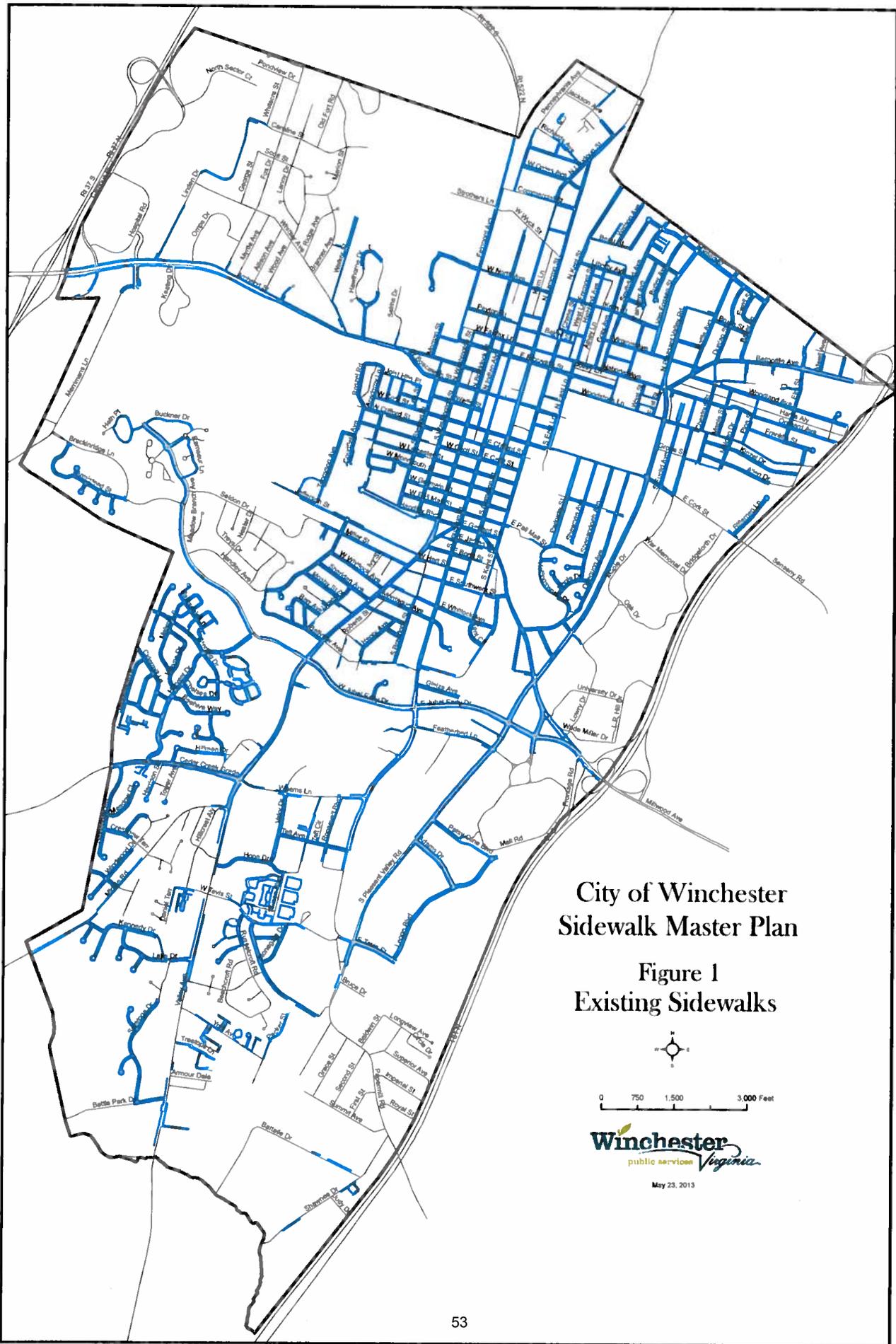
(\$1.1 million per year) in the future, it will still take over 20 years to replace all of the existing sidewalks that are currently in poor condition. Should City Council wish to expedite this program of sidewalk replacements, supplemental funding such as general obligation bonds or other revenue sources would need to be secured.

### **Summary and Recommendations**

1. The City currently maintains approximately 115 miles of existing sidewalks within the City. Approximately 50% of the existing sidewalks are in poor condition and need to be replaced or need major repairs. The estimated cost for replacing/repairing all of the existing sidewalks in poor condition is approximately \$24 million.
2. Approximately 64 miles of sidewalks would need to be constructed within the City for there to be a sidewalk on both sides of every street where none currently exist. The estimated cost to construct these 64 miles of sidewalks is approximately \$75 million. A significant amount of this total cost would be for the curb & gutter and drainage improvements that would be necessary to construct the new sidewalks.
3. During the past six years, approximately 22.7 miles of sidewalks have been constructed. This includes sidewalk replacements and constructing new sidewalks where none previously existed.
4. A proposed 5-year plan for sidewalk construction has been developed and is presented herein. This plan includes both sidewalk replacements and the construction of sidewalks in locations where none currently exist.
5. The proposed 5-year plan will require a significant amount of funding to successfully complete. Over the 5-year period, an average approximately \$3 million in funding will be needed. The primary funding sources that

have been projected to meet this need are the General Fund, the Utility Fund (including a possible Stormwater Utility), and state Revenue Sharing Funds.

6. The proposed 5-year plan will complete an average of approximately \$1.1 million of sidewalk replacements per year which would be funded primarily by the General Fund. However, since the current need for existing sidewalk replacements is approximately \$24 million, it will take over 20 years to replace all of the existing sidewalks that are currently in poor condition. Should City Council wish to expedite this schedule, additional funding such as general obligation bonds or other revenue sources will be required.
7. Since economic conditions are difficult to forecast in the future and the projected funding levels may change, it is important to update this Sidewalk Master Plan, and particularly the 5-year plan of sidewalk improvements on an annual basis.
8. Section 26-7 of the City Code requires the property owner to be responsible for the costs of maintaining or replacing the sidewalk adjacent to their property. This provision has never really been enforced, especially during the past 20 years. Since the City has started an aggressive program of replacing sidewalks, it is recommended that City Council repeal Section 26-7 of the City Code.



**City of Winchester  
Sidewalk Master Plan**

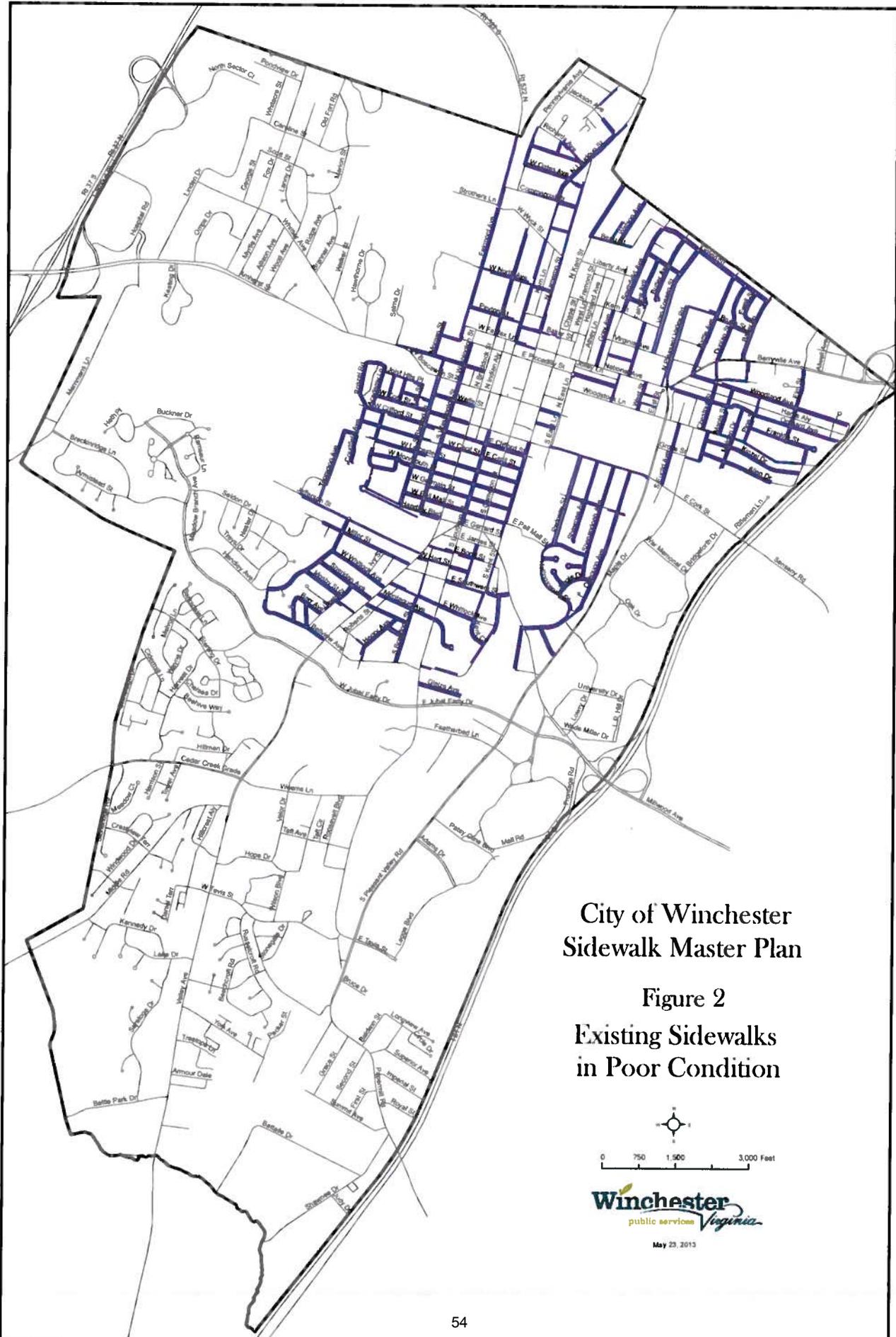
**Figure 1  
Existing Sidewalks**



0 750 1,500 3,000 Feet

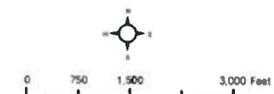


May 23, 2013



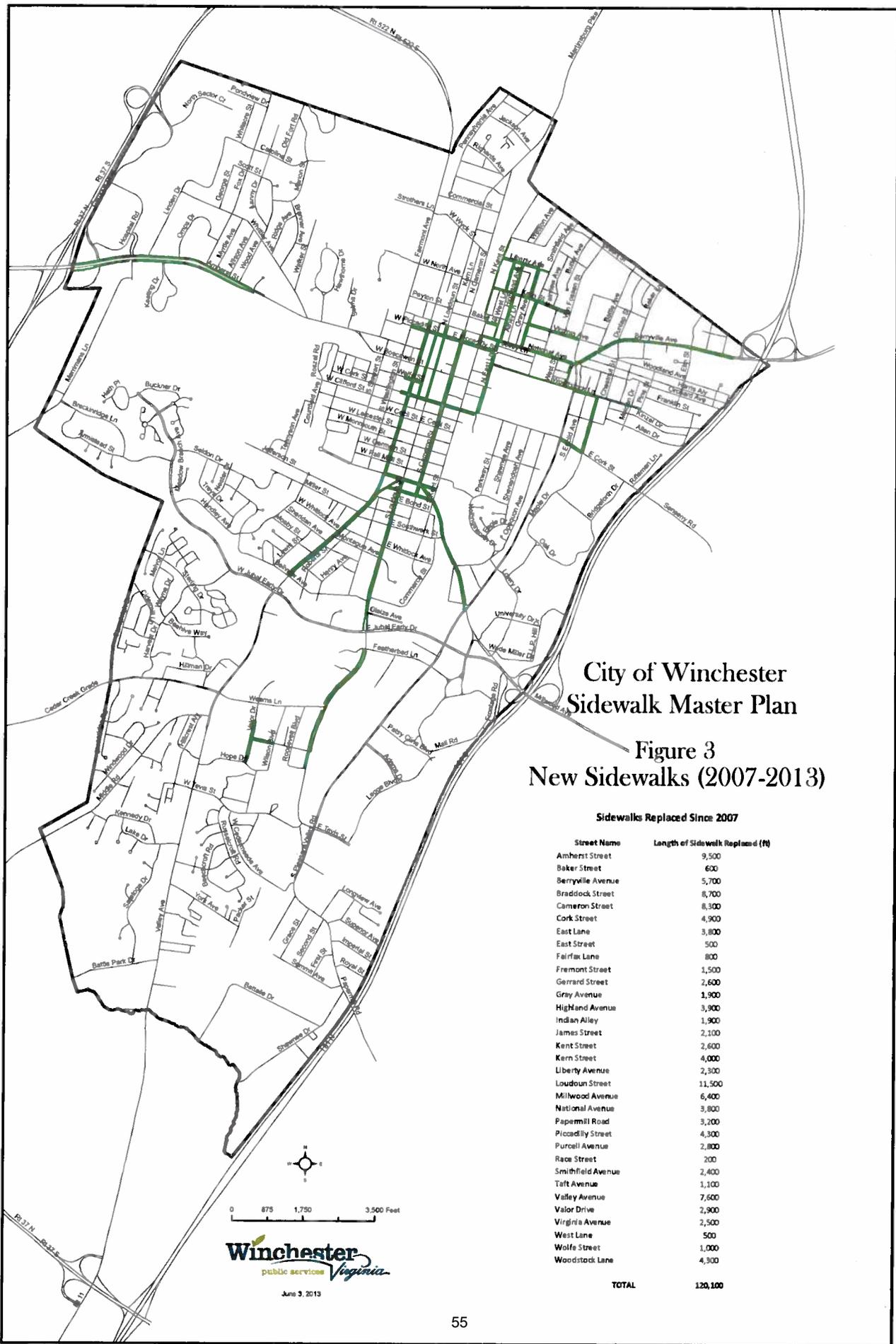
## City of Winchester Sidewalk Master Plan

Figure 2  
Existing Sidewalks  
in Poor Condition



**Winchester**  
public services Virginia

May 23, 2013



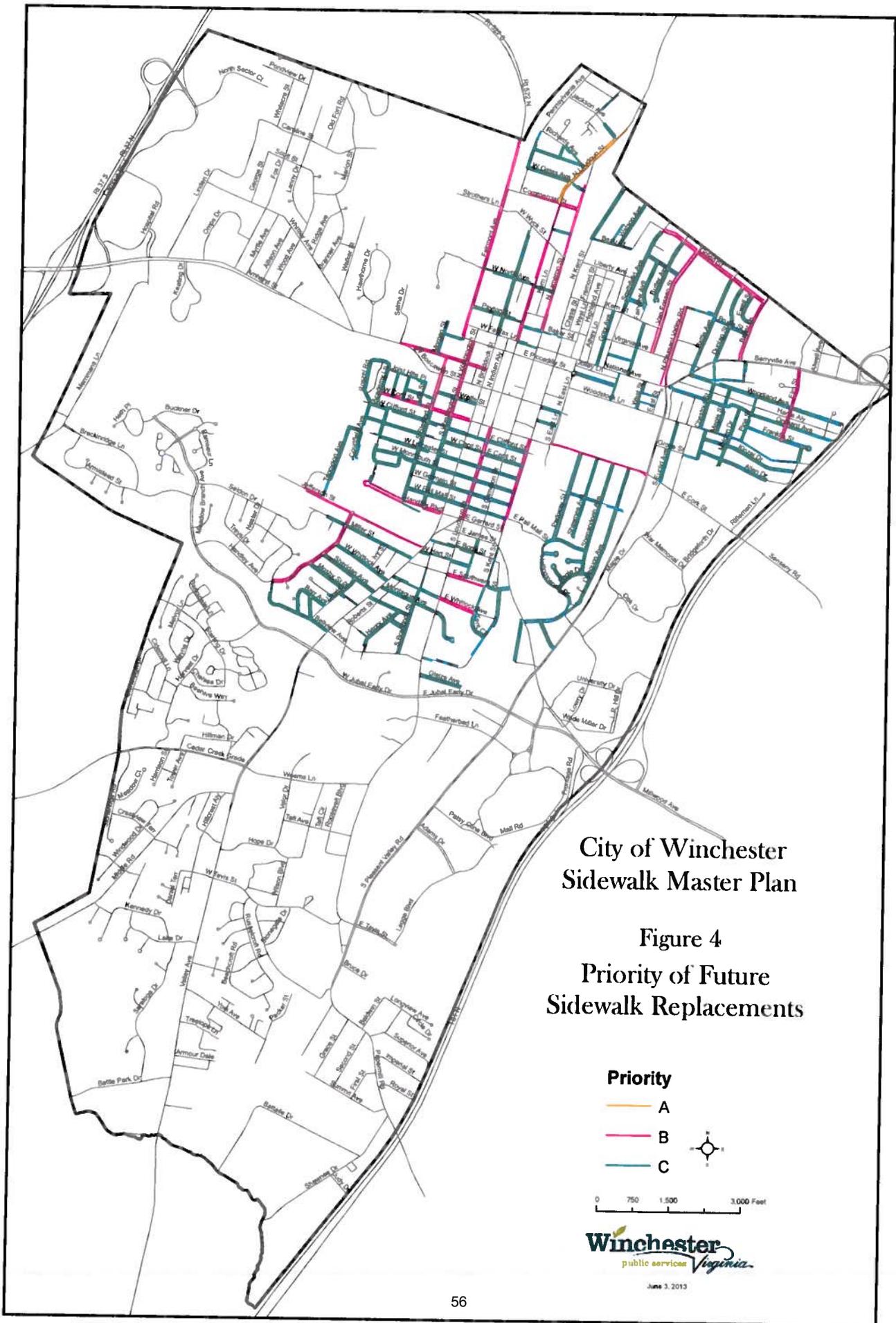
## City of Winchester Sidewalk Master Plan

