

**WINCHESTER COMMON COUNCIL
NOVEMBER 12, 2013
AGENDA
7:00 P.M.**

CALL TO ORDER AND ROLL CALL

MOMENT OF SILENCE

PLEDGE OF ALLEGIANCE

APPROVAL OF MINUTES – September 17, 2013 Work Session, October 1, 2013 Work Session, October 8, 2013 Special Meeting, October 8, 2013 Regular Meeting, October 15, 2013 Work Session, October 22, 2013 Special Meeting, October 22, 2013 Work Session, October 29, 2013 Joint Meeting with Winchester School Board, November 5, 2013 Special Meeting, and November 5, 2013 Work Session

REPORT OF THE MAYOR

R-2013-44: Resolution – Recognition of Nashawn Cook for the brave, calm and caring manner displayed while getting medical assistance for another (pages 4-6)

REPORT OF THE CITY MANAGER

REPORT OF THE CITY ATTORNEY

1.0 PUBLIC HEARINGS

- 1.1 O-2013-33:** Second Reading – AN ORDINANCE TO AMEND AND RE-ENACT SECTIONS 26-15 OF THE WINCHESTER CITY CODE PERTAINING TO THE TIME REQUIRED TO REMOVE SNOW AND ICE FROM SIDEWALKS (*Adjusts the time allotted for snow and ice removal from the sidewalks*) **(REQUIRES ROLL-CALL VOTE)(pages 7-11)**

- 1.2 O-2013-35:** Second Reading –AN ORDINANCE TO REZONE 0.46 ACRES OF LAND AT 317 SOUTH CAMERON STREET (*Map Number 193-01-K-14*) FROM RESIDENTIAL BUSINESS (RB-1) DISTRICT WITH HISTORIC WINCHESTER (HW) DISTRICT OVERLAY TO CENTRAL BUSINESS (B-1) DISTRICT WITH HW DISTRICT OVERLAY (former jail property) **(REQUIRES ROLL-CALL VOTE)(pages 12-17)**

- 1.3 O-2013-34:** Second Reading – AN ORDINANCE TO AMEND THE WINCHESTER CITY CODE, CHAPTER 30. VEGETATION, TO ALLOW FOR THE CREATION OF THE ENVIRONMENTAL SUSTAINABILITY TASKFORCE **(REQUIRES ROLL-CALL VOTE)(pages 18-33)**

- 1.4 CU-13-495:** Conditional Use Permit – Request of Bowman-Turner, LC for conditional use permit for conversion of ground floor nonresidential use to residential use at 118½, 120 and 124 East Cork Street (*Map Numbers 193-01-P-31 and 32*) zoned Central Business (B-1) District with Historic Winchester (HW) District overlay. (*Residential conversion of ground floor office space*) (**REQUIRES ROLL-CALL VOTE**)(pages 34-38)

2.0 PUBLIC COMMENTS

3.0 CONSENT AGENDA

- 3.1 O-2013-37:** First Reading – AN ORDINANCE TO AMEND AND REENACT SECTION 22-2 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO REFERRAL TO AND ACTION BY THE PLANNING COMMISSION ON REZONINGS AND ZONING TEXT AMENDMENTS TA-13-488 (*Defines Referral and extends time limit to 100 days*)(pages 39-43)
- 3.2 O-2013-38:** First Reading – AN ORDINANCE TO AMEND AND REENACT SECTIONS 30-49, 30-51, 30-52 AND 11-38 OF THE WINCHESTER CITY CODE PERTAINING TO NOTICE REQUIREMENTS FOR GRASS, WEEDS, AND OTHER FOREIGN GROWTH ON PRIVATE PROPERTY AND FEES FOR ABATEMENT OF TRASH AND TALL GRASS AND WEEDS BY THE CITY. (*Changes notice requirements for tall grass violations to once per growing season and creation of abatement fee*)(pages 44-51)
- 3.3 O-2013-39:** First Reading – AN ORDINANCE TO AMEND AND REENACT SECTIONS 6-8, 6-9, AND 6-144 OF THE WINCHESTER CITY CODE PERTAINING TO VACANT BUILDING REGISTRATIONS, FEES AND PENALTIES, AND CIVIL PENALTIES FOR VIOLATIONS OF THE VIRGINIA MAINTENANCE CODE. (*Vacant buildings required to be registered must also be derelict and increases registration fee and penalty*)(pages 52-60)
- 3.4 R-2013-58:** Resolution – Acceptance of the Detailed Time Schedule and Detailed Gateway Enhancement Plan prepared by Shenandoah University for the Millwood Avenue Project (pages 61-64)
- 3.5** Motion to authorize the adoption of the Juvenile Detention Center agreement (pages 65-75)

4.0 AGENDA

- 4.1 O-2013-36:** First Reading – AN ORDINANCE TO CONDITIONALLY REZONE 7.7076 ACRES OF LAND AT 940 CEDAR CREEK GRADE (*Map Number 249-01-2*) FROM RESIDENTIAL OFFICE (RO-1) DISTRICT WITH CORRIDOR ENHANCEMENT (CE) DISTRICT OVERLAY TO HIGHWAY COMMERCIAL (B-2) DISTRICT WITH PLANNED UNIT DEVELOPMENT (PUD) & CE DISTRICT OVERLAY RZ-13-500 (*PUD Rezoning for Cedar Creek Place*)(pages 76-92)

- 4.2 R-2013-57:** Resolution – Authorization for the issuance of Hospital Revenue Bonds Series 2013A for a new facility in Page County in an amount not to exceed \$115,000,000 and Hospital Revenue Refunding Bonds Series B to refund the outstanding IDA of Clarke County Hospital Facility Revenue Bonds (pages 93-104)

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 AND PURSUANT TO §2.2-3711(A)(3) AND (6) FOR THE PURPOSE OF DISCUSSION OR CONSIDERATION OF THE SUBJECT OF the ACQUISITION OF AN INTEREST IN REAL PROPERTY AND FOR THE PURPOSE OF DISCUSSION OF THE SUBJECT OF INVESTMENT OF PUBLIC FUNDS WHERE BARGAINING IS INVOLVED, AND WHERE IF MADE PUBLIC, THE BARGAINING POSITION OR FINANCIAL INTEREST OF THE CITY WOULD BE ADVERSELY AFFECTED, AND PURSUANT TO §2.2-3711(a)(40) AND (29) FOR THE PURPOSE OF DISCUSSION OF THE AWARD OF A PUBLIC CONTRACT INVOLVING THE EXPENDITURE OF PUBLIC FUNDS, INCLUDING INTERVIEWS OF BIDDERS OR OFFERORS, AND DISCUSSION OF THE TERMS AND SCOPE OF SUCH CONTRACT, WHERE DISCUSSION IN AN OPEN SESSION WOULD ADVERSELY AFFECT THE BARGAINING POSITION OR NEGOTIATING STRATEGY OF THE CITY, AND PURSUANT TO §2.2-3711(A) (7) OF THE CODE OF VIRGINIA FOR THE PURPOSE OF DISCUSSION AND CONSIDERATION OF INFORMATION REGARDING THE SUBJECT OF THE EMPLOYMENT, ASSIGNMENT, APPOINTMENT, AND PERFORMANCE OF SPECIFIC PUBLIC OFFICERS APPOINTEES, AND EMPLOYEES OF THE CITY OF WINCHESTER INCLUDING THE APPOINTMENT OF OR PROSPECTIVE APPOINTMENT OF MEMBERS TO CERTAIN BOARDS AND COMMISSIONS.**

6.0 ADJOURNMENT

B-2013-44

CITY OF WINCHESTER, VIRGINIA

PROPOSED CITY COUNCIL AGENDA ITEM

CITY COUNCIL/COMMITTEE MEETING OF: 10/10/13 CUT OFF DATE: 9/17/13

RESOLUTION XX ORDINANCE ___ PUBLIC HEARING ___

ITEM TITLE: Resolution to recognize Nayshon Cook

STAFF RECOMMENDATION: Council adopt resolution

PUBLIC NOTICE AND HEARING: N/A

ADVISORY BOARD RECOMMENDATION: N/A

FUNDING DATA: No additional funds needed

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. _____	_____	_____	_____
2. _____	_____	_____	_____
3. _____	_____	_____	_____
4. _____	_____	_____	_____
5. _____	_____	_____	_____
6. City Manager		_____	9-3-13
7. Clerk of Council	_____	_____	_____

Initiating Department Director's Signature:  _____ Date: 9/23/13





Winchester Police Department

KEVIN L. SANZENBACHER
CHIEF OF POLICE

MAJOR DAVID H. WHITE
CAPTAIN KELLY S. RICE
CAPTAIN KEVIN G. VANN
CAPTAIN LEONARD M. BAUSERMAN

231 EAST PICCADILLY STREET, SUITE 310
WINCHESTER, VIRGINIA 22601
PHONE (540) 545-4700 or (540) 545-4730
FAX (540) 542-1314
www.winchesterpolice.org
E-MAIL: wpdchief@ci.winchester.va.us

TO: Mayor Elizabeth Minor, President John Willingham, Members of the Council

FROM: Chief Kevin L. Sanzenbacher

SUBJECT: Citizen Commendation Award

DATE: August 23, 2013

BACKGROUND

On July 19, 2013, 7 year old Nayshon Cook called our Emergency Communications Center (ECC) and advised the dispatcher that his mother had suffered from a seizure. Nayshon was home alone with her with other small children and requested an ambulance. Though under extreme stress Nayshon remained calm and was able to direct emergency responders to their location and provide updates on his mother's condition.