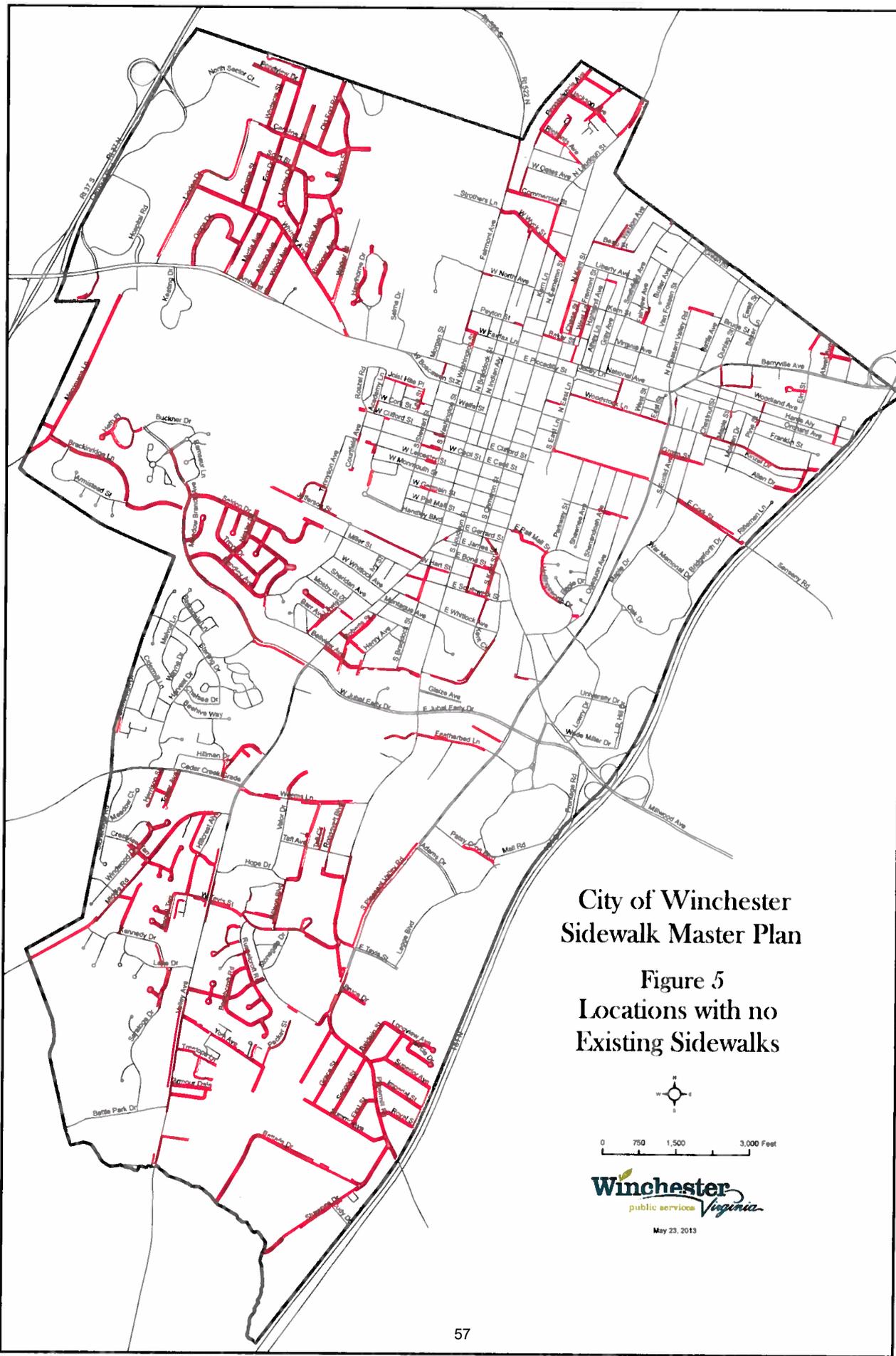
Figure 3  
New Sidewalks (2007-2013)

### Sidewalks Replaced Since 2007

Street Name	Length of Sidewalk Replaced (ft)
Amherst Street	9,500
Baker Street	600
Berryville Avenue	5,700
Bradlock Street	8,700
Cameron Street	8,300
Cork Street	4,900
East Lane	3,800
East Street	500
Fairfax Lane	800
Fremont Street	1,500
Gerrard Street	2,600
Gray Avenue	1,900
Highland Avenue	3,900
Indian Alley	1,900
James Street	2,100
Kent Street	2,600
Kern Street	4,000
Liberty Avenue	2,300
Loudoun Street	11,500
Millwood Avenue	6,400
National Avenue	3,800
Papemill Road	3,200
Piccadilly Street	4,300
Purcell Avenue	2,800
Race Street	200
Smithfield Avenue	2,400
Taft Avenue	1,100
Valley Avenue	7,600
Valor Drive	2,900
Virginia Avenue	2,500
West Lane	500
Wolfe Street	1,000
Woodstock Lane	4,300

**TOTAL 120,100**





## City of Winchester Sidewalk Master Plan

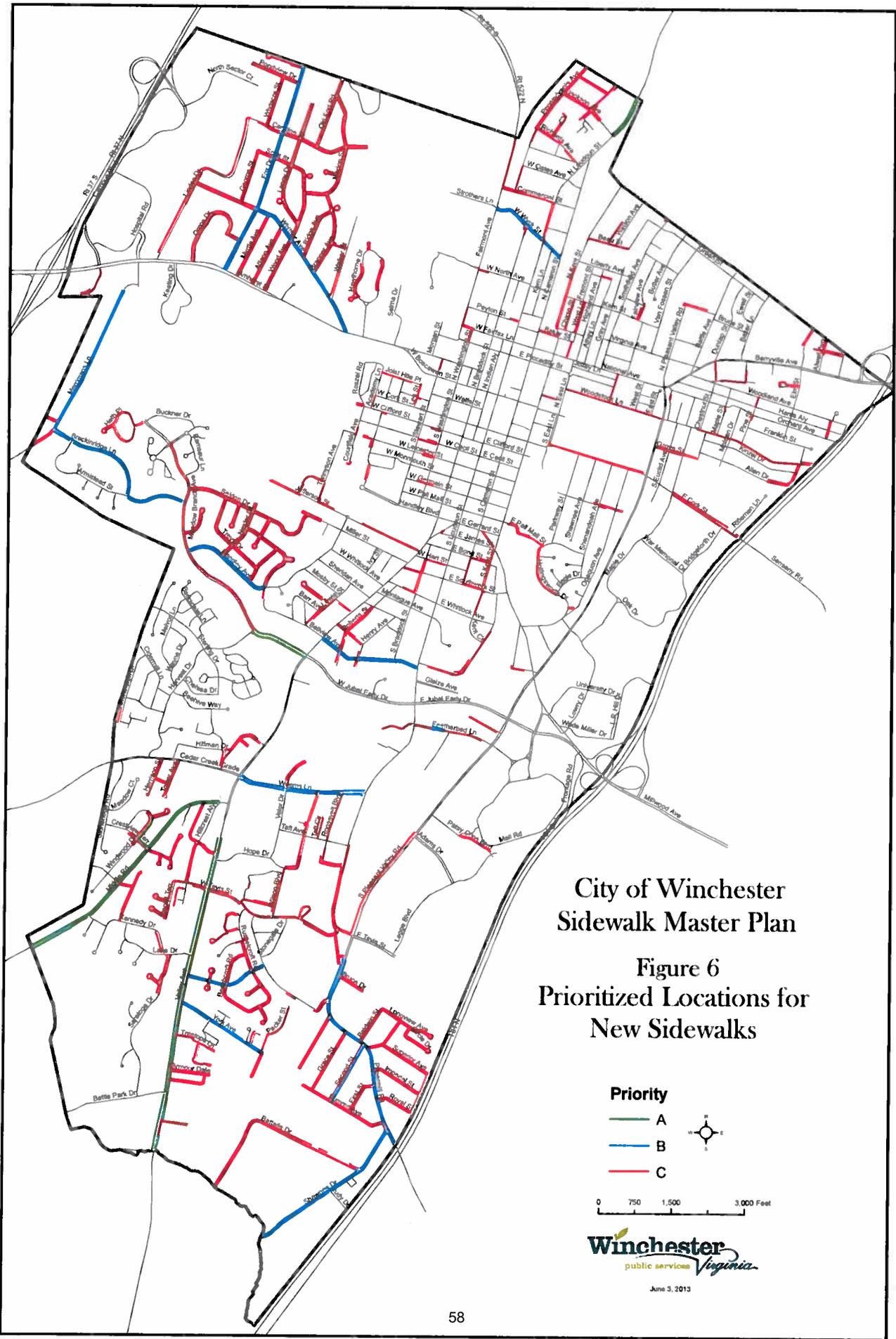
Figure 5  
Locations with no  
Existing Sidewalks



0 750 1,500 3,000 Feet



May 23, 2013



**City of Winchester  
Sidewalk Master Plan**

**Figure 6  
Prioritized Locations for  
New Sidewalks**

**Priority**

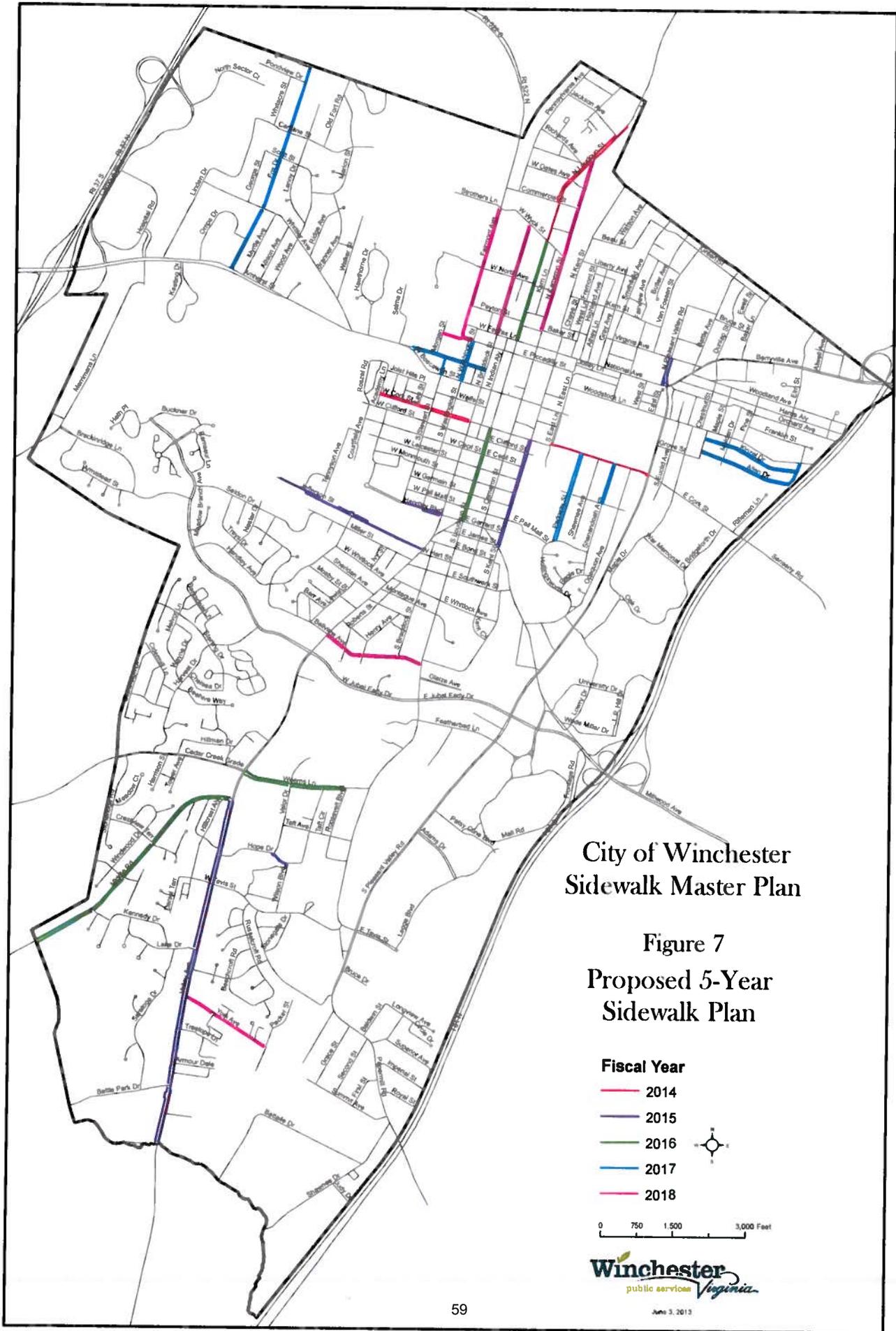
- A
- B
- C



0 750 1,500 3,000 Feet



June 3, 2013



# City of Winchester Sidewalk Master Plan

## Figure 7 Proposed 5-Year Sidewalk Plan

**Fiscal Year**

- 2014
- 2015
- 2016
- 2017
- 2018



0 750 1,500 3,000 Feet



Appendix 1

**STREETS AND SIDEWALKS**

**SECTION 26-7. PAVING, REPAVING, AND REPAIRING SIDEWALKS ON EXISTING STREETS.**

- (a) Every owner or occupier of lots or parts of lots abutting on existing streets in the city shall cause the existing sidewalks and driveway entrances to be paved, repaved, or repaired at the expense of such owner or occupier.
- (b) The public works department shall notify the owners or occupiers of lots or parts of lots abutting on existing streets to pave, repave, or repair the sidewalks when required. Such notice shall be by registered or certified letter sent to such owner or occupier at his last known address or served by a member of the police department. If, after diligent inquiry, no address can be found for such owner, such letter shall be posted in a conspicuous place on the property.
- (c) In the event an owner or occupier or either of them shall neglect or refuse to pave, repave, or repair the sidewalk when required pursuant to this section, the council may have such sidewalk paved, repaved, or repaired and recover the expenses therefor before the general district court or the circuit court, and in all cases where a tenant is required to pave in front of the property used in his occupation, the expenses of the paving so done shall be a good offset against so much of the rent as he shall have paid toward such paving, but no tenant shall be required to pay more for or on account of such paving than such tenant may owe at the time of the commencement of such work or as may become due to the end of his tenancy.
- (d) No owner or occupier of a lot or lots in front of which paving has been laid shall be required to repave or repair such sidewalk, in whole or in part, at his own expense more often than once in five (5) years; provided, further, that the expense for such paving, repaving, and repairing shall not be in excess of the peculiar benefits resulting therefrom to such abutting land. (Code 1959, §22-21.3; Ord. of 6-14-78)
- (e) Curb ramps shall be constructed at intersections for use of handicapped persons. No ramps shall be required for curbs in place on January 1, 1975; however, ramps shall be required on all replacement of such curbs adjoining sidewalks at intersections leading to crosswalks. Such ramps shall comply with the Virginia Department of Transportation's Road and Bridge Standards. This section shall not apply where finalized plans for replacement of curbs had been advertised for bid, contracts awarded, and work commenced prior to June 30, 1975. (Ord. No. 042-95, 9-12-95)

**Charter reference--**Assessments for paving of sidewalks §17.

**State Law Reference--**Code of Virginia, §15.1-381.

**SECTION 26-8. PAVING OF DRIVEWAY ENTRANCES.**

City of Winchester  
Proposed 5-year Sidewalk Plan  
Draft: 6/5/13

Appendix 2

Street	From	To	Linear Feet of Sidewalk	Estimated Cost	Proposed Funding Source	Year	New Sidewalk or Replacement
N. Loudoun	Wyck	City Limit	5,500	\$ 440,000	General Fund	FY2014	Replacement
Cork	Pleasant Valley	East Lane	2,000	\$ 160,000	General Fund	FY2014	Replacement
Cork	Braddock	Academy Ln	2,800	\$ 224,000	General Fund	FY2014	Replacement
				\$ 824,000			
Handley Blvd	Braddock	Stewart	1,600	\$ 128,000	General Fund	FY2015	Replacement
Pleasant Valley	Berryville	Virginia	1,000	\$ 80,000	General Fund	FY2015	Replacement
Jefferson	Valley	End	3,400	\$ 272,000	General Fund	FY2015	Replacement
S. Kent	Cork	Millwood	4,600	\$ 368,000	Utility Project/General Fund	FY2015	Replacement
Valley Avenue	Middle Road	City Limit	12,000	\$ 2,700,000	General Fund/Stormwater Utility/State Revenue Sharing	FY2015	New
				\$ 3,548,000			
N. Loudoun	Fairfax Ln	Wyck	3,800	\$ 304,000	Utility Project/General Fund	FY2016	Replacement
S. Loudoun	Cork	Gerrard	4,000	\$ 480,000	Utility Project/General Fund	FY2016	Replacement
Weems Lane	Valley	Roosevelt	3,800	\$ 855,000	General Fund/Stormwater Utility/State Revenue Sharing	FY2016	New
Middle Road	Valley	City Limit	8,400	\$ 1,890,000	General Fund/Stormwater Utility/State Revenue Sharing	FY2016	New
				\$ 3,529,000			
Amherst	Braddock	Boscawen	3,000	\$ 375,000	Utility Project/General Fund	FY2017	Replacement
Washington	Boscawen	Piccadilly	1,650	\$ 206,250	Utility Project/General Fund	FY2017	Replacement
Stewart	Boscawen	Amherst	720	\$ 90,000	Utility Project/General Fund	FY2017	Replacement
Parkway	Cork	Hollingsworth	3,800	\$ 304,000	Utility Project/General Fund	FY2017	Replacement
Shenandoah Avenue	Cork	Leicester	1,800	\$ 144,000	Utility Project/General Fund	FY2017	Replacement
Kinzel Drive	Christopher	End	3,000	\$ 240,000	Utility Project/General Fund	FY2017	Replacement
Allen Drive	Christopher	End	4,800	\$ 384,000	Utility Project/General Fund	FY2017	Replacement
Fox Drive	Amherst	City Limit	9,000	\$ 2,025,000	General Fund/Stormwater Utility/State Revenue Sharing	FY2017	New
				\$ 3,768,250			
N. Cameron	Baker	N. Loudoun	7,400	\$ 592,000	General Fund	FY2018	Replacement
Fairmont Avenue	Piccadilly	Wyck	5,600	\$ 448,000	Utility Project/General Fund	FY2018	Replacement
Braddock	Fairfax	Wyck	4,600	\$ 368,000	Utility Project/General Fund	FY2018	Replacement
Piccadilly	Washington	Morgan	1,350	\$ 108,000	Utility Project/General Fund	FY2018	Replacement
York Avenue	Valley	Packer	4,000	\$ 900,000	General Fund/Stormwater Utility/State Revenue Sharing	FY2018	New
Bellview Ave.	S. Loudoun	Valley	4,200	\$ 945,000	General Fund/Stormwater Utility/State Revenue Sharing	FY2018	New
				\$ 3,361,000			

**CITY OF WINCHESTER, VIRGINIA**

**PROPOSED CITY COUNCIL AGENDA ITEM**

**CITY COUNCIL/COMMITTEE MEETING OF: 8/13/13 CUT OFF DATE: \_\_\_\_\_**

**RESOLUTION   x   ORDINANCE    PUBLIC HEARING**

**ITEM TITLE:** Resolution to Amend and Readopt Sections 7.2 and 7.4 of the CEMS.

**STAFF RECOMMENDATION:** Approve/Adopt Resolution.

**PUBLIC NOTICE AND HEARING:** Not required.

**ADVISORY BOARD RECOMMENDATION:** N/A

**FUNDING DATA:** N/A

**INSURANCE:**

The initiating Department Director will place below, in sequence of transmittal, the names of each department that must initial their review in order for this item to be placed on the City Council agenda. The Director's initials for approval or disapproval address only the readiness of the issue for Council consideration. This does not address the Director's recommendation for approval or denial of the issue.

<u>DEPARTMENT</u>	<u>INITIALS FOR APPROVAL</u>	<u>INITIALS FOR DISAPPROVAL</u>	<u>DATE</u>
1. _____	_____	_____	_____
2. _____	_____	_____	_____
3. _____	_____	_____	_____
4. _____	_____	_____	_____
5. City Attorney	<i>JD</i>		<i>7/10/2013</i>
6. City Manager	<i>[Signature]</i>		<i>7-11-13</i>
7. Clerk of Council	_____	_____	_____

Initiating Department Director's Signature: *[Signature]* *[Signature]*  
Date  
 Joel Davis, Human Resources Director



# CITY COUNCIL ACTION MEMO

**To:** Honorable Mayor and Members of City Council  
**From:** Joel Davis, Human Resources Director  
**Date:** July 2, 2013  
**Re:** Amendment to Sections 7.2 and 7.4 of the CEMS

---

**THE ISSUE:** Sections 7.2 and 7.4 of the CEMS must be amended to comply with applicable requirements of the Code of Virginia.

**RELATIONSHIP TO STRATEGIC PLAN:** Goal 2 – Develop a High Performing Organization

**BACKGROUND:** On June 28, 2013, an employee challenged the City Manager's determination of non-grievability of a Written Reprimand issued for violation of Department and City Policy. Upon review, the Court determined that Written Reprimands should not be included as "non-grievable" under the City's Policy. The attached recommended revisions have been proposed to adjust the City's Policy accordingly.

**BUDGET IMPACT:**

None.

**OPTIONS:**

1. Implement the recommended revisions.
2. Do not change the existing policy.
3. Provide additional direction to staff, and/or take no action at this time.

**RECOMMENDATIONS:** Implement the recommended revisions.

## **A RESOLUTION TO AMEND AND RE-ADOPT SECTIONS 7.2 AND 7.4 OF THE WINCHESTER COMPREHENSIVE EMPLOYEE MANAGEMENT SYSTEM ("CEMS")**

WHEREAS, §15.2-1506 *et. seq.*, of the Code of Virginia authorizes municipalities to adopt a Personnel Policy including an employee grievance procedure to address disputes which may arise between employees and the City's Administration; and

WHEREAS, the City of Winchester has adopted such a Personnel Policy which is set forth in the Winchester Comprehensive Management System ("CEMS"); and

WHEREAS, certain amendments to Sections 7.2 and 7.4 of the CEMS are necessary in order to comply with the requirements of State Code provisions.

NOW therefore be it RESOLVED that Sections 7.2 and 7.4 of the CEMS are hereby amended and re-adopted as follows:

### **7.2.C. Forms of Disciplinary Action**

An employee suspected of violating policy may be placed on Administrative Leave with pay by the City Manager, pending the outcome of an investigation. This provides the Administration Department with the assistance of the Department Head time to investigate the complaint without financially harming the employee. All proposed disciplinary action must be approved by the Administration Director and City Attorney. When a complaint is founded, disciplinary action may take any of the following forms and is not necessarily restricted to the order set forth below:

➤ ~~Verbal Reprimand~~Oral Counseling - ~~A verbal reprimand~~Oral Counseling is not a form of disciplinary action. It may be used in lieu of formal disciplinary action by a supervisor in an effort to correct an employee's behavior without the imposition of formal discipline. An Oral Counseling is a discussion between the supervisor and the employee wherein the employee is advised and cautioned with reference to unsatisfactory work performance or misconduct. Department Heads should document all instances of ~~verbal counseling~~Oral Counseling and advise the Administration Director of aforementioned, ~~h-counseling~~. However, ~~this is~~Oral Counselings are not placed in the employee's official personnel file.

➤ **Written Reprimand** - A written reprimand is a written documentation to the employee from the supervisor wherein the employee is advised and cautioned with reference to unsatisfactory work performance or misconduct.

➤ **Suspension** - A suspension is the temporary removal from duty of an employee for cause. The suspension period shall be without pay.

➤ **Withholding of Merit Increase** - The withholding of a merit increase is the denial or postponement of any merit increase within the pay range of a class which is normally awarded upon the employee's completion of a prescribed period of successful job performance.

- **Administrative Decrease** - An administrative decrease is a reduction within the pay range of a class as a disciplinary action resulting from unsatisfactory job performance or misconduct. An administrative decrease requires a letter of justification submitted by the respective Department Head to the City Manager.
- **Disciplinary Demotion** - A disciplinary demotion is a reduction in the pay grade of an employee for disciplinary reasons in conjunction with a change in job duties and responsibilities. A disciplinary demotion may result in a transfer.
- **Discharge** - Discharge is the involuntary separation from employment initiated by the City as a result of an employee's unsatisfactory work performance or misconduct.
- **Decision Day** – The City may utilize the option of Decision Day in lieu of disciplinary action. An employee is instructed to take one day off with pay to decide if he wants to continue to work for the City. If the employee decides to resign from the City, he may do so voluntarily by submitting a written resignation. If the employee decides to continue working for the City, he signs an agreement to abide by all the rules and regulations of the employer. He is also advised that should additional misconduct occur or unsatisfactory performance continue, he will be subject to disciplinary action up to and including discharge.

#### **7.4.E. Matters Deemed Not Grievable**

Employees are advised that conditions of employment and law and policy established by the City Council are not grievable. By State law, wages, salaries, and fringe benefits, likewise, are not grievable. In addition, it is to be understood that the establishment of this procedure shall in no way remove the right of the City to do the following, provided however, that none of these rights may be exercised in an arbitrary or capricious manner:

1. Establishment and revision of wages or salaries, position classification or general benefits;
2. Work activity accepted by the employee as a condition of employment or work activity which may reasonably be expected to be a part of the job content;
3. The contents of ordinances, statutes or established personnel policies, procedures, rules and regulations;
4. Failure to promote except where the employee can show that established promotional policies or procedures were not followed or applied fairly;
5. The methods, means and personnel by which work activities are to be carried on except where such action affects an employee who has been reinstated within the previous six months as the result of the final determination of a grievance, discharge, layoff, demotion or suspension from duties because of lack of work, reduction in work force, or job abolition;

6. The hiring, promotion, transfer, assignment and retention of employees within the local government; and

7. The relief of employees from duties of the local government in emergencies.

8. ~~Verbal and written reprimands~~ Oral Counselings ~~which do not include performance requirements such as an Employee Improvement Plan, or a reduction in salary, pay grade, pay classification, rank, or a mandatory transfer unless the basis for the reprimand is alleged to be retaliation or discrimination.~~

In any grievance brought under the exception to Section 7.6 E 5 of this subsection, the action shall be upheld upon a showing by the local government that there was a valid business reason for the action, and the employee was notified of the reason in writing prior to the effective date of the action.

B-2013-35

CITY OF WINCHESTER, VIRGINIA

PROPOSED CITY COUNCIL AGENDA ITEM

CITY COUNCIL/COMMITTEE MEETING OF: July 16, 2013 CUT OFF DATE: \_\_

RESOLUTION X ORDINANCE \_\_\_ PUBLIC HEARING \_\_\_

ITEM TITLE: Resolution authorizing the Downtown Manager to sign and submit an application for a Downtown Improvement Grant to the Virginia Main Street Program

STAFF RECOMMENDATION: Approval

PUBLIC NOTICE AND HEARING: N/A

ADVISORY BOARD RECOMMENDATION: N/A

FUNDING DATA: N/A

INSURANCE: N/A

The initiating Department Director will place below, in sequence of transmittal, the names of each department that must initial their review in order for this item to be placed on the City Council agenda.

<u>DEPARTMENT</u>	<u>INITIALS FOR APPROVAL</u>	<u>INITIALS FOR DISAPPROVAL</u>	<u>DATE</u>
1. Finance	<u>B</u>		<u>7/9/13</u>
2. _____			
3. _____			
4. City Attorney	<u>[Signature]</u>		<u>7/10/2013</u>
5. City Manager			
6. Clerk of Council			

Initiating Department Director's Signature: [Signature] 7/9/13  
Downtown Manager Date



APPROVED AS TO FORM:  
[Signature] 7/10/2013  
CITY ATTORNEY

# CITY COUNCIL ACTION MEMO

**To:** Honorable Mayor and Members of City Council  
**From:** Jennifer Bell, Downtown Manager  
**Date:** July 16, 2013  
**Re:** Authorization for the Submittal of a Downtown Improvement Grant to the Virginia Main Street Program

---

**THE ISSUE:** The City will use the requested \$25,000 from this grant to provide a matching source of up to \$5,000 for façade loans in the downtown area.

**RELATIONSHIP TO STRATEGIC PLAN:** Supports the City's efforts in continuing the revitalization of Historic Old Town Winchester.

**BACKGROUND:** The Winchester EDA currently provides façade improvement loans in the Old Town area. Obtaining this grant will further entice the EDA's façade improvement program by providing matches of up to \$5,000 for eligible improvements.

**BUDGET IMPACT:** N/A

**OPTIONS:** Council can either approve or reject the City's pursuance of this grant.

**RECOMMENDATIONS:** It is the staff's recommendation that the City submits this grant application.

## **RESOLUTION**

**WHEREAS**, the City of Winchester has a desire to obtain a Downtown Improvement Grant, and

**WHEREAS**, the Virginia Main Street Program is accepting applications for the grant, and

**WHEREAS**, the City of Winchester strongly supports the need for the funds awarded by the grant and decrees to apply for assistance

**THEREFORE BE IT RESOLVED** that the City of Winchester is applying for the Downtown Improvement Grant through the Virginia Main Street program, and

**BE IT FURTHER RESOLVED** that the City of Winchester authorizes the Downtown Manager or a designee acting as program administrator to submit all information needed to apply for the grant, and

**BE IT FURTHER RESOLVED** that the City of Winchester authorizes the Downtown Manager or a designee acting as program administrator to carry out all program administrative and reporting requirements on its behalf.

B-2013-34

City of Winchester, Virginia

PROPOSED CITY COUNCIL AGENDA ITEM

CITY COUNCIL/COMMITTEE MEETING OF: July 26, 2013 CUT OFF DATE: \_\_\_\_\_

RESOLUTION X ORDINANCE \_\_\_\_\_ PUBLIC HEARING \_\_\_\_\_

ITEM TITLE:

FY 2014 VFIRS Hardware Grant Application

STAFF RECOMMENDATION: Winchester Fire and Rescue staff recommends approval to apply for this \$1,000 grant to be used for hardware to support of our record management software.

PUBLIC NOTICE AND HEARING:

ADVISORY BOARD RECOMMENDATION:

FUNDING DATA: No local money match required for this grant.

INSURANCE:

The initiating Department Director will place below, in sequence of transmittal, the names of each department that must initial their review in order for this item to be placed on the City Council agenda. The Director's initials for approval or disapproval address only the readiness of the issue for Council consideration. This does not address the Director's recommendation for approval or denial of the issue.

<u>DEPARTMENT</u>	<u>INITIALS FOR APPROVAL</u>	<u>INITIALS FOR DISAPPROVAL</u>	<u>DATE</u>
1. <u>Finance</u>	<u>[Signature]</u>	_____	<u>7-11-13</u>
2. <u>Information Technology</u>	<u>[Signature]</u>	_____	<u>7-11-13</u>
3. _____	_____	_____	_____
4. _____	_____	_____	_____
5. <u>City Attorney</u>	<u>[Signature]</u>	_____	<u>7/11/2013</u>
6. <u>City Manager</u>	<u>[Signature]</u>	_____	<u>[Signature]</u>
7. <u>Clerk of Council</u>	_____	_____	_____

Initiating Department Director's Signature: [Signature] Date: 7/11/13



APPROVED AS TO FORM:

CITY ATTORNEY

# CITY COUNCIL ACTION MEMO

**To:** Honorable Mayor and Members of City Council

**From:** Allen Baldwin, Fire Chief

**Date:** July 10, 2013

**Re:** Virginia Fire Service Board FY 2014 VFIRS Hardware Grant Application

---

**THE ISSUE:** Seeking approval from council to apply for a \$1,000 grant from the Virginia Fire Service Board. If awarded this Hardware Grant funding would be used to support the current Fire and Rescue electronic record management software.