The ECC staff found Nayshon's calm demeanor and concern for his mother's wellbeing to be astonishing for a person so young. It is for this reason that the ECC staff feels it would be appropriate that Nayshon be recognized by a resolution from the Common Council.

RECOMMENDATION

The Chief of Police recommends that the City Council approve the resolution recognizing Nayshon Cook for his bravery in helping us get help to his mother.



THE COMMON COUNCIL

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

I, Kari J. Van Diest, Deputy Clerk of the Common Council, hereby certify on this 12th day of November 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 12th day of November 2013.

RESOLUTION TO RECOGNIZE NASHAWN COOK

WHEREAS, the cooperation of citizens is vital to the well being of the community; and

WHEREAS, on July 19, 2013, 7 year old Nashawn Cook called the Winchester City Emergency Communications Center and advised the dispatcher that his mother had suffered a seizure and he was home with other smaller children; and

WHEREAS, though under extreme stress, Nashawn remained calm and was able to direct emergency responders to his location and keep the dispatcher updated on his mother's condition; and

WHEREAS, the Emergency Communications staff found Nashawn's calm demeanor and concern for his mother's wellbeing to be astonishing for a person so young; and

WHEREAS, it is the opinion of the ECC staff that it would be appropriate for Nashawn to be recognized by a resolution from the Common Council.

NOW THEREFORE BE IT RESOLVED that the Common Council of the City of Winchester, Virginia and the citizens it represents, recognizes the brave, calm, and caring manner in which Nashawn Cook got medical assistance on the evening of July 17th in the year 2013.

Resolution No. 2013-44.

ADOPTED by the Common Council of the City of Winchester on the 12th day of November 2013.

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

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

CITY OF WINCHESTER, VIRGINIA

PROPOSED CITY COUNCIL AGENDA ITEM

CITY COUNCIL/COMMITTEE MEETING OF: October 1, 2013 CUT OFF DATE: _____

RESOLUTION ___ ORDINANCE X PUBLIC HEARING ___

ITEM TITLE: Proposed modifications to City Code Section 26-15 pertaining to the time required to remove snow and ice from sidewalks.

STAFF RECOMMENDATION: Approval of 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. Zoning and Inspections	AMG		9/17/13
2. Police	PS		9/17/13
3. City Attorney	AW		9/17/2013
4. City Manager	[Signature]		9-20-13
5. Clerk of Council			
Initiating Department Director's Signature:	[Signature]		9/18/13 Date



APPROVED AS TO FORM:

[Signature] 9/12/2013
CITY ATTORNEY

CITY COUNCIL ACTION MEMO

To: Honorable Mayor and Members of City Council
From: Perry Eisenach, Public Services Director
Date: October 1, 2013 (Council Work Session)
Re: Snow and Ice Removal from Sidewalks

THE ISSUE: Proposed modifications to City Code Section 26-15 pertaining to the time required to remove snow and ice from sidewalks.

RELATIONSHIP TO STRATEGIC PLAN: Goal 4: Create a More Livable City for All.

BACKGROUND: City Code currently requires the property owner or occupant of the property to remove the snow and ice from the public sidewalk adjacent to their property within 2 hours after the snow or ice has stopped falling, or 9:00 am the next morning if such time is during the night. Staff believes that this amount of time is not sufficient for many residents or businesses, including City staff responsible for maintaining the sidewalks adjacent to City owned properties, to remove the snow or ice from the sidewalks.

In addition, the Police Department is currently responsible for enforcing this section of the code. City staff believes that the Zoning and Inspections Department is better suited to enforce these requirements.

BUDGET IMPACT: The proposed modifications have no impact to the City's budget.

RECOMMENDATIONS:

City staff recommend the following modifications to the existing City code:

1. Allow 24-hours once the snow stops falling to remove the snow/ice from the sidewalk when the total snow accumulation is 6-inches or less before a compliance notice is given.
2. Allow 48-hours once the snow stops falling to remove the snow/ice from the sidewalk when the total snow accumulation is greater than 6-inches before a compliance notice is given.
3. Make modifications so that the Zoning and Inspections Department is responsible for enforcement of these requirements instead of the Police Department.

RECOMMENDED ACTION FOR CITY COUNCIL:

Adopt the attached ordinance.

OPTIONS FOR CITY COUNCIL:

1. Adopt the proposed ordinance as presented.
2. Adopt the proposed ordinance with modifications.
3. Make no changes to the existing code (do not adopt the proposed ordinance).

AN ORDINANCE TO AMEND AND RE-ENACT SECTIONS 26-15 OF THE WINCHESTER CITY CODE PERTAINING TO THE TIME REQUIRED TO REMOVE SNOW AND ICE FROM SIDEWALKS

WHEREAS, Section 26-15 of the City Code specifies the requirements for tenants, occupants, and property owners to remove snow and ice from the public sidewalks within the City; and

WHEREAS, it is important for the safety of the public and to help ensure that Winchester is a walk-able community throughout the year that the sidewalks are cleared from ice and snow in a timely manner; and

WHEREAS, there is a desire to modify this section of the City Code to more clearly define the requirements for snow and ice removal and to make the requirements more concise.

NOW, THEREFORE, BE IT ORDAINED that Section 26-15 of the Winchester City Code is hereby amended and re-enacted to read as follows:

SECTION 26-15. DUTY OF PROPERTY OWNERS OR OCCUPANTS TO REMOVE SNOW AND ICE FROM SIDEWALKS.

- (a) The ~~tenant or occupant or, in case there shall be no tenant or occupant, the~~ owner or any person **responsible for** ~~having~~ the care of any building or lot of land abutting on any curbed or paved sidewalk within the corporate limits of the city shall **remove the snow or sleet from such sidewalk within twenty-four (24) hours after the snow or sleet has ceased to fall when the total snow accumulation is six inches or less and within forty-eight (48) hours after the snow or sleet has ceased to fall when the snow accumulation is greater than six inches.** ~~, if in the daytime, within two (2) hours after any snow or sleet has ceased to fall and, if in the nighttime, before 9:00 a.m. on the day succeeding, cause the same to be removed from such sidewalk; provided, that~~ **In cases of** sleet or ice **that,** ~~when it~~ cannot be removed without injury to the pavement of the sidewalk, **the sidewalk** shall be covered within **twenty-four hours after the ice or sleet has ceased to fall** ~~the same period of time~~ with sawdust, ashes or some other material which will render the sidewalk safe for travel.
- (b) Where conditions set forth in subsection (a) above are not complied with, ~~and the street on which the property is located has been plowed by the City's forces or agents,~~ the **Zoning and Inspections Director** ~~chief of police~~ or his designee shall immediately notify the ~~tenant, owner or person responsible for care of the building or lot of land abutting the curbed or paved sidewalk. occupant, and~~ **Such** notification shall be served by a member of the **Zoning and Inspections Department** ~~police department.~~

~~(c) If the conditions set forth in subsections (a) and (b) above are not complied with within twenty four (24) hours from the time of the notification, the chief of police may cause the tenant, owner or occupant to be charged with a violation of this section.~~

(c) If the conditions set forth in subsection (a) are not complied with after within twenty-four (24) hours from the time of service of the notice provided in subsection (b) ~~the conditions set forth in subsection (a) are not complied with~~, the City may cause the conditions to be complied with by hiring a contractor to remove the snow or sleet from the sidewalk. The cost thereof shall be charged to and collected from the owner, ~~occupant or occupants~~ of the property. Such collection may be affected in any manner provided by law including but not limited to ~~for~~ the collection of state and local taxes. Every charge authorized by this section in excess of \$200 which has been assessed against the owner of any such property and which remains unpaid shall constitute a lien against such property. Such liens shall have the same priority as other unpaid local taxes and shall be enforceable in the same manner as provided in Code of Virginia §§ 58.1-3940 et seq. and §§ 58.1-3965 et seq. The City may waive such liens in order to facilitate the sale of the property. Such liens may be waived only as to a purchaser who is unrelated by blood or marriage to the owner and who has no business association with the owner. All such liens shall remain a personal obligation of the owner of the property at the time the liens were imposed. (Code 1959, §22-21; Ord. of 6-14-78)(Ord. No. 042-95, 9-12-95)

State Law Reference--Authority for above section, Code of Virginia, §15.1-~~867~~1115.

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

0-2013-35

CITY OF WINCHESTER, VIRGINIA

PROPOSED CITY COUNCIL AGENDA ITEM

CITY COUNCIL MEETING OF: 10/1/13 (work session), **CUT OFF DATE:** 9/18/13
10/8/13(1st Reading) 11/12/13 (2nd reading)

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

ITEM TITLE:

RZ-13-430 AN ORDINANCE TO REZONE 0.46 ACRES OF LAND AT 317 SOUTH CAMERON STREET (Map Number 193-01-K-14) FROM RESIDENTIAL BUSINESS (RB-1) DISTRICT WITH HISTORIC WINCHESTER (HW) DISTRICT OVERLAY TO CENTRAL BUSINESS (B-1) DISTRICT WITH HW DISTRICT OVERLAY

STAFF RECOMMENDATION:

Approval

PUBLIC NOTICE AND HEARING:

Public hearing for 11/12/13 Council mtg

ADVISORY BOARD RECOMMENDATION:

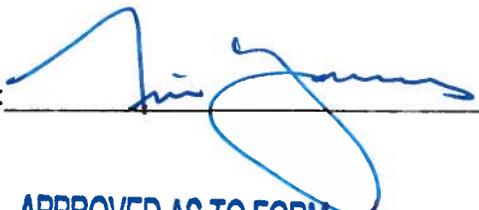
Planning Commission recommended approval.

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. City Attorney			9/18/2013
2. City Manager			9-20-13
3. Clerk of Council			

Initiating Department Director's Signature:  9/17/13
(Planning)



APPROVED AS TO FORM:
 9/18/2013
CITY ATTORNEY

CITY COUNCIL ACTION MEMO

To: Mayor and Members of City Council

From: Will Moore, Planner

Date: September 17, 2013

Re: **RZ-13-430** AN ORDINANCE TO REZONE 0.46 ACRES OF LAND AT 317 SOUTH CAMERON STREET (*Map Number 193-01-K-14*) FROM RESIDENTIAL BUSINESS (RB-1) DISTRICT WITH HISTORIC WINCHESTER (HW) DISTRICT OVERLAY TO CENTRAL BUSINESS (B-1) DISTRICT WITH HW DISTRICT OVERLAY

THE ISSUE:

Rezoning the 0.46 acre "old jail" property that most recently housed the public inebriate center and residential treatment facility from RB-1 to B-1 in order to facilitate redevelopment.

RELATIONSHIP TO STRATEGIC PLAN:

Goal 1: Grow the Economy

2013-14 Management in Progress, Item #2: *317 S. Cameron Street Redevelopment*

Goal 3: Continue Revitalization of Historic Old Town.

2013-14 Management Action, Item #3: *Market Rate Housing Units (25)*

BACKGROUND:

See attached staff report

BUDGET IMPACT:

The proposed rezoning is not tied to any specific development plan. The higher residential density and wider array of commercial uses allowable under B-1 will likely facilitate redevelopment and conversion to a taxable property.

OPTIONS:

- Approve rezoning as proposed
- Identify potential impacts; table request to allow applicant an opportunity to address
- Deny; leave existing RB-1 zoning in place

RECOMMENDATIONS:

Planning Commission recommended approval.

Council Work Session
October 1, 2013

RZ-13-430 AN ORDINANCE TO REZONE 0.46 ACRES OF LAND AT 317 SOUTH CAMERON STREET (*Map Number 193-01-K-14*) FROM RESIDENTIAL BUSINESS (RB-1) DISTRICT WITH HISTORIC WINCHESTER (HW) DISTRICT OVERLAY TO CENTRAL BUSINESS (B-1) DISTRICT WITH HW DISTRICT OVERLAY

REQUEST DESCRIPTION

The request is to rezone the property containing the 1845 former City Jail as depicted on an exhibit titled "*Rezoning Exhibit, RZ-13-430, Prepared by Winchester Planning Department, September 3, 2013.*"

AREA DESCRIPTION

The property is situated at the northwest corner of S. Cameron and E. Cecil Streets. Land directly to the north was rezoned conditionally to B-1 in late 2010 and consists of a two-family dwelling and a surface parking lot. Land to the west, south and east is zoned RB-1. Land to the west contains a mix of residential types and a real estate office. Land across Cecil to the south contains a mix of residential types and a warehouse structure. Land across Cameron to the east contains a mix of residential types and offices.



The subject property and all surrounding properties are within the Historic Winchester overlay District. The subject property and those to the north and west are within Parking District A (100% exempt from off-street parking requirements); properties to the east and south are within Parking District B (50% reduction).

STAFF COMMENTS

Comprehensive Plan

The subject property most recently housed the public inebriate center and residential treatment facility. The Comprehensive Plan identifies the property as a redevelopment site and calls for a specific land use action to "(r)elocate the detox and court services from the old jail to less disruptive sites. Reuse the historic building for a public or private use more compatible with the area." The referenced services have since ceased operation at the site. The City acquired Frederick County's portion of ownership interest in the property and then conveyed the property to the Economic Development Authority. The EDA is the applicant for the rezoning, which is intended to facilitate "appropriate housing development to serve targeted populations such as young professionals and empty nesters" per the request letter.

Strategic Plan

The Strategic Plan calls for "317 S. Cameron Street Redevelopment" as a 2013-14 Management in Progress item under Goal 1: Grow the Economy. The Plan also calls for development of "Market Rate Housing Units (25)" as a 2013-14 Management Action under Goal 3: Continue Revitalization of Historic Old Town.

Density

The base density provision for B-1 allows for one residential unit per 1,000sf of lot area. At just over 20,000sf in area, the base density would allow for 20 units. Density bonuses are available based on several potential criteria. While no specific development proposal has been submitted, a potential redevelopment scenario with a developer has been publicly discussed that could yield as many as 30 units, which would require eligibility for cumulative bonuses of 50%.

Potential Impacts

The current RB-1 zoning would permit development up to 35 feet in height. The proposed B-1 zoning would permit development up to 75 feet in height. The potential height of new structures was a consideration in deliberations of the 2010 rezoning of properties directly to the north. That rezoning was eventually approved as a conditional rezoning with a proffered height limitation of 35 feet. There are no proffers associated with this rezoning application.

While potential redevelopment scenarios would likely include preservation of the historic jail building on the front part of the site, the rear addition is more likely to be considered for demolition to provide for infill redevelopment. Any structures visible from a public street/way/place that would be demolished would be subject to first receiving a Certificate of Appropriateness (COA) from the Board of Architectural Review due to the location within the HW overlay District (or equivalent approval from Virginia DHR). Likewise, any new proposed structures would also be subject to receiving such approval. The reviews necessary for obtaining a COA or Historic Preservation Certification provide a mitigating factor for potential adverse impacts of new tall structures under the proposed B-1 zoning or demolition of the historic jail building. The Commission and Council should consider whether or not these review processes provide sufficient mitigation to address these potential impacts.

RECOMMENDATION

At its September 17, 2013 meeting, the Planning Commission forwarded **RZ-13-430** to City Council recommending approval as depicted on an exhibit titled *"Rezoning Exhibit, RZ-13-430, Prepared by Winchester Planning Department, September 3, 2013"* because the proposed B-1 zoning will facilitate redevelopment to a use more compatible with the area consistent with the land use action called for in the Comprehensive Plan.



Rouss City Hall
15 North Cameron Street
Winchester, VA 22601

Telephone: (540) 667-1815
FAX: (540) 722-3618
TDD: (540) 722-0782
Website: www.winchesterva.gov

July 17, 2013

Aaron Grisdale, Director of Zoning & Inspections
15 N. Cameron Street
Winchester, VA 22601

The Winchester Economic Development Authority, the sole owner of the "Old Jail", is requesting that 317 S. Cameron Street, be rezoned from RB1 to B1. The rezoning of this property is consistent with the City of Winchester's Comprehensive Plan in that it promotes appropriate housing development to serve targeted populations such as young professionals and empty nesters.

A complete list of properties, their owners and mailing addresses are included in this packet as well as maps that display the Old Jails' proximity to adjacent properties.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jim Deskins".