**RELATIONSHIP TO STRATEGIC PLAN:** Goal 2 – Develop a High Performing City Organization Objective 3 – Upgrade, increase the use of information technology to increase productivity and engage the customer

**BACKGROUND:** Annual grant that we have received before. This is a funding source that does not require any revenue fund match from the City's general fund allowing for the purchase of hardware that may otherwise not be considered due to economical restraints.

**BUDGET IMPACT:** This will have no budget impact as there is no local money match required.

**OPTIONS:**

**RECOMMENDATIONS:** Staff recommends approval to apply for the FY 2014 VFIRS grant.

*I, Kari J. Van Diest, Deputy Clerk of the Common Council, hereby certify on this \_\_\_\_ day of \_\_\_\_\_, 2013 that the following Resolution is a true and exact copy of one and the same adopted by the Common Council of the City of Winchester, assembled in regular session on the \_\_\_\_ day of \_\_\_\_\_, 2013.*

**Virginia Fire Incident Reporting System FY 2014 Hardware Grant**

Winchester Fire and Rescue would like to place application with the Virginia Department of Fire Programs for the 2014 Virginia Fire Incident Reporting System 2014 Hardware Grant to assist with funding for the Fire and Rescue electronic record management software.

**WHEREAS**, the Common Council recognizes the importance of public safety and the importance of critically need to maintain records and protect the privacy of the public; and

**WHEREAS**, the Winchester Fire and Rescue Department is committed to providing a variety of emergency services to prevent the loss of life and property and maintaining the required records and documentation; and

**WHEREAS**, the Winchester Fire and Rescue Department is seeking approval and support to apply for the FY 2014 VFIRS Hardware Grant. If the grant is awarded the funds received would be used to purchase hardware to support our current electronic record management system software; and

**NOW THEREFORE BE IT RESOLVED**, that the Common Council of the City of Winchester, Virginia does hereby support the application for the VFIRS Hardware to be submitted by the Winchester Fire and Rescue Department and authorizes the receipt of funding if the grant is selected, and authorizes the City Manager to sign all necessary documents to execute this grant application.

Resolution No. 2013-\_\_

**ADOPTED** by the Common Council of the City of Winchester on the \_\_\_\_ day of \_\_\_\_\_, 2013.

*Witness my hand and the seal of the City of Winchester, Virginia*

*Kari J. Van Diest  
Deputy Clerk of the Common Council*

# CITY OF WINCHESTER, VIRGINIA

## PROPOSED CITY COUNCIL AGENDA ITEM

CITY COUNCIL/COMMITTEE MEETING OF: 7.17.2013 CUT OFF DATE: \_\_\_\_\_

RESOLUTION   x   ORDINANCE      PUBLIC HEARING     

**ITEM TITLE:** 2013 Local Emergency Performance Grant

**STAFF RECOMMENDATION:** : Apply for and Accept Proceeds of Grant

**PUBLIC NOTICE AND HEARING:** : N/A

**ADVISORY BOARD RECOMMENDATION:** : N/A

**FUNDING DATA:** 1:1 Match through existing budget funding

**INSURANCE:** N/A

The initiating Department Director will place below, in sequence of transmittal, the names of each department that must initial their review in order for this item to be placed on the City Council agenda. The Director's initials for approval or disapproval address only the readiness of the issue for Council consideration. This does not address the Director's recommendation for approval or denial of the issue.

<u>DEPARTMENT</u>	<u>INITIALS FOR APPROVAL</u>	<u>INITIALS FOR DISAPPROVAL</u>	<u>DATE</u>
1. _____	_____	_____	_____
2. _____	_____	_____	_____
3. _____	_____	_____	_____
4. _____	_____	_____	_____
5. City Attorney	<i>[Signature]</i>	_____	7/17/2013
6. City Manager	<i>[Signature]</i>	_____	7-18-13
7. Clerk of Council	_____	_____	_____

Initiating Department Director's Signature: *[Signature]* Date: 7-17-2013



**APPROVED AS TO FORM:**  
*[Signature]*  
**CITY ATTORNEY**

# CITY COUNCIL ACTION MEMO

**To:** Honorable Mayor and Members of City Council  
**From:** L. A. Miller, Emergency Management Coordinator  
**Date:** August 13, 2013  
**Re:** Local Emergency Performance Grant

---

**THE ISSUE:** Application and Acceptance of proceeds awarded through the Local Emergency Performance Grant - 2013 (LEPG-2013)

**RELATIONSHIP TO STRATEGIC PLAN:** Supports Emergency Management Program and relates to Strategic Plan Goal 2 as it supports Public Safety as enhances the quality of City workforce as well as teamwork and collaboration among City departments.

**BACKGROUND:** The LEMPG of which the City of Winchester has been the recipient for a number of years assist in supporting the Emergency Management program of the city. The LEMPG-2013 Grant was presented to City Council during their regularly scheduled work session July 23, 2013. At that time Council indicated interest in the grant and advised such should be moved on for consideration during the regular Council Meeting of August 13, 2013.

**BUDGET IMPACT:** The grant provides proceeds in the amount of \$8905 on a matching basis to conduct and support the Emergency Management program of the City. The match is obtained from existing Emergency Management funding and requires no additional funding

**OPTIONS:** Accept or Decline Grant

**RECOMMENDATIONS:** Staff recommends that City Council permit the City Manager to review and execute all necessary documents to apply for and accept the proceeds of the 2013 LEPG

**A RESOLUTION TO AUTHORIZE THE APPLICATION OF  
THE 2013 LOCAL EMERGENCY MANAGEMENT  
PERFORMANCE GRANT TO SUPPORT THE WINCHESTER  
EMERGENCY MANAGEMENT PROGRAM**

**WHEREAS**, the Virginia Department of Emergency Management has made available a grant opportunity to support local Emergency Management Programs; and

**WHEREAS**, the Winchester Department of Emergency Management strives to maintain an active and comprehensive Emergency Management Program, and

**WHEREAS**, the City of Winchester has qualified for and been the recipient of the Local Emergency Performance Grant for many years; and

**WHEREAS**, the Emergency Management Program within the City of Winchester is vital to the overall Public Safety Program of the community; and

**WHEREAS**, the Common Council of the City of Winchester is a strong proponent of Public Safety within the community.

**NOW THEREFORE, BE IT RESOLVED** that the Common Council of the City of Winchester, Virginia hereby authorizes the City Manager to apply for and accept the Local Emergency Management Performance Grant for 2013 and to sign all necessary and appropriate documents related to the grant.

B-2013-37

CITY OF WINCHESTER, VIRGINIA

PROPOSED CITY COUNCIL AGENDA ITEM

CITY COUNCIL MEETING OF: 7/23/13 (work session), CUT OFF DATE: 7/17/13
8/13/13 (regular mtg)

RESOLUTION X ORDINANCE PUBLIC HEARING

ITEM TITLE:
A RESOLUTION TO ACCEPT CLG GRANT FUNDING THROUGH THE VIRGINIA DEPARTMENT OF HISTORIC RESOURCES FOR THE PURPOSES OF AMENDING AND EXPANDING THE NATIONALLY-DESIGNATED WINCHESTER HISTORIC DISTRICT, AMENDING THE PERIOD OF SIGNIFICANCE, AND ESTABLISHING CIVIL WAR INTERPRETIVE SIGNAGE.

STAFF RECOMMENDATION:
Approval to accept 2nd round CLG grant funding.

PUBLIC NOTICE AND HEARING:
N/A

ADVISORY BOARD RECOMMENDATION:
N/A

FUNDING DATA: The grant proposals include up to a \$3,500 local match.

INSURANCE: N/A

The initiating Department Director will place below, in sequence of transmittal, the names of each department that must initial their review in order for this item to be placed on the City Council agenda.

Table with 4 columns: DEPARTMENT, INITIALS FOR APPROVAL, INITIALS FOR DISAPPROVAL, DATE. Rows include Zoning & Inspections, City Attorney, City Manager, and Clerk of Council.



Initiating Department Director's Signature: (Planning) [Signature] 7/17/13



APPROVED AS TO FORM

[Signature] 7/17/13 CITY ATTORNEY

**A RESOLUTION TO ACCEPT CLG GRANT FUNDING THROUGH THE VIRGINIA DEPARTMENT OF HISTORIC RESOURCES FOR THE PURPOSES OF AMENDING AND EXPANDING THE NATIONALLY-DESIGNATED WINCHESTER HISTORIC DISTRICT, AMENDING THE PERIOD OF SIGNIFICANCE, AND ESTABLISHING CIVIL WAR INTERPRETIVE SIGNAGE.**

**WHEREAS**, in accordance with §15.2-2306 of the Code of Virginia (1950), et seq., the City of Winchester is enabled to preserve historical sites and architectural areas as defined within §15.2-2201 of the Code of Virginia (1950), et seq.; and,

**WHEREAS**, a committee appointed by the Common Council of the City of Winchester, known as the Historic Winchester District Design Guidelines Review Committee reviewed the current standards, practices, procedures, and district boundaries; and, within a report of their findings dated February 1, 2010, recommended that the City Council approve funding for the completion of an expansion to the nationally-designated Winchester Historic District; and,

**WHEREAS**, the City has recently utilized CLG grant funds to undertake a thorough survey of resources within the existing nationally-designated Winchester Historic District, as well as within potential expansion areas, and has completed a Preliminary Information Form recommending a change in the Period of Significance; and,

**WHEREAS**, the City of Winchester is recognized as a Certified Local Government within the Commonwealth of Virginia; and, as such, is eligible to apply for and receive grant funding through the Virginia Department of Historic Resources for the expressed purposes of cultural resource surveys, among other projects; and,

**WHEREAS**, the City Manager or his designee submitted grant applications for the purposes of amending and expanding the Nationally-Designated Winchester Historic District, amending the period of significance, and establishing Civil War Interpretive Signage.

**NOW THEREFORE BE IT RESOLVED** by the Common Council of the City of Winchester that the City Manager or his designee accept the grants and execute any documents requiring execution by the City of Winchester.

0-2013-25

CITY OF WINCHESTER, VIRGINIA

PROPOSED CITY COUNCIL AGENDA ITEM

CITY COUNCIL MEETING OF: 7/23/13 (work session), CUT OFF DATE: 7/17/13
8/13/13(1st Reading) 9/10/13 (2nd reading)

RESOLUTION \_\_\_ ORDINANCE X PUBLIC HEARING X

ITEM TITLE:

RZ-13-196 AN ORDINANCE TO REZONE 8.523 ACRES OF LAND AT 1900 VALLEY AVENUE, 211 AND 301 WEST JUBAL EARLY DRIVE FROM LIMITED INDUSTRIAL (M-1), HIGH DENSITY RESIDENTIAL (HR), AND HIGHWAY COMMERCIAL (B-2) DISTRICTS TO B-2 DISTRICT WITH PLANNED UNIT DEVELOPMENT (PUD) OVERLAY.

STAFF RECOMMENDATION:

Approval if impacts sufficiently mitigated

PUBLIC NOTICE AND HEARING:

Public hearing for 9/10/13 Council mtg

ADVISORY BOARD RECOMMENDATION:

Planning Commission recommended approval on a vote of 4-2-1.

FUNDING DATA: N/A

INSURANCE: N/A

The initiating Department Director will place below, in sequence of transmittal, the names of each department that must initial their review in order for this item to be placed on the City Council agenda.

Table with 4 columns: DEPARTMENT, INITIALS FOR APPROVAL, INITIALS FOR DISAPPROVAL, DATE. Rows include Zoning & Inspections, Economic Development, City Attorney, City Manager, and Clerk of Council.

Initiating Department Director's Signature: [Signature] 7/17/13 (Planning)



APPROVED AS TO FORM: [Signature] CITY ATTORNEY

\* SUBJECT TO LEOP PENDING

# CITY COUNCIL ACTION MEMO

**To:** Mayor and Members of City Council

**From:** Tim Youmans, Planning Director

**Date:** August 2, 2013

**Re:** **RZ-13-196** AN ORDINANCE TO REZONE 8.523 ACRES OF LAND AT 1900 VALLEY AVENUE, 211 AND 301 WEST JUBAL EARLY DRIVE FROM LIMITED INDUSTRIAL (M-1), HIGH DENSITY RESIDENTIAL (HR), AND HIGHWAY COMMERCIAL (B-2) DISTRICTS TO B-2 DISTRICT WITH PLANNED UNIT DEVELOPMENT (PUD) OVERLAY.

## **THE ISSUE:**

Mr. Wm Park wishes to conditionally rezone 8.5 acres along the south side of W. Jubal Early Drive to B-2 with PUD overlay in order to construct 140 apartment units and a community building known as Jubal Square. The project is depicted on a required Development Plan and nine proffers have been included in a binding Proffer Statement.

## **RELATIONSHIP TO STRATEGIC PLAN:**

Goal 4: Create a more liveable city for all

Vision 2028- Great neighborhoods with a range of housing choices

Policy Agenda- School funding: Direction, Proposal, Decision (see 'Budget Impact' below)

## **BACKGROUND:**

See attached staff report (updated to reflect 7-16-13 version of Proffer Statement)

## **BUDGET IMPACT:**

This project could generate school-aged children impacting attendance at City schools. There are no enforceable proffers to mitigate the potential impact on education expenses. Also, City's ability to realize long-term revenue from BPOL and/or sales tax associated with commercial use developed under existing B-2 and M-1 zoning would be lost. However, new high-quality multifamily development would generate direct and indirect revenue and create more demand for commercial development elsewhere.

## **OPTIONS:**

- Approve rezoning as proposed
- Deny; leave existing M-1, B-2 and HR zoning in place

## **RECOMMENDATIONS:**

Planning Commission recommended approval as proffered.

The ordinance was reviewed at the July 23, 2013 Council work session. Many concerns were raised by councilors regarding the impact on City schools. There were questions about the fiscal impact statement. A suggestion was made to have the tenants sign an acknowledgement of the adjacent industrial operation and ensure that a fence is provided between the two sites.

**RZ-13-196 AN ORDINANCE TO REZONE 8.523 ACRES OF LAND AT 1900 VALLEY AVENUE, 211 AND 301 WEST JUBAL EARLY DRIVE FROM LIMITED INDUSTRIAL (M-1), HIGH DENSITY RESIDENTIAL (HR), AND HIGHWAY COMMERCIAL (B-2) DISTRICTS TO B-2 DISTRICT WITH PLANNED UNIT DEVELOPMENT (PUD) OVERLAY.**

---

#### REQUEST DESCRIPTION

The updated request is to change the underlying zoning on two of the 3 tracts of mostly vacant land along the south side of W. Jubal Early Drive from M-1 and HR to B-2 subject to proffers. An existing light industrial and warehouse structure at 1900 Valley Avenue would be demolished to make way for an apartment complex known as Jubal Square. The request includes requesting PUD overlay zoning on all 3 tracts. PUD allows for consideration of up to 18 residential units per acre; the proposal is for 140 apartment units on 8.523 acres. A community building with outdoor pool is also proposed.

The latest submitted Development Plan dated March 23, 2013 with updates of April 19, 2013, May 16, 2013 and July 1, 2013 depicts 140 apartment units in six buildings. Four of the buildings are three stories and contain 22 apartments each. The other two buildings are "3/4 split story" and house 26 apartments each. The 4<sup>th</sup> floor is in the form of a small loft in the 3<sup>rd</sup> floor units rather than a full 4<sup>th</sup> floor. A separate community building housing management and maintenance offices as well as recreational amenities is proposed near the center of the development along with a 2,732 square foot outdoor pool and large patio area. All of the active outdoor recreational facilities and open space would remain private. An access easement would be granted to the City for public use of a segment of the Green Circle Trail that would extend along the 1,200 linear feet of W. Jubal Early Drive.

#### AREA DESCRIPTION

The somewhat triangular site comes to a long narrow point on the east end a couple of hundred feet west of Plaza Drive intersection with W. Jubal Early Drive. Two of the three present-day parcels front along the south side of W. Jubal Early Drive a collective distance of approximately 1,200 linear feet. However, the westernmost 60 feet of this frontage is proposed to be severed from the parcel currently known as 301 W. Jubal Early Drive and assembled in with properties at the southeast corner of Jubal Early Drive and Valley Avenue including a vacant parcel known as 1834 Valley Ave and a parcel known as 1844 Valley Avenue containing an existing historic structure known as Montague Hall.



The adjoining properties at 1834 and 1844 Valley Ave are zoned B-2 with Corridor Enhancement (CE) District overlay. A second-hand thrift store is located in the Montague Hall structure. Further south on Valley Ave are three more properties zoned B-2 with CE overlay that are vacant or contain auto-related commercial uses including the Citgo gas station and convenience store at the corner of Valley Ave and

Service Rd (a public street created by VDOT when Jubal Early Dr right of way condemnation otherwise severed street frontage to lots in behind the Valley Ave frontage lots). South of Service Rd and adjoining the rezoning tract are three more B-2 (CE) commercial sites that are developed with a used car lot, an ice cream distribution facility, and a vacant restaurant structure.

All of the land bordering the rezoning tract to the south is zoned Intensive Industrial (M-2). Uses include a private roadway connecting to Valley Ave known as Heinz Drive which provides access to multiple sites including the O'Sullivan Calendaring facility. A large metal-sided warehouse structure is situated very close to the property line of the rezoning tract where it narrows down on the east end. The industrially zoned land adjoining the closest proposed apartment building is lawn area serving as green area near an employee parking lot.

#### STAFF COMMENTS

In a letter to the Planning Director dated April 3, 2013, Mr. William N. Park, Manager for the applicant (Bluestone Land, LLC) explains the proposed rezoning and the proposed Jubal Square Apartment Complex project. The application was amended on May 17, 2013 to include a Proffer Statement. **The Proffer Statement was further amended on July 16, 2013 as presented at the Planning Commission meeting.** A four-page Development Plan titled 'PLAN OF DEVELOPMENT, JUBAL SQUARE APARTMENTS' dated March 23, 2013 including updates of April 19, 2013 May 16, 2013, and **July 1, 2013** is included with the application.

#### Comprehensive Plan Consistency

The Comprehensive Plan Character Map identifies the majority of the subject area as 'Redevelopment Site' with a small amount of the eastern area as 'Commerce Center/Corridor'. Statements in Chapter 11 of the Plan applicable to the Central Planning Area and the South Central Planning Area call for interconnected commercial development which uses Valley Avenue for primary access and also makes use of right-in/right-out access along the north and south sides of Jubal Early Drive. The Housing Objective for the South Central Planning Area calls for mixed use development including mixed dwelling-type residential use in higher density settings. The Comprehensive Plan also calls for increased multifamily development citywide to attract young professionals and empty nesters. The proposed upscale apartments would serve these targeted populations.

The W. Jubal Early Drive corridor has undergone considerable development over the past 26 years since it was constructed in 1992 as a four-lane divided roadway connecting S. Pleasant Valley Rd to Valley Avenue (including the bridge over the CSX Railroad). However, all of the development to date has been nonresidential, including commercial strip development, offices, banks, furniture stores, and industrial use. This is the only residential use proposed to date along Jubal Early Drive, including the stretch west of Valley Avenue that transitions into Meadow Branch Avenue where single-family homes are located in the Meadow Branch North PUD.

#### Potential Impacts & Proffers

The applicant has submitted voluntarily proffers to mitigate potential impacts arising from the rezoning of the property from M-1 and HR to B-2(PUD). This is comparable to the recently denied Racey Meadows Rezoning request HR(PUD) request for 132 apartments which included a Proffer Statement. The Racey Meadows Proffer Statement was structured to address areas including: Street and Access

Improvements; Interior Site Circulation; Site Development; Landscaping and Design; Recreation, Density; Phasing; Rules and Regulations; and, Storm water Management.

The **July 16, 2013** version of the Proffer Statement for Jubal Square includes 9 proffers which are attached. Proffers # 1, and #4-7 are references to the submitted Development Plan. With the exception of the commitment to build the additional 5 feet of width of Green Circle Trail in updated Proffer #7, they do not address any impacts beyond which were already addressed with the mandatory Development Plan itself. Proffers #2&3 assure substantial conformity with submitted building elevations, specifically the elevations of the two buildings that would back up close to W. Jubal Early Drive. These two proffers do mitigate potential negative impacts related to quality of development and specifically the aesthetics of the new structures visible from one of the City's major east-west transportation corridors. Proffer #8 references rules and regulations to ensure quality of the apartment complex. A draft set of Rules and Regulations was submitted on July 1, 2013. Proffer #9 was added on July 16, 2013 and proposes preferential tenant selection for the twenty 3-bedroom units. It proposes "preference to any person that 1) currently resides in the City of Winchester, or 2) is a student and/or employee of Shenandoah University." This last proffer attempts to mitigate the impacts of new families with school-aged population impacting public schools.

The Planning Commission required submittal of both a Fiscal Impact Analysis and a Traffic Impact Analysis which are two studies that can be required by the Planning Commission for a PUD rezoning application per Sections 13-4-2.2k and l of the Zoning Ordinance.

#### Fiscal Impact Analysis

The applicant submitted a Fiscal Impact Analysis on May 17, 2013 titled "Fiscal and Economic Impacts Analysis, Jubal Square Apartments, Winchester, Virginia. The analysis was prepared by S. Patz and Associates, Inc. for Mr. William Park of Pinnacle Construction and Development Corporation. The analysis describes the impacts on City revenue and expenditures generated by the project as compared to revenue and expenditures arising from development allowed under the current B-2, M-1, and HR zoning.

The Fiscal Impact Analysis notes that the 140-unit apartment development would cause an on-site deficit to the City in the amount of \$36,000 annually. However, the study projects off-site revenue benefits to businesses totaling almost \$8M annually which would create a net revenue surplus of \$69,000. Collectively, the project would yield a net revenue surplus of \$33,000 per year. A project that incorporates mixed use (residential AND commercial) is recommended in the Comprehensive Plan and would have a more positive fiscal impact.

#### Traffic Impact Analysis

A simple 1.5-page Traffic Impact Analysis dated May 1, 2013 has been submitted for review. The study estimates the peak traffic volumes for permitted commercial development on 301 W. Jubal Early Dr such as restaurant, pharmacy and drive-in bank under current zoning. It also estimates peak traffic volume for the two M-1 zoned parcels with uses such as light industrial, warehousing, and manufacturing. The cumulative volumes associated with uses under current zoning are then compared to the estimated traffic volume associated with a 140-unit apartment development. The study concludes that the potential peak volume from typical uses under the existing zoning is about 2.6 times greater than the volume from the proposed development.

The traffic impact study does not investigate potential impacts on the adjoining public street network, particularly at Valley Avenue where left turn movements would be permitted into and out of the development via Service Road. The City's Public Services Director reviewed the project and provided the following response in a June 28, 2013 memorandum:

*The proposed development will also have access to Valley Avenue via Service Road, approximately 500-feet south of the Valley/Jubal Early intersection. a. There will be times during the peak traffic hours that it may be difficult for motorists turning left from Service Road onto southbound Valley Avenue. There are also brief periods when northbound traffic on Valley may back up to Service Road due to the traffic signal. However, based on similar situations in other locations of the City, I do not believe either of these conditions would warrant restricting left turns from Service Road.*

*Based on the traffic projections provided, the traffic from the proposed complex will not warrant a traffic signal at the Service Road/Valley intersection. The additional traffic created on Valley Avenue may require some adjustments to the current signal timing at the Valley/Jubal Early signal.*

*I do recommend restricting parking on the south side of Service Road near the Valley intersection and adding striping to create a left turn lane and right turn lane for traffic turning onto Valley Avenue.*

*In summary, based on the traffic projections provided and similar developments in other areas of the City, I believe the existing traffic network will operate at acceptable levels with the construction of this proposed complex and I do not feel that a more detailed traffic study should be required at this time.*

The development site is very close to Valley Avenue where public transportation is available in the form of bus service. The site would also have direct access to the Green Circle Trail for those walking or biking. The applicant has proposed granting a 10-foot wide easement for the Green Circle Trail as shown on the Development Plan and as stipulated in Proffer # 7. The developer has now also proffered to construct the additional 5 feet of asphalt trail needed to convert the existing concrete sidewalk into a multi-purpose (bike and pedestrian) trail.

Consistent with the Comprehensive Plan, an interparcel connection is now shown on Sheets 3 & 4 of the Development Plan to provide access between the proposed overflow parking lot in the northwest corner of the apartment development and the adjacent B-2 land owned by Mr. Pifer near the intersection of Jubal Early Drive and Valley Avenue.

#### Site Development and Buffering

The Development Plan depicts 140 apartment units in six buildings. Two of the buildings would back up to W. Jubal Early Drive where the Green Circle Trail is proposed. Staff noted the need for buffering to screen the first floor bedrooms in these buildings. The applicant is not proposing any balconies on any of the buildings. One of the buildings backs up close to the commercial development in behind the Citgo Station. Two other buildings back up close to the O'Sullivan M-2 Intensive Industrial site. Evergreen screening is depicted on the updated Development plan along the western edge of the PUD as well as along Jubal Early Drive and the southern interface with the industrial site.

#### Recreation and Open Space

The applicant is proposing an outdoor pool and patio area near the community building that would house management offices as well as some indoor recreation use. Proffer #6 notes the inclusion of the pool, clubhouse and fitness center as part of the amenities offered to residents of Jubal Square. The plan

also depicts the segment of the Green Circle Trail that is called for along the W. Jubal Early Drive frontage.

#### Storm water Management

Storm water management is noted on the front sheet of the Development Plan and simply reads: "All storm water runoff will be directed to existing storm sewers. A new storm water management basin located on-site will control post-development runoff to the historical levels of pre-development for the 2- and 10-year storm events."

#### Density

The applicant proposes 24 one-bedroom units, 88 two-bedroom units with no den, 8 two-bedroom units with a den, and 20 three-bedroom units. PUD overlay allows for consideration of up to 18 dwelling units per acre, which in the case of 8.523 acres would translate to a maximum of 153 dwelling units. The applicant is proposing 140 dwelling units. The actual project density comes out to 16.4 units per acre.

#### Community Rules and Regulations

Proffer #8 references rules and regulations for the development. These rules and restrictions will be included with the apartment leases and will ensure that the project meets high standards for maintenance and management of the complex. Proffer #9 spells out guidelines for tenant selection specifically applicable to occupancy of the three-bedroom units.

#### Project Phasing

The applicant has indicated that there is no proposal to phase in the project as part of the PUD rezoning.

#### Other Issues

The applicant has addressed all of the requirements for a complete PUD proposal as spelled out in Section 13-4 of the Zoning Ordinance.

Two letters were sent from Mr. Denis Belzile, President & CEO of O'Sullivan Films to the Planning Director. The first one is dated June 17, 2013 and was received on June 17, 2013. In that letter, concerns are raised regarding the merit of establishing 140 residential units in close proximity to the existing multi-shift industrial operation. Mr. Belzile notes recent expansion at the industrial site and the possibility of further expansion. The second letter was received via email just before the Planning Commission meeting on July 16, 2013 and summarizes discussions that O'Sullivan representatives had with City staff as well as the developer. In that letter Mr. Belzile expresses added concern about the potential adverse impacts of the rezoning.

Emails and letters of support for the project were received on July 9, 2013 from Mr. Craig Stilwell, Executive VP at City National Bank which has a branch bank under construction across the street, as well as an email on July 15, 2013 from Mr. Randy Kremer, President of Rugs Direct.

An email was received on July 15, 2013 from Tracy Fitzsimmons, President of Shenandoah University. In the email, she notes the City's consideration of requests to build housing in the City. She asks that City Council and staff consider that there are about 3,500 Shenandoah University students being educated on one of the Winchester campuses and that the University currently only has housing for about 915 students on campus.

### Design Quality

Elevations and floor plans have been submitted for this rezoning proposal and the elevations are proffered as contained in Proffers #2 & 3. The site is not situated within any existing or proposed Corridor Enhancement (CE) District. While building elevations and floor plans are not explicitly required for PUD applications, Section 13-4-2 of the WZO states that the Development Plan shall contain supplementary data for a particular development, as reasonably deemed necessary by the Planning Director. The submitted typical floor plans depict the size and configuration of the various unit types, including the 3<sup>rd</sup> floor units in the larger buildings that include a 4<sup>th</sup> floor loft.

Six garage bays are provided on the ground floor of each of the four 22-unit buildings. The garages are completely independent of the apartments and have access to an internal hallway as well as to the parking lot via an overhead door. The submitted elevations incorporate brick into the exterior finish on the ground level, but staff has requested that the applicant at least incorporate brick into the upper levels of the two buildings on the elevations that face W. Jubal Early Drive.

### RECOMMENDATION

Generally, staff feels that the proposal is consistent with many of the broader elements of the City's long-term vision to attract more young professionals and empty-nesters to the City. The location of the project relative to the Green Circle Trail and to public transportation makes it attractive for residential development. The proximity to O'Sullivan Films industrial operation makes it less attractive for residential. Consistent with the Comprehensive Plan, the Development Plan now depicts interconnected commercial along the south side of Jubal Early Drive in this area. The Housing Objective for the South Central Planning Area calls for mixed use development including mixed dwelling-type residential use in higher density settings. The applicant has now committed to constructing the remainder of the travelway needed to support a 10-foot wide multi-modal Green Circle Trail along the subject Jubal Early Drive frontage.

Planning Commission held a public hearing on the request at the May 21, 2013 regular meeting. The request was tabled at the applicant's request as stated in an email received in the morning of May 21, 2013. The applicant wanted to give the Commissioners additional time to review the revised plans, newly submitted fiscal impact analysis, and proffer statement. The Commission tabled the request until the June 18<sup>th</sup> regular meeting. The applicant subsequently requested further tabling at the June 18<sup>th</sup> meeting. The request was acted upon by the Commission at the July 16<sup>th</sup> meeting in order to comply with time limits established in State Code.

On July 16, 2013, the Planning Commission voted 4-2-1 (Wiley & Shickle opposed, and McKannan abstaining) to forward Rezoning **RZ-13-196** to City Council recommending approval because the proposed B-2 (PUD) zoning, supports the expansion of housing serving targeted populations on a Redevelopment Site as called out in the Comprehensive Plan. The recommendation is subject to adherence with the Development Plan titled 'PLAN OF DEVELOPMENT, JUBAL SQUARE APARTMENTS' dated March 23, 2013 including updates of April 19, 2013, May 16, 2013, and July 1, 2013 as well as the Proffer Statement received on July 16, 2013.

City Council may adopt the ordinance as recommended by Planning Commission or disapprove it. If Council is unfavorable to the recommendation made by the Planning Commission, then it should publicly state the reasons. Among the reasons to disapprove the proposed B-2 (PUD) zoning as submitted are:

The rezoning: *{pick any or all of the following}*

- a) does not represent a mixed use redevelopment proposal advocated in the Comprehensive Plan;
- b) is less desirable than the existing B-2, M-1 and HR zoning, particularly given the close proximity of existing industrial use,
- c) lacks enforceable measures to mitigate potential negative impacts associated with multifamily development, particularly potential impacts on schools associated with 3-bedroom units.

AN ORDINANCE TO REZONE 8.523 ACRES OF LAND AT 1900 VALLEY AVENUE, 211 AND 301 WEST JUBAL EARLY DRIVE FROM LIMITED INDUSTRIAL (M-1), HIGH DENSITY RESIDENTIAL (HR), AND HIGHWAY COMMERCIAL (B-2) DISTRICTS TO B-2 DISTRICT WITH PLANNED UNIT DEVELOPMENT (PUD) OVERLAY

**RZ-13-196**

**WHEREAS**, the Common Council has received an application from Bluestone Land, LLC on behalf of Braddock Partnership and 1900 Valley, L.C. to rezone property at 1900 Valley Avenue, 211 and 301 West Jubal Early Drive from Limited Industrial (M-1), High Density Residential (HR), and Highway Commercial (B-2) Districts to B-2 District with Planned Unit Development (PUD) Overlay; and,

**WHEREAS**, the Planning Commission forwarded the request to Council on July 16, 2013 recommending approval of the rezoning request as depicted on an exhibit entitled "*Rezoning Exhibit RZ-13-196 Prepared by Winchester Planning Department June 4, 2013*" because the proposed B-2 (PUD) zoning, supports the expansion of housing serving targeted populations on a redevelopment site and calls for interconnected commercial development which uses Valley Avenue for primary access and also makes use of right-in/right-out access along the south side of Jubal Early Drive as called out in the Comprehensive Plan. The recommendation is subject to adherence with the Development Plan titled 'PLAN OF DEVELOPMENT, JUBAL SQUARE APARTMENTS' dated March 23, 2013 including updates of May 16, 2013 and July 1, 2013 as well as the submitted proffers received July 16, 2013; and,

**WHEREAS**, a synopsis of this Ordinance has been duly advertised and a Public Hearing has been conducted by the Common Council of the City of Winchester, Virginia, all as required by the Code of Virginia, 1950, as amended, and the said Council has determined that the rezoning associated with this property herein designated supports the expansion of housing serving targeted populations on a redevelopment site and calls for interconnected commercial development which uses Valley Avenue for primary access and also makes use of right-in/right-out access along the south side of Jubal Early Drive as called out in the Comprehensive Plan.