Jim Deskins, Executive Director

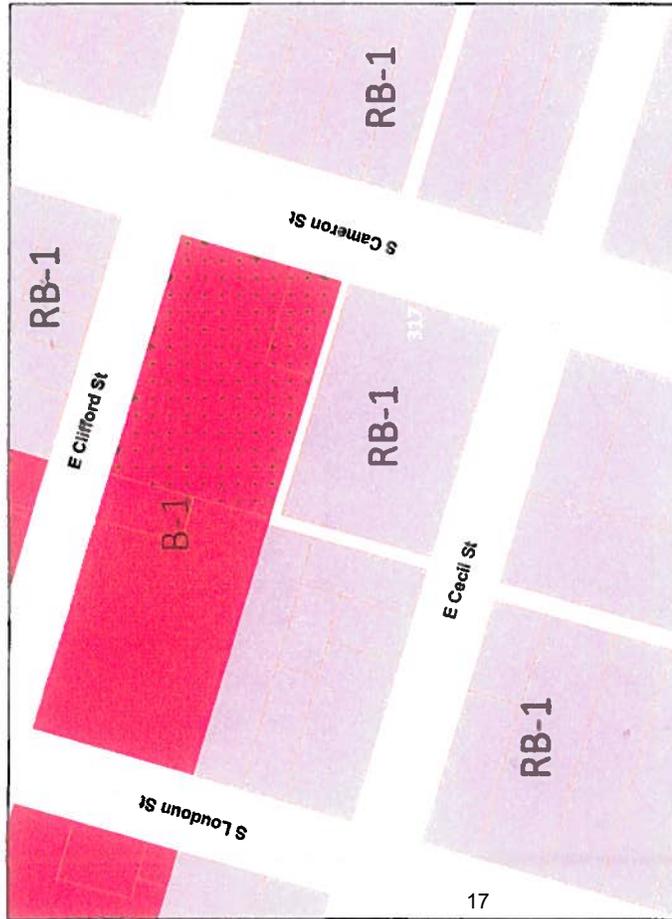
Winchester Economic Development Authority

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

REZONING EXHIBIT

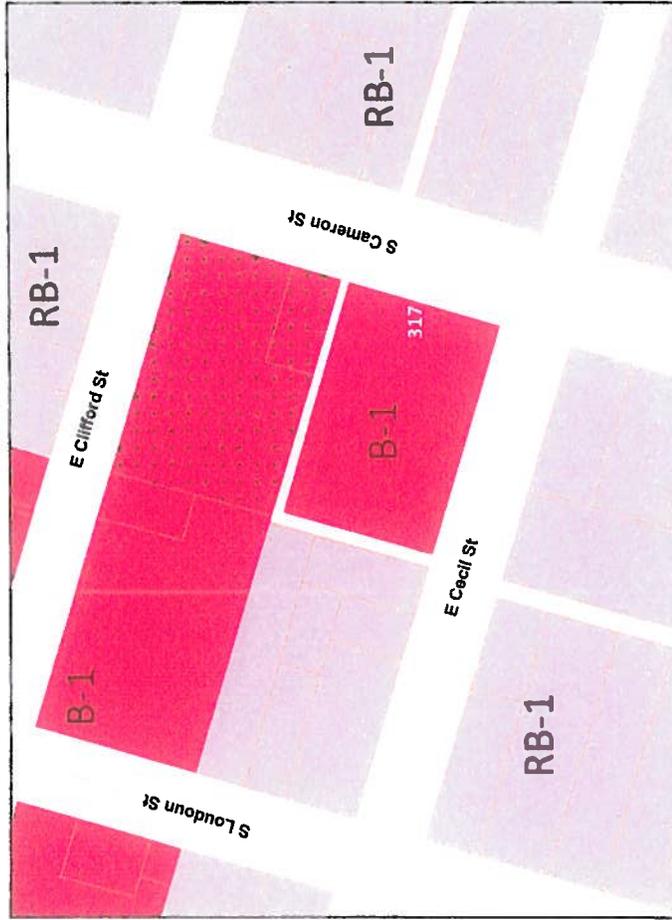
RZ-13-430

PREPARED BY WINCHESTER PLANNING DEPARTMENT
SEPTEMBER 3, 2013



EXISTING

RB-1 (HW) ZONING FOR 317 S CAMERON STREET



PROPOSED

B-1 (HW) ZONING FOR 317 S CAMERON STREET



Conditional Zoning

*** All properties depicted are within the HW overlay District

CITY OF WINCHESTER, VIRGINIA

CITY COUNCIL AGENDA ITEM

Presentation for Discussion: October 1, 2013
Presentation for Adoption, 1st Reading: October 8, 2013
Presentation for Adoption, 2nd Reading/Public Hearing: November 5, 2013

RESOLUTION ___ ORDINANCE X PUBLIC HEARING X DISCUSSION ___

ITEM TITLE: Ordinance amending Chapter 30 to create an Environmental Sustainability Taskforce, thereby replacing the Tree Commission and the Natural Resources Advisory Board

STAFF RECOMMENDATION: Adopt the enclosed ordinance

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. _____	_____	_____	_____
2. _____	_____	_____	_____
3. _____	_____	_____	_____
4. _____	_____	_____	_____
5. City Attorney	<i>AW</i>	_____	<i>9/16/2013</i>
6. City Manager	<i>DI</i>	_____	<i>9-17-13</i>
7. Clerk of Council	_____	_____	_____

Initiating Department Director's Signature: *Raytas J. Howard* _____ Date: *09/12/2013*



Revised: September 28, 2009



APPROVED AS TO FORM:

[Signature]
CITY ATTORNEY *9/16/2013*

CITY COUNCIL ACTION MEMO

To: Honorable Mayor and Members of City Council
From: Doug Hewett, Assistant City Manager
Through: Dale Iman, City Manager
Date: October 8, 2013
Re: Ordinance amending Chapter 30 to create an Environmental Sustainability Taskforce, thereby replacing the Tree Commission and the Natural Resources Advisory Board

THE ISSUE: As part of the City Council's effort to review the functions and composition of all city boards and commissions, is there value in creating an Environmental Sustainability Taskforce to serve as an advisory body to the City Manager and City Council in helping to guide public policy, planning, education, departmental management, new development, and evaluation of environmental and energy related matters.

RELATIONSHIP TO STRATEGIC PLAN: Goal 4 – Create a More Livable City for All

BACKGROUND: In 2012 the City Council began a process of reviewing the functions and composition of all city boards and commissions. From that effort there was general support for eliminating the Tree Commission and the Natural Resources Advisory Boards.

In subsequent conversations, the City Council expressed a desire for there to be an 'ad-hoc' group that could be called upon on an as-needed-basis to assist with issues or questions in areas that would have been previously handled by either the Tree Commission or the Natural Resources Advisory Board. This 'ad-hoc' group was proposed to be convened under the Parks and Recreation Advisory Board.

That idea didn't gain full traction with City Council; as such on August 20, 2013 staff presented the concept of combining the duties of the Natural Resources Advisory Board along with some of the duties of the Tree Commission into a new board with an expanded focus. The new board, styled after a similar board in Morgantown, WV, could work on such topics/issues as follows:

- 1) Assist the City and City residents in understanding its responsibility for its own impact on climate change, as well as educate the community in how it can become more energy efficient and climate sensitive.
- 2) Promote the adoption of LEED and Energy Star standards for municipal structures and, when possible, for private commercial and residential construction.




CITY MANAGER

- 3) Study and make recommendations for ways to generate green vehicle and travel solutions for City personnel and departments.
- 4) Evaluate City procurement and disposal policies and practices and make recommendations in collaboration with City personnel that will create more environmentally responsible alternatives.
- 5) Identify and promote renewable energy solutions that are consistent with needs, opportunities and resources available to the Greater Winchester area.
- 6) Advise and consult with the City Manager and the City Council on all matters pertaining to the authority and purpose of the Environmental Sustainability Committee, including issues previously assigned to the Tree Commission and the Natural Resources Advisory Board.
- 7) Support education efforts that will encourage environmental responsibility and energy efficiency, with unique programming.
- 8) Additional duties and tasks as assigned.

Based upon interest expressed by City Council at that August 20, 2013 meeting, the attached ordinance was created and presented to City Council on August 27, 2013. Following discussion, the City Council asked to have more time to review the ordinance and directed it be brought back for an upcoming work session.

On October 1, 2013 staff again presented this information to City Council. Following the staff presentation, City Council voted to forward this item for formal consideration to their October 8, 2013 meeting. In doing so, Council President Willingham requested that if the City Council ultimately adopts the attached ordinance and creates the Environmental Sustainability Taskforce that the Taskforce also look for ways to focus on environmental sustainability issues related to economic development and provide quarterly reports on their activities, once fully established.

BUDGET IMPACT:

None at present, as staff are already assigned to support the Tree Commission and Natural Resources Advisory Board.

OPTIONS:

1. Accept City Council's earlier recommendation to eliminate the Tree Commission and Natural Resources Advisory Board, and authorize the creation of an Environmental Sustainability Taskforce as outlined in the enclosed ordinance.
2. Reject staff's recommendation and provide direction concerning the disposition of the Tree Commission and Natural Resources Advisory Board.
3. Provide direction to staff, and/or take no action at this time.

RECOMMENDATIONS: Option 1

Environmental Sustainability Taskforce Task List

As proposed and shown in Section 30-32. (a) of the attached Code revision, the Environmental Sustainability Taskforce would have six broad areas of responsibility. In effort show some of the possible tasks the Taskforce could address, the following task list has been created.

1) Reduce the impact of the City of Winchester on its environment.

- A. Promote the adoption of LEED and Energy Star standards for municipal structures and, when possible, for private commercial and residential construction.
- B. Serve as Winchester's advisory board for participation in the Virginia Municipal League's Green Challenge designed to encourage implementation of specific environmental policies and practical actions that reduce the carbon emissions generated by both the local government and the broader community.
<http://gogreenva.org/>
- C. Energy Savings Programs for Winchester Businesses – Give awards to Green business etc., encourage energy efficient lighting – track energy savings for businesses that change to help convince others, develop a printer cartridge recycling program etc.
- D. _____

2) Encourage environmental stewardship and education among residents.

- A. Assist the City and City residents in understanding its responsibility for its own impact on climate change, as well as educate the community in how it can become more energy efficient and climate sensitive.
- B. Support education efforts that will encourage environmental responsibility and energy efficiency, with unique programming.
- C. Organize an Earth Day Celebration – downtown events and exhibits, school groups cleaning up parks etc.
- D. _____

3) Encourage collaboration among various entities in the Shenandoah Valley to preserve the environment.

- A. Identify and promote renewable energy solutions that are consistent with needs, opportunities and resources available to the Greater Winchester area.
- B. Organize a 'Grinding of the Greens' to recycle Christmas Trees – the city could collect trees and turn them into mulch for city flower beds.
- C. _____

4) Suggest areas for policy recommendation to the City Manager and City Council.

- A. Study and make recommendations for ways to generate green vehicle and travel solutions for City personnel and departments.
- B. Evaluate City procurement and disposal policies and practices and make recommendations in collaboration with City personnel that will create more environmentally responsible alternatives.
- C. _____

5) The Taskforce also assumes the responsibilities of the former Tree Commission and Natural Resources Advisory Board with respect to permits and appeals as described in Chapter 30.

- A. Advise and consult with the City Manager and the City Council on all matters pertaining to the authority and purpose of the Environmental Sustainability Committee, including issues previously assigned to the Tree Commission and the Natural Resources Advisory Board.
- B. Organize Arbor Day Celebrations
- C. _____

6) The Taskforce may be called upon to render advice to the City Arborist and City Manager regarding the planting and preservation of trees in the City of Winchester.

- A. _____
- B. _____

COMMON COUNCIL



Rouss City Hall
15 North Cameron Street
Winchester, VA 22601
540-667-1815
TDD 540-722-0782
www.ci.winchester.va.us

ORDINANCE TO AMEND THE WINCHESTER CITY CODE, CHAPTER 30. VEGETATION, TO ALLOW FOR THE CREATION OF THE ENVIRONMENTAL SUSTAINABILITY TASKFORCE

Whereas, the Winchester City Council has evaluated the composition of various City appointed boards and commissions; and

Whereas, the Winchester City Council believes that the creation of an Environmental Sustainability Taskforce would be beneficial,

Now therefore it be ordained, that the Winchester City Code, Chapter 30, Vegetation, is hereby amended as shown on the attached, and

Be it further ordained, that with this amendment the Tree Commission and the Natural Resources Advisory Board are eliminated.

Ord. No. _____

CHAPTER 30
VEGETATION

- Art. I. In General, §§30-1--30-15
Art. II. Trees on Public Property, §§30-16--30-48
Div. 1. Generally, §§30-16--30-30
Div. 2. ~~Tree Commission~~Environmental Sustainability Taskforce and City
Arborist, §§30-31--30-48
Art. III. Grass, Weeds and Other Foreign Growth on Private Property,
§§30-49--30-52

ARTICLE I. IN GENERAL

SECTIONS 30-1 - 30-15. RESERVED.

ARTICLE II. TREES ON PUBLIC PROPERTY

DIVISION 1. GENERALLY

SECTION 30-16. VIOLATIONS OF ARTICLE.

Unless otherwise specifically provided, a violation of any provision of this article shall constitute a Class 4 misdemeanor. In addition, wherever the words "City Manager" shall appear in this Article, they shall be deemed to include the City Manager's designee. (Ord. No. 020-2001, 5-8-2001)

SECTION 30-17. ISSUANCE AND EXPIRATION OF PERMITS REQUIRED BY ARTICLE; APPEALS.

- (a) All permits required by this article shall be issued by the City Arborist, ~~who may, at his option, consult the members of the Tree Commission as to such matters.~~ Any and all such permits shall expire at such time as may be designated therein.
- (b) The City Arborist shall advise the applicant and the ~~City Manager, or his designee, chairman of the Tree Commission~~ in writing of his decision to issue or deny any permit required by the Article. Any original permit applicant aggrieved by the decision of the City Arborist to issue or deny any such permit shall have the right to

Ordinance to Amend the Winchester City Code, Chapter 30. Vegetation, to allow for the creation of the Environmental Sustainability Taskforce

Whereas, the Winchester City Council has evaluated the composition of various City appointed boards and commissions; and

Whereas, the Winchester City Council believes that the creation of an Environmental Sustainability Taskforce would be beneficial,

Now therefore it be ordained, that the Winchester City Code, Chapter 30, Vegetation, is hereby amended as shown on the attached, and

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Ord. No. _____

WINCHESTER CODE

appeal the decision to a panel comprised of the City Manager ~~and two members of the Environmental Sustainability Taskforce, as described in Section 30-32, the Tree Commission Chairman, and the Public Services Committee Chairman or their designee~~ by advising the City Manager's Office in writing within ten (10) days of the date of the City Arborist's decision.

(Ord. No. 020-2001, 5-8-2001; Ord. No. 2009-30, 10-13-09)

SECTION 30-18. PERMIT TO PLANT.

It shall be unlawful for any person to plant any tree in any street, park, public place or public grounds of the City, without first having obtained a written permit therefor from the City Arborist, who may, at his option, consult the ~~Free Commission~~ Environmental Sustainability Taskforce, setting forth the variety thereof and the location where the same may be planted, and without in all respects complying with the conditions and terms of such permit.

(Code 1959, §19-9; Ord. No. 020-2001, 5-8-2001; Ord. No. 2009-30, 10-13-09)

SECTION 30-19. PERMIT FOR ATTACHMENTS, SPRAY, TRIM, ETC.

It shall be unlawful for any person, without first having obtained a written permit from the City Arborist, who may, at his option, consult the ~~Free Commission~~ Environmental Sustainability Taskforce, to attach any wire, insulator, rope, sign, poster, handbill or other thing or substance on, spray or otherwise treat or trim any living tree or any part thereof any tree growing in any street, park or public place or grounds or on any guard or protection device of such tree.

(Code 1959, §§19-1, 19-12; Ord. No. 020-2001, 5-8-2001; Ord. No. 2009-30, 10-13-09)

SECTION 30-20. REPEALED.

(Ord. No. 2009-30, 10-13-09)

SECTION 30-21. MANNER OF CUTTING PERMIT FOR CUTTING AND REMOVAL.

- a) No cutting, meaning removal and/or destruction, of any live tree in any street, park, public place or grounds in connection with the work of any City department or agency of the City, other than the City Manager, or of any public service corporation or other person having a right to use the street, park, public place or grounds shall be done except upon issuance of a permit and in such manner as directed by the City Arborist, who may, at his option, consult the ~~Free Commission~~ Environmental Sustainability Taskforce before directing such work to

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VEGETATION

be performed or issuing any permit for same. (Code 1959, §19-11; Ord. No. 020-2001, 5-8-2001; Ord. No. 2009-30, 10-13-09)

- b) Cutting, removal, or destruction of any live tree in any street, park, or public place or grounds that is done in connection with the work of any City Department or agency of the City as authorized by the City Manager or of any public service corporation or other person having lawful a right delegated by Common Council use the street, park, public place or grounds and cut or remove trees in connection with said use, shall be exempted from the permit requirements of Section 30-21(a).

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SECTION 30-22. REMOVING OR DAMAGING PROTECTIVE DEVICES.

It shall be unlawful for any person to remove, injure or misuse any guard or device placed or intended to protect any tree growing in any street, park or public place or grounds. (Code 1959, §19-2)

SECTION 30-23. PROTECTION DURING BUILDING OPERATIONS.

In the erection, alteration or repair of any building or structure, the owner thereof shall place, or cause to be placed, in accordance with the directions of the City Arborist, who may, at his option, consult the ~~Tree Commission~~ Environmental Sustainability Taskforce, such guards around nearby trees in the streets or public places or grounds as shall effectively prevent injury to such trees. (Code 1959, §19-14; Ord. No. 020-2001, 5-8-2001; Ord. No. 2009-30, 10-13-09)

SECTION 30-24. OBSTRUCTING FLOW OF WATER AND AIR TO ROOTS.

It shall be unlawful for any person to place or maintain in a street or public place or grounds, any stone, cement or other substance which shall impede the free entrance of water and air to the roots of any tree. (Code 1959, §19-3)

SECTION 30-25. DESTRUCTION OF TREES, SHRUBS, ETC.

It shall be unlawful for any person to pick, pull, pull up, tear, tear up, dig, dig up, cut, break, injure, burn or destroy, in whole or in part, any tree, shrub, vine, plant, flower or turf found, growing or being upon any land reserved, set aside or maintained by the City as a public park, or as a refuge or sanctuary for wild animals, birds or fish without having previously obtained the permission in writing of such other or his agent or of the superintendent or custodian of such park, refuge or sanctuary so to do, unless the same be

WINCHESTER CODE

done under the personal direction, such superintendent or custodian of such park, refuge or sanctuary.

Any person violating this section shall be guilty of a Class 3 misdemeanor; provided, however, that the approval of the superintendent or custodian of such park or sanctuary afterwards given in writing or in open court shall be a bar to further prosecution or suit. (Code 1950, §18.1-178; 1960, c. 358; 1975, cc. 14, 15; 1976, c. 757.)