**NOW, THEREFORE, BE IT ORDAINED** by the Common Council of the City of Winchester, Virginia that the following land is hereby rezoned from the existing zoning designations of Limited Industrial (M-1), High Density Residential (HR), and Highway Commercial (B-2) Districts to B-2 District with Planned Unit Development (PUD) Overlay:

Approximately 8.523 acres of land at 1900 Valley Avenue, 211 and 301 West Jubal Early Drive as depicted on an exhibit entitled "*Rezoning Exhibit RZ-13-196 Prepared by Winchester Planning Department June 4, 2013*".

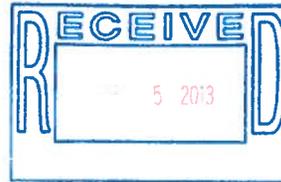
**BE IT FURTHER ORDAINED** by the Common Council of the City of Winchester, Virginia that the rezoning is subject to adherence with the Development Plan titled 'PLAN OF DEVELOPMENT, JUBAL SQUARE APARTMENTS' dated March 23, 2013 including updates of May 16, 2013 and July 1, 2013 as well as the submitted proffers received July 16, 2013 .

## Bluestone Land, L.L.C.

1871 Avon Street, Suite 200 Charlottesville, Virginia 22902  
Phone: 434-979-7900 Fax: 434-979-0001

April 3, 2013

City of Winchester, VA  
Rouss City Hall  
Planning and Zoning Department  
Attn: Tim Youmans, Planning Director  
15 North Cameron Street  
Winchester, VA 22601



Re: Application for Rezoning  
Jubal Square Apartments  
1900 Valley Avenue  
Tax Map Parcels: 251-01-27; 251-01-31; 251-04-01

Dear Mr. Youmans,

Enclosed for submittal for rezoning are the completed Rezoning Application, list of adjacent property owners, disclosure of Real Parties in Interest, Plan of Development, rendering of proposed units, and check for \$2925.00. This fee includes the rezoning application fee (\$2,800), deposit for two public hearing signs (\$100), and fee for mailing notices to adjacent owners (\$25).

Currently, parcel 251-01-27 is zoned M1. Parcel 251-01-31 is zoned M1 and HR. Parcel 251-04-01 is zoned B2. This application seeks to rezone parcels 251-01-27 and 251-01-31 to B2, and then overlay a Planned Unit Development District (PUD) across all three parcels (the "Property"). The proposed PUD, "Jubal Square Apartments" will redevelop the existing site as a 140 unit multi-family residential development featuring an on-site community center and recreational amenities. Target households for the units include graduate students, young professionals, and active retirees/empty nesters.

Bluestone Land, L.L.C. is the contract purchaser for the above-referenced parcels. Bluestone Land and its affiliates (Pinnacle Construction & Development Corp. and Park Properties Management Co LLC) have extensive experience in development, construction, and property management of multi-family residential and commercial properties throughout the Commonwealth of Virginia.

The Property is located southeast of the intersection of Valley Avenue (U.S. Route 11) and Jubal Early Drive in the Central District. When developing the plan for Jubal Square

Jubal Square Apartments, the intent was to respond to the 2011 Comprehensive Plan vision for urban density and market demands, while respecting the existing terrain. The Comprehensive Plan notes that key features for the district include medium and high density housing, and includes the goal of redeveloping property in the district to achieve maximum sustainable potential. This planned development would address the Citywide Housing Objectives by providing more vibrant, high quality, higher density housing which will include on-site professional management. Jubal Square Apartments will also provide the type of apartment units and the on-site amenities that attract students, young professionals, and empty nesters. These groups are specified in the Comprehensive Plan as the three demographic growth groups to which future housing growth should be aligned.

The 2011 Comprehensive Plan designates most of the Property as a Redevelopment Site, and the remainder of the site as a Commerce Center/Corridor. (See excerpt from Character Map attached). Redevelopment Sites are "the keys to reinvigorating a neighborhood." This development plan is consistent with goals for construction of compact new projects as a reuse for obsolete industrial properties.

The Property will be developed in general accord with the Plan of Development. Road alignments, building and sidewalk locations, landscaping, grading and utilities depicted on the Plan of Development are conceptual and may be adjusted. Specific lot boundaries and building locations shown on the Plan of Development are for purposes of illustration only and should not be construed as final. The architectural rendering included illustrates how scale, massing, and pedestrian orientation may be achieved within the Property, but is not intended to represent the specific form of the final product nor describe final design requirements.

We look forward to working with City staff on this development. Please contact us if you have any questions.

*[Signature Page Follows]*

Sincerely,

Bluestone Land, L.L.C.

A handwritten signature in blue ink, appearing to be 'William N. Park', written over a horizontal line.

By: William N. Park, its Manager



*Engineers • Surveyors • Land Planners*

May 1, 2013

Mr. William N. Park  
Pinnacle Construction & Development, Inc.  
1821 Avon Street, Suite 200  
Charlottesville, Virginia 22902

**RE: Jubal Square Apartments**

Dear Mr. Park:

Enclosed you will find a traffic analysis of the proposed Jubal Square Apartments. The traffic analysis was completed using data from the Institute of Transportation Engineers (ITE) Trip Generation Manual. The analysis shows during the peak hour movements, the existing zoning will produce approximately 2.6 times more vehicle trips per day than the proposed apartment complex. If you should have any questions, or need additional information, please feel free to contact me at your earliest convenience.

Sincerely,

Brasil W. Hamrick, Jr., P.E.

156 Laurel Hill Road (Rt. 612 E.) Verona, VA 24482 • (540) 248-7407 • Fax (540) 248-7408

## JUBAL SQUARE TRAFFIC ANALYSIS

### Narrative

The following traffic analysis will review potential traffic volumes from tax map parcels 251-04-1, 251-01-31, and 251-01-27. The current zoning of 251-04-1 is "Highway Commercial District" or B-2. The zoning on this 2.942 acre parcel would allow the development of banks, retail stores, restaurants, and other typical commercial uses. The current zoning of 251-01-27 and 251-01-31 is "Limited Industrial District" or M-1. The zoning on these two parcels totaling 5.848 acres would allow the development of typical manufacturing and warehouse type facilities. Development condition number 1 will determine the potential peak hour traffic volumes using the existing zoning conditions. Development condition number 2 will determine the potential peak hour traffic volumes using the proposed land use of the 140 unit Jubal Square apartment complex. All peak hour traffic volumes will be determined using the Institute of Transportation Engineers (ITE) Trip Generation Manual.

### Development Condition Number 1

Tax Parcel 251-04-1 is zoned B-2. This zoning will allow uses such as a pharmacy, bank or restaurant. The 2.942 acres is large enough to support a 15,000 s.f. pharmacy with drive through window and associated parking, or a 5,000 s.f. bank with drive through windows and associated parking, or a 6,000 s.f. high turnover restaurant and associated parking. The peak hour traffic volumes for these uses are as follows.

<i>Drive in bank (land use code 912)</i>	AM Peak 31.99/1000 s.f. = $31.99 \times 5 = 159.95$ PM Peak 53.46/1000 s.f. = $53.46 \times 5 = 267.30$
<i>Pharmacy (land use code 881)</i>	AM Peak 7.87/1000 s.f. = $7.87 \times 15 = 118.05$ PM Peak 9.51/1000 s.f. = $9.51 \times 15 = 142.65$
<i>Restaurant (land use code 932)</i>	AM Peak 13.53/1000 s.f. = $13.53 \times 6 = 81.18$ PM Peak 18.80/1000 s.f. = $18.80 \times 6 = 112.80$

Tax parcels 251-01-27 and 251-01-31 are zoned M-1. This zoning would allow uses listed in the ITE Manual as land use code 110 "light industrial", land use code 130 "industrial park", land use code 140 "manufacturing", or land use code 150 "warehousing." The total acreage of the two parcels is 5.848 acres.

<i>Light Industrial (land use code 110)</i>	AM Peak 7.96/acre = $7.96 \times 5.848 = 46.55$ PM Peak 8.77/acre = $8.77 \times 5.848 = 51.29$
<i>Industrial Park (land use code 130)</i>	AM Peak 8.29/acre = $8.29 \times 5.848 = 48.48$ PM Peak 8.67/acre = $8.67 \times 5.848 = 50.70$
<i>Manufacturing (land use code 140)</i>	AM Peak 9.30/acre = $9.30 \times 5.848 = 54.39$ PM Peak 9.21/acre = $9.21 \times 5.848 = 53.86$
<i>Warehousing (land use code 150)</i>	AM Peak 7.96/acre = $8.34 \times 5.848 = 48.77$ PM Peak 8.77/acre = $8.77 \times 5.848 = 51.29$

**Development Condition Number 1 Continued**

A review of the above traffic volumes indicates the restaurant and light industrial combination leads to the minimum park volume values of

$$\begin{aligned} \text{AM Peak} &= 81.18 + 46.55 = 127.73 \text{ or } 128 \text{ trips per hour} \\ \text{PM Peak} &= 112.80 + 51.29 = 164.09 \text{ or } 164 \text{ trip per hour} \end{aligned}$$

**Development Condition Number 2**

An application has been made to rezone tax map parcels 251-04-1, 251-01-31, and 251-01-27 to B-2 with a PUD overlay allowing a 140 unit apartment complex. The peak hour traffic volume for this use is as follows.

<i>Mid-rise apt (land use code 223)</i>	AM Peak 0.35/unit = 0.35 x 140 = 49.00
	PM Peak 0.44/unit = 0.44 x 140 = 61.60

**Conclusion**

The potential peak hour traffic volume with the current zoning is 2.61 times greater than the volume of the proposed use for the AM peak. The potential peak hour traffic volume with the current zoning is 2.66 times greater than the volume of the proposed use for the PM peak.



Rouss City Hall  
15 North Cameron Street  
Winchester, VA 22601

Telephone: (540) 667-1815  
FAX: (540) 662-3351  
TDD: (540) 722-0782  
Website: [www.winchesterva.gov](http://www.winchesterva.gov)

## MEMORANDUM

TO: Tim Youmans, Planning Director

FROM: Perry Eisenach, Public Services Director

DATE: June 28, 2013

SUBJECT: Proposed Jubal Square Apartments

As requested, I have reviewed the traffic analysis provided by Hamrick Engineering for the proposed Jubal Square Apartments. Their analysis shows that the traffic generated from the proposed apartment complex during the peak hour would be lower than the peak hour traffic generated from a restaurant or light industrial development that could be constructed under current zoning. It appears that the numbers presented in their analysis are accurate.

In looking at this proposed development in relationship to the current traffic on Jubal Early Drive and Valley Avenue, I offer the following comments:

1. The main entrance to the development would be a right in/right out on eastbound Jubal Early. Based on similar situations in other locations with similar traffic counts, I believe this proposed entrance will operate in a very safe manner.
2. The proposed development will also have access to Valley Avenue via Service Road, approximately 500-feet south of the Valley/Jubal Early intersection.
  - a. There will be times during the peak traffic hours that it may be difficult for motorists turning left from Service Road onto southbound Valley Avenue. There are also brief periods when northbound traffic on Valley may back up to Service Road due to the traffic signal. However, based on similar situations in other locations of the City, I do not believe either of these conditions would warrant restricting left turns from Service Road.
  - b. Based on the traffic projections provided, the traffic from the proposed complex will not warrant a traffic signal at the Service Road/Valley intersection.
  - c. The additional traffic created on Valley Avenue may require some adjustments to the current signal timing at the Valley/Jubal Early signal.

*"To be a financially sound City providing top quality municipal services while focusing on the customer and engaging our community."*

- d. I do recommend restricting parking on the south side of Service Road near the Valley intersection and adding striping to create a left turn lane and right turn lane for traffic turning onto Valley Avenue.

In summary, based on the traffic projections provided and similar developments in other areas of the City, I believe the existing traffic network will operate at acceptable levels with the construction of this proposed complex and I do not feel that a more detailed traffic study should be required at this time. Please let me know if you have any questions or would like to discuss this matter in more detail.

# REZONING EXHIBIT

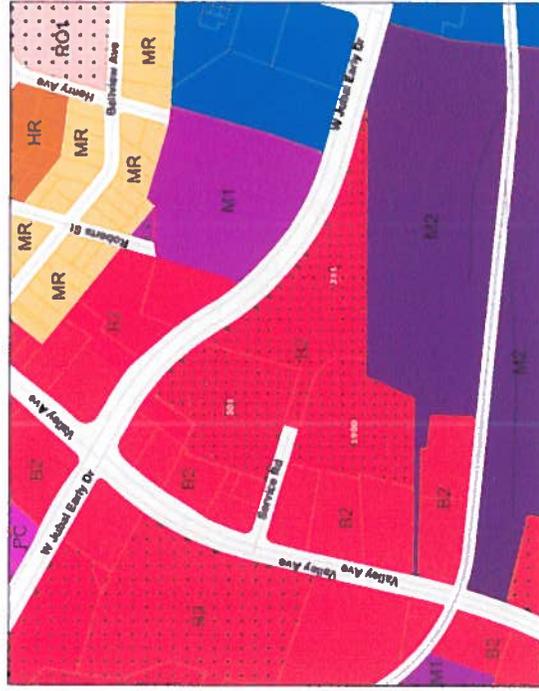
## RZ-13-196

PREPARED BY WINCHESTER PLANNING DEPARTMENT  
JUNE 4, 2013



### EXISTING

M-1/HR ZONING FOR 211 W. JUBAL EARLY DR  
B-2 ZONING FOR 301 W. JUBAL EARLY DR  
M-1 ZONING FOR 1900 VALLEY AVE



### PROPOSED

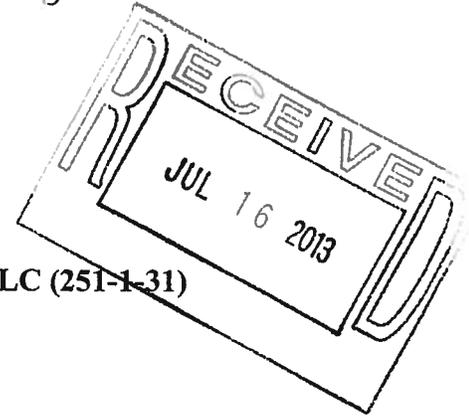
CONDITIONAL B-2(PUD) ZONING FOR 211 & 301 W. JUBAL EARLY DR  
AND 1900 VALLEY AVE. LESS A 0.266 ACRE PORTION OF

Rec'd at 7/16/13  
Plng Comm Public Hearing

**Jubal Square Apartments  
RZ-13-196  
REZONING REQUEST PROFFER  
(Conditions for this Rezoning Request)**

**Tax Map Numbers: 251-1-27; 251-4-1; 251-1-31**

**Owner: Braddock Partnership (251-1-27; 251-4-1) and Valley LC (251-1-31)  
Applicant: Bluestone Land, L.L.C.**



**Dated: July 16, 2013**

Property Information

The undersigned applicant hereby proffers that in the event the Council of the City of Winchester (Council) shall approve the rezoning of 8.523 acres of land at 1900 Valley Avenue, 211 and 301 West Jubal Early Drive (Map Numbers 251-01-27-A; 251-04-01-A; 251-01-31-A) from Limited Industrial (M-1), High Density Residential (HR), and Highway Commercial (B-2) Districts to B-2 District with Planned Unit Development (PUD) overlay, then development of the subject property shall be done in conformity with the terms and conditions as set forth herein, except to the extent that such terms and conditions may be subsequently amended or revised by the applicant and such be approved by the Council in accordance with Virginia law. In the event that such rezoning is not granted, then these proffers shall be deemed withdrawn and have no effect whatsoever. These proffers shall be binding upon the applicant and their legal successor or assigns.