State Law Reference--Similar provision, Code of Virginia, §18.2-140.

SECTIONS 30-26 - 30-30. RESERVED.

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DIVISION 2. TREE COMMISSION AND CITY ARBORIST

SECTION 30-31. CITY ARBORIST

The City may employ a person or private contractor to serve as the "City Arborist". The City Arborist shall provide recommendations to the City Manager with regard to the removal of existing trees in the City of Winchester, planting and maintenance of tree in the City, and other matters for which it may be deemed that his knowledge, training, and experience could be of benefit to the City of Winchester.
(Ord. No. 2009-30, 10-13-09)

SECTION 30-32. ENVIRONMENTAL SUSTAINABILITY TASKFORCE CREATED; COMPOSITION; APPOINTMENT AND TERMS OF MEMBERS; FILLING VACANCIES.

- (a) There is hereby created an Environmental Sustainability Taskforce that will assume all of the duties and functions previously assigned to the - Tree Commission and the Natural Resources Advisory Board, both of which are hereby disbanded. The Environmental Sustainability Taskforce will also, to be composed of seven members, seven-six (67) qualified voters of whom shall be residents of the City elected-appointed by the Common Council. Initially, three (3) of the members shall be elected-appointed to serve until December 31, 19662015, two three (32) to serve until December 31, 1968,2017 and two (2) to serve until December 31, 1983. Thereafter all members shall serve for a term of four (4) years or until their successors take office. The City Arborist, or aother designee of the City Manager, shall also serve as athe seventh full voting member. The Manager may remove and replace his designee at his discretion. until removed by the City Manager.
- (b) With the exception of the Manager's designee, who may be appointed, removed, or replaced as described in paragraph (a), Vacancies occurring on the Tree CommissionEnvironmental Sustainability Taskforce otherwise than through the expiration of term shall be filled for the unexpired term by the electionappointment of Common Council. (Code 1959, §19-4; Ord. No. 001-80, 1-8-80)
- (c) During the pendency of appointment to fill a vacancy as described in paragraph (b), the Manager may appoint an interim member of the Environmental Sustainability Taskforce who shall serve until such time as Common Council makes an appointment to fill the vacancy as described in paragraph (b).

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(d) In accordance with Section 30-17, within thirty (30) days of receipt of a written appeal of a decision by the Arborist regarding the issuance of a permit pursuant to this Article, the Environmental Sustainability Task Force shall review the Arborist's decision and render a final written decision to sustain, reject, or modify the decision made by the Arborist. Such determination by this committee shall be issued within thirty (30) days of review by the committee and shall be final and unappealable. The meetings of the committee convened pursuant to this section shall be an open public meeting. City Manager or his designee shall appoint a secretary for such meetings who shall be responsible for recording minutes and ensuring that proper public notice is issued for any meetings of the committee. City Manager or his designee shall also ensure that the City Attorney or his designee are provided with proper notice to attend the meetings to provide necessary legal advice as needed by the committee.

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(Code 1959, §19-4; Ord. No. 001-80, 1-8-80)

SECTION 30-33. MEMBERS NOT COMPENSATED.

All members of the ~~Free Commission~~ Environmental Sustainability Taskforce shall serve without compensation.

(Code 1959, §19-4; Ord. No. 001-80, 01-08-80)

SECTION 30-34. ORGANIZATION; ELECTION OF OFFICERS; QUORUM.

The members of the Environmental Sustainability Taskforce ~~Free Commission~~ shall, immediately after their appointment, meet and organize. They shall elect a chairman, a vice-chairman and such other officers as they may deem necessary. A majority of the members of the Environmental Sustainability Taskforce ~~Free Commission~~ shall constitute a quorum for the transaction of business.

(Code 1959, §19-5; Ord. No. 2009-30, 10-13-09)

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SECTION 30-35. POWERS AND DUTIES.

The ~~Environmental Sustainability Taskforce~~ ~~Tree Commission~~ is an advisory board created to identify ways to reduce the impact of the City of Winchester on its environment, to encourage environmental stewardship and education among residents, to encourage collaboration among various entities in the Shenandoah Valley to preserve the environment, and to suggest areas for policy recommendation to the City Manager and City Council. The Taskforce also assumes the responsibilities of the former ~~Tree Commission and Natural Resources Advisory Board~~ with respect to permits and appeals as described in Chapter 30, and ~~who~~ may be called upon to render advice to the City Arborist and City Manager regarding the planting and preservation of trees in the City of Winchester. This board serves in an advisory capacity only and possesses no adjudicatory, executive, or legislative powers.

The ~~Tree Commission~~ Environmental Sustainability Taskforce, at the request of the City Arborist or of the City Manager, shall provide advice and expertise regarding the trees now standing or hereafter planted on the streets, parks, public places and public grounds of the City. It shall have the duty to render advice and assistance to the City Arborist, at his request, as to the planting, trimming and removing of such trees and to provide advice and expertise to the City Arborist, at his request, as to the issuance of permits therefor. (Code 1959, §19-6; Ord. No. 020-2001, 5-8-2001; Ord. No. 2009-30, 10-13-09)

SECTION 30-36. RECOMMENDATIONS TO COUNCIL.

The ~~Tree Commission~~ City Arborist, through the City Manager, shall, on or before March 1st of each year, recommend to the Council such regulations as may be necessary for the proper preservation and protection of trees and the improvement of any public park, public place or public grounds, to specifically include recommendations for planting and maintenance of such trees. The City Arborist may consult with the Environmental Sustainability Taskforce in formulating his annual recommendations as deemed necessary by the City Arborist. (Code 1959, §19-7; Ord. No. 020-2001, 5-8-2001)

SECTION 30-37. INTERFERING WITH COMMISSION.

It shall be unlawful for any person in any way to interfere, or cause any person to interfere, with the ~~Tree Commission~~ City Arborist, the Environmental Sustainability Taskforce, or any employee of the City of Winchester, its agents or employees while planting, spraying, removing or otherwise caring for and protecting any tree in any street, park, public place or grounds. (Code 1959, §19-13)

SECTIONS 30-38 - 30-48. RESERVED.

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ARTICLE III. GRASS, WEEDS AND OTHER FOREIGN GROWTH ON PRIVATE PROPERTY

SECTION 30-49. DEFINITIONS.

For the purpose of this article, the following words shall have the meanings respectively ascribed to them by this section:

Owners: Persons holding title to any land or lot in the City; lessees, tenants and principal occupants of any land or lot in the City or agents of persons holding title to such lands or lots, and agents of persons having care, custody, control or management of the land or lot; and fiduciaries holding title to or having the care, custody, control or management of land or lots in the City for others.

Weeds: Wild or uncontrolled growth or vegetation of every kind standing on land, other than trees, ornamental shrubbery, flowers and garden vegetables.
(Code 1959, §1-5; Ord. No. 049-95, 10-17-95)

SECTION 30-50. DUTY OF PROPERTY OWNERS TO CUT.

- (a) Owners of property within the City shall not allow grass, weeds and other foreign growth thereon to exceed ten (10) inches in height. All grass, weeds and foreign growth on a one hundred (100) feet by one hundred (100) feet or smaller lot or acreage must be cut. In case of a larger lot or acreage, all grass, weeds and foreign growth thereon must be cut a distance of one hundred (100) feet from all adjoining property lines.
- (b) Any owner who violates any provision of this section shall be subject to a civil penalty of Fifty Dollars (\$50.00) for the first violation, or violations arising from the same set of operative facts. The civil penalty for subsequent violations not arising from the same set of operative facts within twelve (12) months of the first violation shall be Two Hundred Dollars (\$200.00). Each business day during which the same violation is found to have existed shall constitute a separate offense. In no event shall a series of specified violations arising from the same set of operative facts result in civil penalties that exceed a total of Three Thousand Dollars (\$3,000.00) in a twelve (12) month period.
- (c) Violations of any provision of this section shall be a Class 3 misdemeanor in the event three (3) civil penalties have previously been imposed on the same defendant for the same or similar violation, not arising from the same set of operative facts, with

VEGETATION

a twenty-four (24) month period. Classifying such subsequent violations as criminal offenses shall preclude the imposition of civil penalties for the same violation.
(Code 1959, §11-5; Ord. No. 022-94, 07-12-94; Ord. No. 13-2006, 4-11-06)

SECTION 30-51. NOTICE TO CUT.

Where grass, weeds or other foreign growth in excess of ten (10) inches in height are found upon property, the code enforcement officer, as defined in section 11-2 shall immediately notify the owner of such property to cut such grass, weeds, or other foreign growth down to a height not to exceed three (3) inches. Notifications shall be made by the same procedure as set forth in Section 11-37 of this Code.

(Code 1959, §11-5; Ord. No. 048-88, 11-15-88; Ord. No. 029-91; 6-11-91; Ord. No. 022-94, 07-12-94; Ord. No. 028-97, 10-14-97)

SECTION 30-52. CUTTING BY THE CITY.

- (a) If grass, weeds, or other foreign growth have not been cut within ten (10) days from the date the notice provided for in Section 30-51 is sent, the code enforcement officer, as defined in section 11-2 shall cause the cutting by the City's forces or the City's agent of such grass, weeds or other foreign growth forthwith.
- (b) Where grass, weeds or other foreign growth have been cut by order of the code enforcement officer pursuant to the provisions of this section, the cost of such cutting shall be billed to the owner of the property. If such bill is not paid, it shall be added to the City real estate tax bill on such property and shall be a lien on such property to the same extent and effect as such real estate tax is.
(Code 1959, §11-5; Ord. No. 048-88, 11-15-88; Ord. No. 029-91, 6-11-91; Ord. No. 022-94, 07-12-94; Ord. No. 028-97, 10-14-97)

State Law References--Authority of city to require cutting or removal of weeds and other foreign growth, Code of Virginia, §§15.1-11, 15.1-867, §15.1-901(penalty).

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CITY OF WINCHESTER, VIRGINIA

PROPOSED CITY COUNCIL AGENDA ITEM

CITY COUNCIL MEETING OF: 10/22/13 (work session), CUT OFF DATE: 10/16/13
11/12/13 (regular mtg)

RESOLUTION ___ ORDINANCE ___ PUBLIC HEARING X

ITEM TITLE:

CU-13-495 Request of Bowman-Turner, LC for a conditional use permit for conversion of ground floor nonresidential use to residential use at 118 1/2, 120 and 124 East Cork Street (Map Numbers 193-01-P-31 and 32) zoned Central Business (B-1) District with Historic Winchester (HW) District overlay.

STAFF RECOMMENDATION:

Approval with conditions

PUBLIC NOTICE AND HEARING:

Public hearing for 11/12/13 Council mtg

ADVISORY BOARD RECOMMENDATION:

Planning Commission recommended approval with conditions

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 Redevelopment, City Attorney, City Manager, and Clerk of Council.

Initiating Department Director's Signature: [Signature] 10/15/13 (Planning Dept)



APPROVED AS TO FORM: [Signature] 10/17/2013 CITY ATTORNEY

CITY COUNCIL ACTION MEMO

To: Honorable Mayor and Members of City Council

From: Will Moore, Planner

Date: October 15, 2013

Re: **CU-13-495** Request of Bowman-Turner, LC for a conditional use permit for conversion of ground floor nonresidential use to residential use at 118½, 120 and 124 East Cork Street zoned Central Business (B-1) District with Historic Winchester (HW) District overlay.

THE ISSUE:

Conversion of ground floor space most recently occupied as office use (vacant since 2009) to multifamily residential use.

RELATIONSHIP TO STRATEGIC PLAN:

Goal 3: Continue Revitalization of Historic Old Town.

2013-14 Management Action, Item #3: *Market Rate Housing Units (25)*

BACKGROUND:

See attached staff report

BUDGET IMPACT:

N/A

OPTIONS:

- Approve with conditions as recommended by Planning Commission
- Approve with modified conditions
- Deny

RECOMMENDATIONS:

Planning Commission recommended approval with conditions.

Council Work Session
October 22, 2013

CU-13-495 Request of Bowman-Turner, LC for a conditional use permit for conversion of ground floor nonresidential use to residential use at 118½, 120 and 124 East Cork Street (*Map Numbers 193-01-P-31 and 32*) zoned Central Business (B-1) District with Historic Winchester (HW) District overlay.

REQUEST DESCRIPTION

The request is for Conditional Use Permit approval under Section 9-2-16 of the Zoning Ordinance pertaining to conversion of nonresidential ground floor use to residential use within the Central Business District.

AREA DESCRIPTION

The subject properties and all adjoining properties along the same (north) side of E. Cork St are zoned B-1 with Historic Winchester (HW) overlay. Land on the opposite (south) side of E. Cork St is zoned Limited High Density Residential (HR-1) with HW overlay. The subject stretch of E. Cork St has some office use, but is primarily characterized by residential and church use. The site is situated within Parking District 'A' (100% exemption) and a portion of the site unimproved with structures falls within the 100-year Town Run Flood District.



STAFF COMMENTS

The CUP request for conversion of the former ground floor office space to residential use is outlined in a letter from the applicant dated September 9, 2013. This request applies to three contiguous structures that were converted from residential use to offices around 1989. The buildings have been vacant since 2009. The structures have door and window openings that are typical of residential dwellings rather than commercial storefronts. The units that would be accessed directly from the E. Cork St sidewalk all have living rooms at ground level. Three of these are two-level units, with the bedrooms located on the upper stories. The Planning Director has determined that this segment of E. Cork St does not represent a major commercial street and would suggest that City Council could find the ground-floor residential use to be as suitable as nonresidential reuse.

Floor Area/Lot Density

There are applicable minimum zoning standards pertaining to multifamily units in the B-1 District. The proposal includes a total of nine (9) one-bedroom apartments. The absolute minimum floor area for general population (non-age restricted) one bedroom units is 575sf; the minimum average for such units is 700sf. The proposed units range in size from 579sf to 923sf, with an average size of 709sf. For lot density, one unit is permitted for each 1000sf of lot area, with additional density bonuses available. The total lot area is 8867sf, permitting 9 units as proposed (simple rounding is used for fractional amounts) without the need for pursuing density bonuses.

Site Improvements

There is a small existing amount of green area in front of the portion of building #124 that is recessed back from the sidewalk along E Cork St. This area would be maintained. The rear portion of the properties not encumbered by buildings is mostly covered by gravel, with some vegetation overgrowing. This rear area is accessible from a private 10' alley connecting to S Kent St with an access easement benefitting the subject properties. The proposal includes a site plan depicting a number of improvements to the rear area, including a landscaped courtyard with numerous trees, a privately-serviced trash enclosure with stuccoed CMU walls, and five off-street parking spaces. The spaces, travel aisle, and a portion of the courtyard would be improved with permeable pavers. The Zoning Ordinance generally calls for 30% open space for residential uses in the HW District, however provides for the BAR to review and recommend an appropriate percentage for the particular site plan. The proposed plan more than doubles the existing amount of open space on the site, achieving 28%.

One of the existing front porches is completely enclosed by railings with no stair access to the adjoining sidewalk. The applicant has requested an easement to allow for additional encroachment into the public right-of-way (in line with the existing, encroaching porch) to allow for stairs to access a proposed apartment unit door at this location. Should the City grant this easement, an existing tree well and small existing street tree adjacent to the area may need to be relocated by the applicant several feet to the east to preserve necessary accessible clearances on the sidewalk.

RECOMMENDATION

For a conditional use permit to be approved, a finding must be made that the proposal as submitted or modified will not adversely affect the health, safety or welfare of persons residing or working in the neighborhood nor be detrimental to public welfare or injurious to property or improvements in the neighborhood.

At its October 15, 2013 meeting, the Planning Commission forwarded **CU-13-495** to City Council recommending approval because the proposal, as submitted, will not adversely affect the health, safety or welfare of persons residing or working in the neighborhood nor be detrimental to public welfare or injurious to property or improvements in the neighborhood. The recommendation is based upon finding that the proposed ground-floor residential units are as suitable or preferable to other permitted uses on the ground floor and is subject to the following:

1. Conformity with the submitted floor plans;
2. Acquisition of the necessary easement for the proposed stair encroachment; and,
3. Staff review and approval of the related site plan, to include a recommendation from the BAR on the proposed open space.

Bowman-Turner, LC
3863 Centerview Dr.
Suite #300
Chantilly, VA 20151



September 9, 2013

To: City of Winchester, Virginia

Re: Request for a Conditional Use Permit to Allow the Conversion of Former Commercial Ground Floor Space Within the B-1 District to Residential Use.

The accompanying material submitted with this letter complies with the requirements of Section 18-2 of the City Zoning Ordinance, containing:

1. The Conditional Use Application form, completed and signed.
2. A check to the Treasurer, City of Winchester, in the amount established by Staff.
3. 7 copies of the Site Plans, Floor Plans, and Elevations of the proposed use.
4. A check for \$25 to the Treasurer, City of Winchester, for the preparation of a list of adjacent property owners for the purpose of notification.
5. A list of the equitable owners of the properties under consideration (listed below)

Project Narrative and Community Impact: Until approximately 2009, the three contiguous structures at 118-1/2, 120, and 124 E. Cork St. together functioned as an office building, with internal connections between these buildings. Since that time the property has been unoccupied. Two of these buildings, 120 and 124, were originally built as separate residences in about 1840. The third building—118-1/2—was constructed in about 1930. In 1989 a major addition to 124 was added, and it was after this that the three building became united and changed to commercial use. **The proposed alteration requiring a Conditional use permit will return the buildings to their original character and original use as residential structures.** The accompanying floor plans will show that ground floor spaces facing Cork St. will henceforth contain the living rooms of the rehabilitated dwelling units, and that upper floor spaces facing Cork St. will contain predominantly bedrooms. The nine proposed apartments in the total project will be accessed either from the original entrances on Cork Street, or from new entrances on the back side of the buildings, as shown on the plans and elevation. The proposed project meets the density and apartment-size standards of the Zoning Ordinance. Garbage pickup will be privately provided, and the off-street parking requirements of the Zoning Ordinance will be met. There will be no adverse effect on the commercial character of the B-1 District because the buildings in question have always had a residential appearance.