Any and all proffers and conditions, accepted or binding upon the aforementioned property, as a condition of accepting these proffers, shall become void and have no subsequent effect.

Site Planning Improvements

The undersigned applicant, who is acting on behalf of the owners of the above described property, hereby voluntarily proffers that, if the Council of the City of Winchester approves the rezoning, the undersigned will provide:

1. The property shall be developed and landscaped substantially in conformance with the Plan of Development prepared by Hamrick Engineering, dated March 23, 2013, revised July 1, 2013, and submitted with this proffer statement.
2. The exteriors of the two (2) buildings facing Jubal Early Drive and east of the entrance to the development shall be substantially in conformance with the elevations entitled "Jubal Early Apartments Type 2 Building Fronting on Jubal Early Dr Elevations", prepared by dBF Associates, dated May 17, 2013 and submitted with this proffer statement. The exteriors of the other buildings in the development shall be substantially in conformance with the elevations entitled "Jubal Early Apartments Type 2 Building Elevations", prepared by dBF Associates, dated May 1, 2013 and submitted with this proffer statement.
3. The siding materials to be used in the exterior finish of the two (2) buildings facing Jubal Early Drive will be vinyl and brick in accordance with submitted elevations.

4. The maximum number of residential units will be one hundred forty (140).
5. The entrance from Jubal Early Drive will be limited to right turn in and right turn out. Secondary access will be from the Service Road to Valley Avenue (U.S. Route 11).
6. Amenities for the development for use by residents shall include a community center with pool and fitness facility.
7. Upon request by the City, Applicant shall dedicate a ten (10') foot wide easement along Jubal Early Drive frontage for accommodation of the Green Circle Trail to be installed by applicant. The existing trail shall be increased to ten (10') foot wide.
8. The apartment complex shall operate under rules and regulations which shall be generated and amended from time to time by the owner of the apartment complex at its sole discretion. The applicant proffers to maintain rules and regulations in order to ensure the quality of the apartment complex.
9. The apartment complex tenant selection plan guidelines shall provide:  
For three-bedroom apartment units, the resident criteria will give preference to any person that 1) currently resides in the City of Winchester, or 2) is a student and/or employee of Shenandoah University. All applicants will need to meet the qualifying guidelines for rental. Upon receiving an approved application, any applicant that meets the aforementioned criteria will be placed above all other applicants. The placement on the waiting list will be based on the date the application was approved and the tenant fulfilled the rental qualification guidelines, whichever is later. For example, if a resident from Winchester applies for an apartment on June 1<sup>st</sup> and they satisfied the rental qualifying guidelines on June 30<sup>th</sup>, the date that they are placed on the waiting list would be June 30<sup>th</sup>. In this case, they would be placed ahead (above) all other approved applicants from outside the City of Winchester that were on the waiting list for a three-bedroom unit prior to June 30<sup>th</sup>. The assignment of apartments will be based on the waiting list, which will afford that units will first be made available to persons that meet the aforementioned criteria.

The conditions proffered above and in accordance with the Plan of Development prepared by Hamrick Engineering, dated March 23, 2013, revised July 1, 2013, are presented as a conceptual plan only. The final plan shall be developed after it has been submitted, reviewed and approved by the City of Winchester and as the applicant proceeds through the various approval processes required by the City of Winchester shall be binding upon the heirs, executors, administrators, assigns and successors in interest of the applicant and owner. In the event the Council grants said rezoning and accepts these conditions, the proffered conditions shall apply to the land rezoned in addition to other requirements set forth in the City of Winchester Code.

*Signature page follows*

APPLICANT

*[Handwritten signature]*

Bluestone Land, L.L.C.  
By: William N. Park  
Its: Manager

STATE/Commonwealth of Virginia  
CITY/COUNTY OF Albemarle

The foregoing instrument was acknowledged before me this 16<sup>th</sup> day of July,  
2013, by William N. Park, Manager of BLUESTONE LAND, L.L.C



*[Handwritten signature]*  
Notary Public

My commission expires: 11/30/2013  
Registration Number: 357556

OWNER (251-1-27; 251-4-1)

**Braddock Partnership**  
By: \_\_\_\_\_  
Its: \_\_\_\_\_

STATE/Commonwealth of \_\_\_\_\_  
CITY/COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_,  
2013, by \_\_\_\_\_, \_\_\_\_\_ of BRADDOCK PARTNERSHIP.

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_  
Registration Number: \_\_\_\_\_

OWNER (251-1-31)

\_\_\_\_\_  
Date:

\_\_\_\_\_  
**Valley LC**

By: \_\_\_\_\_

Its: \_\_\_\_\_

STATE/Commonwealth of \_\_\_\_\_

CITY/COUNTY OF \_\_\_\_\_

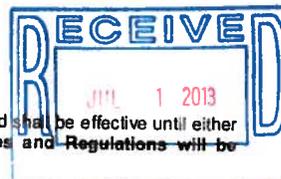
The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_,  
2013, by \_\_\_\_\_, \_\_\_\_\_ of VALLEY LC.

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_

Registration Number: \_\_\_\_\_

## RULES AND REGULATIONS



These Rules and Regulations constitute a part of the Lease Agreement and shall be effective until either changed or modified by written notification. Violation of these Rules and Regulations will be considered a default under the Lease Agreement.

1. **Office Hours** – The \_\_\_\_\_ Leasing Office will be open daily from \_\_\_\_\_ A.M. to \_\_\_\_\_ P.M. Monday through Friday, each week throughout the year, except on holidays. Hours subject to change without notice. You may contact the Leasing Office via e-mail at \_\_\_\_\_, via telephone at \_\_\_\_\_, or via facsimile at \_\_\_\_\_.
2. **Maintenance** – Please make your requests by calling, emailing, or faxing the leasing office. No charges will be made for repairs or adjustments unless necessitated by the Resident's negligence or mistreatment. *Should you experience an after hours emergency, please call \_\_\_\_\_ and our answering service will direct your call to the appropriate person.*
3. **Resident Maintenance** – Residents have responsibilities to maintain their apartment and to keep the premises in a habitable condition. Resident agrees to:
  - A) keep all doors and windows closed during rain or snow;
  - B) maintain furnace, appliances and fixtures in good and substantial repair and clean condition, reasonable wear and tear excepted;
  - C) use water closet and other plumbing fixtures only for the purpose for which they were installed, and not to place sweepings, rubbish, rags or other articles in such fixtures;
  - D) unstop and keep all water pipes clear;
  - E) not to flush or pour into drains: grease, cat litter, diapers, sanitary napkins or tampons;
  - F) curtains, drapes or blinds must be white or cream backed facing street side;
  - G) not store on premises any explosives, flammable fluids or material of any kind;
  - H) not to place an iron safe, waterbed or other heavy articles on the premises without the written consent of the Lessor, and to be liable for all damage caused by the placement or movement of any such articles; Resident must provide Lessor with a copy of liability insurance prior to placement of such articles;
  - I) not to use any alternative heating methods, such as kerosene or electric space heaters;
  - J) Resident responsible for the replacement of all light bulbs, fuses and batteries in premises;
  - K) Report to management any and all problems that have caused or may cause permanent damage to premises.
  - L) Manager is to be contacted after normal business hours only in the case of an emergency.
4. **Garbage Removal** – All garbage must be properly bagged and placed in dumpsters or trash chutes as provided. Boxes should be broken down and flattened. Do not leave garbage in hallways, storage closets, or on patios or balconies.
5. **Quiet Hours** – Residents will not make any disturbing noises in or around the apartment premises which will unreasonably interfere with the rights, comforts or conveniences of other residents in the community. The hours between 10:00 p.m. and 8:00 a.m. are considered quiet hours and will be observed by all residents. Residents are responsible for the behavior of their family and guests.
6. **Keys and Locks** – All necessary apartment keys will be issued to the Resident at the time of occupancy. Alteration or replacement of locks or installation of bolts, knockers, mirrors or other attachments on the interior or exterior of any doors is prohibited. There is no after hour lock-out service. If after office hours the Resident should need assistance unlocking their apartment, they should contact a professional locksmith at their own expense. If lock cylinder replacement is required, it shall be re-keyed to match the existing.
7. **Notice of Absence** – The Resident must give Lessor notice of anticipated extended absence from the leased premises in excess of seven (7) days. The Resident agrees that during any such absence

from the leased premises, the Lessor may enter the premises at times reasonably necessary to protect the premises or any property belonging to the Lessor on the premises.

8. **Pets** -- No pets of any kind will be permitted in the leased premises without the Lessor's prior written consent, necessary deposits made and documents signed.
9. **Exterior Maintenance** -- To keep public areas clean, safe and pleasant looking requires attention by all residents. The following must be adhered to:
  - A) signs, advertisements or notices shall not be placed upon any part of the exterior of the apartment building;
  - B) no article shall be attached to, placed or suspended outside or on top of building without prior written consent from Lessor;
  - C) patios, balconies, porches or terraces shall not be used for storage, hanging laundry or in any other way that will be unsightly or offensive to neighbors or management;
  - D) the use of outdoor grills is strictly prohibited;
  - E) residents, their family or guests shall not litter premises or obstruct sidewalks, doorways, stairwells or entryways;
  - F) no toys, skateboards or bicycles are permitted in parking lots, sidewalks or hallways;
  - G) residents under the age of 18 should be appropriately supervised. Residents and their guests may not play in parking areas and may not engage in sports or other activities that could damage exterior of premises;
  - H) resident shall be liable for assessment of any damage, mutilation or defacing the trees, shrubbery, lawn and grounds for which resident is responsible;
  - I) no item may be hung from or over any outside railings.
10. **Storage Facilities** -- Storage closets are furnished for residents use and management assumes no responsibility for any loss to property stored. Management recommends that Resident obtain insurance coverage for their personal property known as "Renters Insurance".
11. **Motor Vehicles and Related Equipment** -- There will be a limit of \_\_\_\_ vehicles per apartment. In the case where parking passes are issued, any vehicles remaining on property for more than 24 hours without a parking pass will be towed at owner's expense. Violation of the following rules and regulations will result in the towing of vehicle at owner's expense:
  - A.) No driving or parking vehicles off of paved driveways and parking areas;
  - B.) Washing vehicles and any vehicle maintenance on premises is prohibited;
  - C.) Boats, camper, trailer, RVs or large trucks may not be parked on premises;
  - D.) Any motor vehicle without current license plates or valid state inspection sticker, with flat tires or in an unsightly state of repair shall not be parked for a period exceeding 72 hours;
  - E.) Management may designate other special parking spaces for handicapped, designate fire lanes, and designate certain areas as "no parking."
  - F.) Motorcycles, motorbikes, or any other power driven equipment may not be placed, put or parked inside the premises or on the patios or balconies at any time.

THESE RULES AND REGULATIONS MAY BE AMENDED, FROM TIME TO TIME, UPON REASONABLE NOTICE OF THE ADOPTION OF SUCH AMENDMENT TO THE RESIDENT.

This is to certify that I/we the resident(s) received, read, understand and agree to abide by the Property Rules and Regulations. I/We understand that a violation of these Property Rules and Regulations is a default under the Lease Agreement.

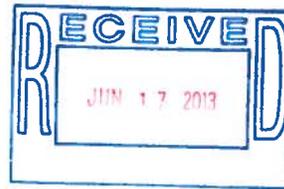
\_\_\_\_\_  
\_\_\_\_\_  
Resident(s) Signature



1944 Valley Avenue  
Winchester, Virginia 22601  
540.667.6666  
[www.osul.com](http://www.osul.com)

June 17, 2013

Mr. Tim Youmans  
Planning Director  
City of Winchester  
Rouss City Hall  
15 North Cameron Street  
Winchester, VA 22601



Re: RZ-13-196 – Jubal Square

Dear Mr. Youmans

For more than 75 years now, O'Sullivan Films, which currently employs 400 people, has been an important part of the Winchester community with its manufacturing site and head office located at 1944 Valley Avenue. Our property is directly adjacent to the proposed RZ-13-196 – Jubal Square for which rezoning has been requested. I am writing to you today to express my serious and numerous concerns about this project.

Historically, O'Sullivan property has been surrounded by commercial and other industrial like use tenants, not residential. We have had a very good relationship not only with our neighbors but with the City of Winchester as well. All parties are well aware of the level and nature of the activities taking place at our site. For a number of reasons, we are concerned that the introduction of 140 residential units immediately adjacent to O'Sullivan will jeopardize the balance that presently exists.

For one, while the promoter of this project might have an understanding of the demands of an industrial operation such as ours; it is fair to assume that a regular apartment tenant does not know the level of activities a 24 hours/day, 7 days/week and 365 days/year production facility like ours requires. This may lead to numerous complaints not only to the property owners but to City Officials as well.

As you know, back in 2011, O'Sullivan Films, supported by the Governor's Office and the City of Winchester, undertook a major expansion of its operations. We invested approximately 28 million dollars in new machinery and equipment, thus creating a substantial number of jobs and injecting new money into the Winchester economy. We do plan to continue our operation and even perhaps expand again should the right business conditions prevail. I am sure you will understand that the presence of residential units just on the other side of our property could hinder the potential for expansion in the future.

While we understand the need and desirability for Winchester to Implement mixed-use projects; we are, for all the aforementioned reasons, very concerned by the negative impacts that, placing side by side residential units and a manufacturing facility will generate.

We trust that you will give serious consideration to our comments and concerns. We also, respectfully, invite you to share this letter with the Members of the Planning Commission and, if you believe it is appropriate, with the Members of City Council as well.

Sincerely,

A handwritten signature in black ink, appearing to read "Denis Belzile". The signature is fluid and cursive, with the first name "Denis" and last name "Belzile" clearly distinguishable.

Denis Belzile  
President & CEO  
O'Sullivan Films, Inc.

1944 Valley Avenue, Winchester, VA 22601 540.667.6666  
www.osul.com



July 16, 2013

Members of the City of Winchester Planning Commission  
Rouss City Hall  
15 North Cameron Street- Suite 318  
Winchester, VA 22601

Re: RZ-13-196 – Jubal Square

Dear Members of the Planning Commission:

Since my previous correspondence, representatives from O'Sullivan have spoken with some of you and Members of City Council, as well as Planning Staff, but we also had an opportunity to speak with Mr. Park, who is one of the partners in the proposed rezoning. As a result of all of this information, we have learned more about the proposed development that would come from the rezoning and, unfortunately, on behalf of O'Sullivan, we are even more concerned about the potential adverse impact of the proposed rezoning on our manufacturing facility.

We have had an opportunity to examine the Comprehensive Plan for the site that is subject to the rezoning and we have found that what is proposed in the plan is either commercial or mixed use. Surprisingly, what is being proposed is not mixed use at all, but rather all residential. As we have previously stated, our preference would be that the property that adjoins us remain as either industrial or commercial, but even if the City were to approve a mixed use project, there would be an opportunity for residential to be insulated and separated from our plant by the installation of it in or behind the commercial. Unfortunately, the proposal that has been submitted does not accomplish that.

We also have learned that there may be an issue regarding an increase in setback and/or buffering in the event a residential use is allowed on the property that adjoins us. We have met with Mr. Youmans from the Planning Department who has advised us that the current interpretation of the Winchester ordinance is that because what is being proposed is a B-2 use with a PUD overlay, increased setbacks would not be required because the underlying zoning is B-2 or commercial. While that current interpretation is somewhat encouraging, we think that in the future any residential tenant in the apartment complex, or indeed the owners of the apartment complex, could argue that their residential use would require a different interpretation of the Winchester City ordinance. This could mean that any expansion or development on the O'Sullivan property come with additional setback and buffering requirements. It was suggested that perhaps this could be memorialized in the record with a letter from the City Zoning Administrator. At a minimum, O'Sullivan would want such a letter to be put into the file. We raise these concerns, of course, because we at O'Sullivan look forward to not only maintaining

our operations in Winchester, but continuing to grow. As part of that, it would not be unexpected to use the land that borders the property being re-zoned for future expansion. For your convenience, I have attached an aerial view that shows our campus and all the various plants that make up O'Sullivan.

Also during a recent meeting with Mr. Park, we learned that his plans for this apartment complex include extra thick walls with sound deadening and thick glass that would not allow sound to penetrate into the residential units. If the project is to go forward, we would think that all the sound attenuation that Mr. Park discussed would be a good idea in order to make for a quieter living environment for those residents living between O'Sullivan and Jubal Early Drive. We further think it would be a good idea to have those sound attenuation components proffered so if there is a residential project developed on this property it would have those qualities assured.

As stated before, we are certainly proponents of mixed use development, but we continue to find it difficult to understand why it would be desirable to have a mix of uses that are inconsistent as industrial with residential.

Thank you for your attention to these concerns.



Denis Belzile  
President & CEO  
O'Sullivan Films, Inc.

Google

To see all the details that are visible on the screen, use the "Print" link next to the map.



**Will Moore**

---

**From:** Tim Youmans <[tyoumans@ci.winchester.va.us](mailto:tyoumans@ci.winchester.va.us)>  
**Sent:** Tuesday, July 09, 2013 12:54 PM  
**To:** 'Will Moore'  
**Subject:** FW: Letter of Support

Will,  
A late arrival for the Plng Comm work session packet.  
Tim



**From:** Stilwell, Craig G. [<mailto:Craig.Stilwell@bankatcity.com>]  
**Sent:** Tuesday, July 09, 2013 12:38 PM  
**To:** 'tyoumans@ci.winchester.va.us'  
**Subject:** Letter of Support

Mr. Youmans: I understand that the city is considering a rezoning request from Pinnacle Construction to facilitate a Planned Urban Development project in the vicinity of Valley Avenue and Jubal Early Drive in Winchester. Specifically, the proposal calls for the development of Jubal Square Apartments, comprised of 140 luxury units with a community center and pool.

City National Bank is currently developing a branch bank across the street from this proposed development. I am writing to express our support for the rezoning requested by William Park and Richard Park and Pinnacle Construction & Development Corporation. We believe these upscale apartments will contribute to the economic vitality of the area, and the project is consistent with the comprehensive plan developed by the city. We have designed our new branch to be an attractive gateway to this area within the city, and we believe the Jubal Square Apartments will also contribute in a positive way to the esthetics of the area.

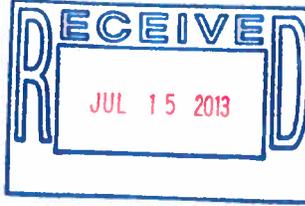
Please let me know if you would like any additional information regarding our project, or further information regarding our support for the Jubal Square Apartments.

  
City  
Craig G. Stilwell  
Executive Vice President  
[craig.stilwell@cityholding.com](mailto:craig.stilwell@cityholding.com)  
(304) 769-1113

[Spam](#)  
[Not spam](#)  
[Forget previous vote](#)

**Tim Youmans**

**From:** Randy Kremer [rkremer@RugsDirect.com]  
**Sent:** Monday, July 15, 2013 4:13 PM  
**To:** 'pingdept@ci.winchester.va.us'  
**Cc:** Randy Kremer  
**Subject:** Attention: Tim Youmans



Mr. Youmans,

I am writing you on the behalf of Pinnacle Construction and The Pifer Companies in support of the Jubal Square Apartments. I have reviewed the Concept Plan and personally visited one of the Pinnacle facilities in Harrisonburg, VA. I feel the Jubal Square Apartments would be a great addition to our community for various reasons;

1. The land is currently zoned M-1. Do we really want more light industrial at that location? I think it would better serve our community as a mix of residential and retail and potentially generate more revenue.
2. The Luxury Apartments will bring higher income residents to our area which has been a stated goal of our Council. It is the type of development that will be more likely to attract young professionals. Which, as a business owner of a technology/e-commerce company, we desperately need in this community.
3. The project looks great! It will definitely enhance the view of one of our central corridors and serve to hide, the not so attractive industrial buildings behind it.
4. We all know "Studies" can be manipulated but the Net Benefit of this Project seems to be a win/win for our community.

I certainly do not know all of the financial implications this site would bring to our community but I am hopeful that you and your team will find ways to make projects like the Jubal Square Apartments work in our community.

Thank you for your time and consideration of this project.

Sincerely,

Randy

Randy Kremer  
President  
Rugs Direct  
116 Featherbed Lane  
Winchester, VA 22601  
Phone: 540-545-7797  
Fax: 540-662-0063  
Email: [rkremer@rugsdirect.com](mailto:rkremer@rugsdirect.com)  
Web: [www.rugsdirect.com](http://www.rugsdirect.com)

**Confidentiality Notice**

**This electronic message and any attachment may contain confidential and privileged information belonging to the sender or intended recipient.**

This information is intended only for the use of the persons or entities named therein. If you are not the intended recipient or the agent or employee responsible to deliver this message to the intended recipient, you are hereby notified that any disclosure, copying, use, distribution, or taking of any action in reliance on the contents of this information is strictly prohibited. If you have received this transmission in error, please immediately advise the sender by reply email and delete this message from your system. Thank you for your cooperation.

Correspondence

**Tim Youmans**

**From:** Fitzsimmons, Tracy [tfitzslm@su.edu]  
**Sent:** Monday, July 15, 2013 3:43 PM  
**To:** Tim Youmans; john willingham  
**Subject:** housing for students in Winchester

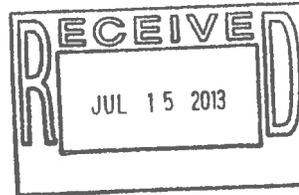
Dear John and Tim,

I am writing to you as I know that the City Council and City staff are in the process -- and will increasingly be in the process -- of considering requests to build, develop or renovate housing in Winchester.

As you consider the possibilities, I hope that you will bear in mind that we have 4,000 students at Shenandoah University, of whom about 3500 are being educated on one of our Winchester campuses. In total, we currently only have housing for about 915 students "on campus" in Winchester. Additional housing options close to campus for students - whether privately owned or university owned -- would certainly be welcome!

Many thanks. I hope that you are both enjoying summertime,  
Tracy

Tracy Fitzsimmons, Ph.D.  
President  
Shenandoah University  
1460 University Drive  
Winchester, VA 22601  
540-665-4841



**CITY OF WINCHESTER, VIRGINIA**

**PROPOSED CITY COUNCIL AGENDA ITEM**

**CITY COUNCIL/COMMITTEE MEETING OF:** July 23, 2013 **CUT OFF DATE:** \_\_\_\_\_

**RESOLUTION X    ORDINANCE X    PUBLIC HEARING X**

**ITEM TITLE:** Proposed Sidewalk Master Plan

**STAFF RECOMMENDATION:** Approval of resolution and ordinance.

**PUBLIC NOTICE AND HEARING:** NA

**ADVISORY BOARD RECOMMENDATION:** NA

**FUNDING DATA:** See attached.

**INSURANCE:** NA

The initiating Department Director will place below, in sequence of transmittal, the names of each department that must initial their review in order for this item to be placed on the City Council agenda.

<u>DEPARTMENT</u>	<u>INITIALS FOR APPROVAL</u>	<u>INITIALS FOR DISAPPROVAL</u>	<u>DATE</u>
1. Finance	<u>JB</u>	_____	<u>7/12/13</u>
2. City Attorney	<u>[Signature]</u>	_____	<u>7/17/2013</u>
3. City Manager	<u>[Signature]</u>	_____	<u>7-17-13</u>
4. Clerk of Council	_____	_____	_____
Initiating Department Director's Signature:	<u>[Signature]</u>	_____	<u>7/12/13</u> Date



**APPROVED AS TO FORM:**

[Signature] 7/17/2013  
**CITY ATTORNEY**

# CITY COUNCIL ACTION MEMO

**To:** Honorable Mayor and Members of City Council  
**From:** Perry Eisenach, Public Services Director  
**Date:** July 23, 2013 (Council Work Session)  
**Re:** Proposed Sidewalk Master Plan

---

**THE ISSUE:** Presentation and consideration of the proposed Sidewalk Master Plan.

**RELATIONSHIP TO STRATEGIC PLAN:** **Goal 4:** Create a More Livable City for All. Specifically, **Policy Agenda Item #5:** Develop a Sidewalk Master Plan with policy directions, project priority and funding mechanisms.

**BACKGROUND:** Making improvements to sidewalks has been identified by City residents as one of the highest priorities when looking at City services where they feel improvements need to be made. City Council has responded to this strong desire for improved sidewalks by appropriating significant funding the past few years for sidewalk improvements. In response to City Council's direction provided in the Strategic Plan, the Public Services Department has prepared the attached Sidewalk Master Plan for City Council's consideration. The goal of this plan is to provide the framework and guidance for the City's sidewalk program in future years.

**BUDGET IMPACT:** Over the past six years, the City has constructed approximately 22.7 miles of new sidewalks at a cost of approximately \$9.5 million, funded by multiple revenue sources. In the current FY14 budget, there is \$830,000 budgeted for sidewalk construction. There is currently a backlog of approximately \$24 million of construction for existing sidewalks that are in poor condition and need to be replaced. In addition, it would cost approximately \$75 million to construct sidewalks along every City street where none currently exist. These large figures show the need for significant resources for sidewalks in the future.

## **SIDEWALK MASTER PLAN SUMMARY AND RECOMMENDATIONS:**

1. The City currently maintains approximately 115 miles of existing sidewalks within the City. Approximately 50% of the existing sidewalks are in poor condition and need to be replaced or need major repairs. The estimated cost for replacing/repairing all of the existing sidewalks in poor condition is approximately \$24 million.
2. Approximately 64 miles of sidewalks would need to be constructed within the City for there to be a sidewalk on both sides of every street where none currently exist. The estimated cost to construct these 64 miles of sidewalks is approximately \$75 million. A significant amount of this total cost would be for the curb & gutter and drainage improvements that would be necessary to construct the new sidewalks.
3. During the past six years, approximately 22.7 miles of sidewalks have been constructed. This includes sidewalk replacements and constructing new sidewalks where none previously existed.
4. A proposed 5-year plan for sidewalk construction has been developed and is presented herein. This plan includes both sidewalk replacements and the construction of sidewalks in locations where none currently exist.
5. The proposed 5-year plan will require a significant amount of funding to successfully complete. Over the 5-year period, an average approximately \$3 million in funding will be needed. The primary funding sources that have been projected to meet this need are the General Fund, the Utility Fund (including a possible Stormwater Utility), and state Revenue Sharing Funds.
6. The proposed 5-year plan will complete an average of approximately \$1.1 million of sidewalk replacements per year which would be funded primarily by the General Fund. However, since the current need for existing sidewalk replacements is approximately \$24 million, it will take over 20 years to replace all of the existing sidewalks that are currently in poor condition. Should City Council wish to expedite this schedule, additional funding such as general obligation bonds or other revenue sources will be required.
7. Since economic conditions are difficult to forecast in the future and the projected funding levels may change, it is important to update this Sidewalk Master Plan, and particularly the 5-year plan of sidewalk improvements on an annual basis.
8. Section 26-7 of the City Code requires the property owner to be responsible for the costs of maintaining or replacing the sidewalk adjacent to their property. This provision has never really been enforced, especially during the past 20 years. Since the City has started an aggressive program of replacing sidewalks, it is recommended that City Council repeal Section 26-7 of the City Code. Attached is a proposed ordinance that would take that action.

---

**RECOMMENDED ACTIONS FOR CITY COUNCIL:**

1. Approve attached resolution adopting the Sidewalk Master Plan.
2. Adopt the attached ordinance repealing Section 26-7 of City Code which would eliminate the current requirement that the property owner or occupier is responsible for physical maintenance of the public sidewalk adjacent to their property (not including snow or ice removal).

**OPTIONS FOR CITY COUNCIL:**

1. Adopt the proposed resolution and/or ordinance as presented.
2. Adopt the proposed resolution and/or ordinances with modifications.
3. Not adopt the proposed resolution and/or ordinance.



# THE COMMON COUNCIL

Rouss City Hall  
15 North Cameron Street  
Winchester, VA 22601  
540-667-1815  
TDD 540-722-0782  
www.winchesterva.gov

## RESOLUTION

### APPROVAL OF SIDEWALK MASTER PLAN

**WHEREAS**, making improvements to sidewalks within the City has been identified by residents and City Council as one of the City's highest priorities; and

**WHEREAS**, Goal #4 – Policy Agenda Item #5 of the City's strategic plan calls for developing a Sidewalk Master Plan; and

**WHEREAS**, City staff have prepared a Sidewalk Master Plan which prioritizes future sidewalk replacements and the construction of new sidewalks in locations where none currently exist and is intended to be used as the framework and guide for the City's future sidewalk improvements.

**NOW, THEREFORE, BE IT RESOLVED THAT:** The City of Winchester Common Council hereby adopts the Sidewalk Master Plan to be used as the City's guide for future sidewalk improvements.

**Resolution No.**

**ADOPTED** by the Common Council of the City of Winchester on the \_\_\_<sup>th</sup>  
day of \_\_\_\_\_, 2013.

*Witness my hand and the seal of the City of Winchester, Virginia.*

R. 2013-32

CITY OF WINCHESTER, VIRGINIA

PROPOSED CITY COUNCIL AGENDA ITEM

CITY COUNCIL/COMMITTEE MEETING OF: July 16, 2013 CUT OFF DATE:

RESOLUTION X ORDINANCE PUBLIC HEARING

ITEM TITLE: Resolution to allow Buettner Tire Distributors to enter into a contract with the City of Winchester for automotive services.

STAFF RECOMMENDATION: Approve as recommended

PUBLIC NOTICE AND HEARING: N/A

ADVISORY BOARD RECOMMENDATION: N/A

FUNDING DATA: N/A

INSURANCE: As required

The initiating Department Director will place below, in sequence of transmittal, the names of each department that must initial their review in order for this item to be placed on the City Council agenda.

Table with 4 columns: DEPARTMENT, INITIALS FOR APPROVAL, INITIALS FOR DISAPPROVAL, DATE. Rows include Purchasing- Steve Corbit, City Attorney, City Manager, Clerk of Council.

Initiating Department Director's Signature: Mary Blowe, Finance Director Date: 7-2-13



APPROVED AS TO FORM: [Signature] 7/8/2013 CITY ATTORNEY

# CITY COUNCIL ACTION MEMO

**To:** Honorable Mayor and Members of City Council  
**From:** Mary Blowe, Finance Director *B*  
**Date:** July 16, 2013  
**Re:** Resolution to allow contract with Buettner Tire Distributors

---

**THE ISSUE:** Code requires that a Councilor must first seek approval from the governing body prior to either the award of a contract or prior to the signing of a contract where he/she is providing goods or services to the City of Winchester.

**RELATIONSHIP TO STRATEGIC PLAN:** With this change, we can work with our community to create a more livable City for all.

**BACKGROUND:** The purchasing department issued an invitation to bid for automotive repair and preventative maintenance goods and services. This bid would allow all departments to utilize these services as needed. The purchasing agent received multiple bids and selected Buettner Tire Distributors as the lowest responsible and responsive bidder.

**BUDGET IMPACT:** As stated in the bid.

**OPTIONS:** Council could direct the purchasing agent to rebid and select another vendor.

**RECOMMENDATIONS:** Staff recommends the proposed resolution as submitted.

**RESOLUTION REGARDING CONTRACT NO. 201321 TO WHICH  
BUETTNER TIRE DISTRIBUTORS IS A POTENTIAL SUPPLIER**

**WHEREAS**, the City of Winchester published Invitation to Bid No. 201321, dated May 22, 2013, for qualified contractors to provide automotive repair and preventative maintenance goods and services; and

**WHEREAS**, the lowest acceptable bid on the aforementioned ITB was submitted by Buettner Tire Distributors, and was awarded to Buettner Tire Distributors, on July 3, 2013; and

**WHEREAS**, Buettner Tire Distributors is a business in which Councilor Jeffrey Buettner has a "personal interest", as that term is used in the Virginia State and Local Government Conflicts of Interest Act; and

**WHEREAS**, Councilor Buettner has had no involvement in the preparation of the specifications for ITB# 201321 and no access to any confidential or special information pertaining to same; and

**WHEREAS**, Councilor Buettner has disclosed the interest and has not participated in the consideration of this matter before the Common Council.

**NOW, THEREFORE, BE IT RESOLVED** that the Common Council of the City of Winchester, Councilor Buettner abstaining, finds that it is in the public interest that the City proceed with this contract with Buettner Tire Distributors.

**Resolution No. 2013-\_\_.**

**ADOPTED** by the Common Council of the City of Winchester, Virginia, this \_\_\_ day of \_\_\_\_\_, 2013.