0-2013.37

CITY OF WINCHESTER, VIRGINIA

PROPOSED CITY COUNCIL AGENDA ITEM

CITY COUNCIL MEETING OF: 10/22/13 (work session), CUT OFF DATE: 10/16/13
11/12/13 (1st Reading) 12/10/13 (2nd Reading/Public Hearing)

RESOLUTION ___ ORDINANCE X PUBLIC HEARING X

ITEM TITLE:

TA-13-488 AN ORDINANCE TO AMEND AND RE-ENACT SECTION 22-2 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO REFERRAL TO AND ACTION BY THE PLANNING COMMISSION ON REZONINGS AND ZONING TEXT AMENDMENTS

STAFF RECOMMENDATION:

Approval.

PUBLIC NOTICE AND HEARING:

Public hearing for 12/10/13 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.

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

Initiating Department Director's Signature: [Signature] 10/16/13



APPROVED AS TO FORM: [Signature] CITY ATTORNEY

CITY COUNCIL ACTION MEMO

To: Mayor and Members of City Council
From: Tim Youmans, Planning Director
Date: October 16, 2013
Re: TA-13-488

THE ISSUE:

The ordinance clarifies the means by which referral of a rezoning or text amendment request to the Planning Commission is handled as required by State Code. The ordinance also amends the maximum time allowed for Commission recommendation to be forwarded to Council by 10 days.

RELATIONSHIP TO STRATEGIC PLAN:

Goal 4: Create a more liveable city for all
Policy Agenda- Zoning Ordinance Rewrite

BACKGROUND:

See attached staff report

BUDGET IMPACT:

NA

OPTIONS:

- Approve
- Deny

RECOMMENDATIONS:

Planning Commission recommended approval.

Council Work Session
October 22, 2013

TA-13-488 AN ORDINANCE TO AMEND AND REENACT SECTION 22-2 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO REFERRAL TO AND ACTION BY THE PLANNING COMMISSION ON REZONINGS AND ZONING TEXT AMENDMENTS

REQUEST DESCRIPTION

The request is to bring language in Section 22-2 of the Zoning Ordinance pertaining to the procedures for Commission review of rezonings and text amendments into compliance with State Code. Specifically, the amended language addresses the referral of a case from City Council (i.e. the elected body) to the Commission. This referral is defined as the determination by the Planning Commission that the application for rezoning or zoning text amendment is complete. The amendment also changes the maximum limit on the time period in which the Commission must report a recommendation to City Council. The proposed amendment changes the timeframe from the current limit of 90 days to instead be 100 days consistent with the maximum period identified in State Code.

STAFF COMMENTS

The proposed ordinance clarifies provisions of Winchester's local zoning ordinance in order to better define when the clock starts ticking for the Planning Commission to complete review of rezonings and zoning text amendments prior to forwarding a recommendation on to City Council.

Effectively, the change from 90 days to 100 days will allow the Commission to table a request for rezoning or text amendment up to two times before having to forward it on to City Council regardless of uncertainties with the proposal. To illustrate how this works, the following example is provided:

Application for rezoning or text amendment submitted-	Sept 6 th
Application Determined Complete (i.e. 'Referral by Council')-	Sept 9 th
Nearest Planning Commission meeting to 'Referral' date-	Sept 17 th
Public Hearing opened at Planning Commission-	Oct 15 th (28 days after Sept 17 th)
Public Hearing continued to next Commission meeting-	Nov 19 th (63 days after Sept 17 th)
Public Hearing closed, decision tabled until next Comm mtg-	Dec 17 th (91 days after Sept 17 th)

In the example above, under the present 90-day limit, the Commission would not be able to table action beyond the Nov 19th meeting because the Dec 17th meeting would be more than 90 days out. Under the proposed 100-day limit, the Commission would not be able to table action beyond the Dec 17th meeting because the next Commission meeting would be more than 100 days out.

RECOMMENDATION

At its October 15, 2013 meeting, the Planning Commission forwarded TA-13-488 to Council recommending approval because it represents good planning practice by more clearly ensuring compliance with State Code and allowing a more reasonable upper limit of time for the Commission to make a recommendation to City Council.

AN ORDINANCE TO AMEND AND RE-ENACT SECTION 22-2 OF THE WINCHESTER ZONING
ORDINANCE PERTAINING TO REFERRAL TO AND ACTION BY THE PLANNING
COMMISSION ON REZONINGS AND ZONING TEXT AMENDMENTS
TA-13-488

WHEREAS, the Code of Virginia codifies how amendments and reenactments of the Zoning Ordinance are to be handled; and,

WHEREAS, the Code of Virginia requires that amendments and reenactments be referred to the Planning Commission and acted upon in a prescribed timeframe; and,

WHEREAS; the Winchester Zoning Ordinance currently is silent on referral by City Council and provides for a referral period shorter than that permissible under current State Code; and,

WHEREAS, the Planning Commission of the City of Winchester initiated public sponsorship of a text amendment to ensure compliance with State Code; and,

WHEREAS, the Planning Commission has considered the aforesaid amendment and, at its meeting of October 15, 2013, forwarded said amendment to City Council recommending approval as identified in "Draft 1 – 9/4/13" because it represents good planning practice by more clearly ensuring compliance with State Code and allowing a more reasonable upper limit of time for the Commission to make a recommendation to City Council; 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 amendment represents good planning practice.

NOW, THEREFORE, BE IT ORDAINED by the Common Council of the City of Winchester, Virginia, that the Winchester Zoning Ordinance of 1976, as amended, be further amended to read as follows:

AN ORDINANCE TO AMEND AND REENACT SECTION 22-2 OF THE WINCHESTER ZONING
ORDINANCE PERTAINING TO REFERRAL TO AND ACTION BY THE PLANNING
COMMISSION ON REZONINGS AND ZONING TEXT AMENDMENTS

TA-13-488

Draft 1 – 9/4/13

Ed. Note: The following text represents an excerpt of Article 22 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.

Section 22-2. REFERRAL TO AND ACTION BY PLANNING COMMISSION.

22-2-1 **All applications to amend or reenact the Zoning Ordinance, or to amend the Zoning Map, which have been determined by the Winchester Planning Department to be complete shall be considered to be referred to the Planning Commission by City Council.** No amendment **or reenactment** shall be acted upon unless the proposal has been reviewed by the Commission. The Commission shall hold at least one (1) public hearing on such proposed amendment **or reenactment after required notice.** For ~~in~~ any amendment of the Zoning Map, the public notice shall include the statement of the general usage and density range of the proposed amendment and the general usage and density range of the applicable part of the Comprehensive Plan. Following the hearing, the Commission may include changes in the original proposal resulting from the hearing, and shall transmit such recommendations, together with any explanatory matter, to the City Council. Failure of the Commission to report within ~~ninety (90)~~ **one hundred (100)** days after the first meeting of the Commission after the completed amendment application has been referred to the Commission shall be deemed approval, unless such proposed amendment **or reenactment** has been withdrawn by the applicant **prior to the expiration of the time period.** (11/13/79, Ord. No. 024-19; 2/9/88, Case TA-87-13, Ord. No. 008-88; 12/11/90, Case TA-90-06, Ord. No. 043-90; 10/13/92, Case TA-92-02, Ord. No. 016-92)

0-2013-38

CITY OF WINCHESTER, VIRGINIA

PROPOSED CITY COUNCIL AGENDA ITEM

CITY COUNCIL MEETING OF: 10/22/13 (Work Session), **CUT OFF DATE:** 10/15/13
11/12/13 (First Reading) 12/10/13 (2nd Reading/Public Hearing)

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

ITEM TITLE:

AN ORDINANCE TO AMEND AND REENACT SECTIONS 30-49, 30-51, 30-52 AND 11-38 OF THE WINCHESTER CITY CODE PERTAINING TO NOTICE REQUIREMENTS FOR GRASS, WEEDS, AND OTHER FOREIGN GROWTH ON PRIVATE PROPERTY AND FEES FOR ABATEMENT OF TRASH AND TALL GRASS AND WEEDS BY THE CITY.

STAFF RECOMMENDATION:

Approval.

PUBLIC NOTICE AND HEARING:

Public Hearing Required – 12/10/13.

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. City Attorney	<u>AW</u>	<u> </u>	<u>10/9/2013</u>
2. City Manager	<u>DI</u>	<u> </u>	<u>10-16-2013</u>
3. Clerk of Council	<u> </u>	<u> </u>	<u> </u>
	<u> </u>	<u> </u>	<u> </u>
	<u> </u>	<u> </u>	<u> </u>

Initiating Department Director's Signature: L.M. [Signature] 10/9/13
(Zoning and Inspections)



APPROVED AS TO FORM:

 [Signature] 10/9/2013
CITY ATTORNEY

CITY COUNCIL ACTION MEMO

To: Honorable Mayor and Members of City Council

AMB From: Aaron Grisdale, Director of Zoning and Inspections

Date: October 22, 2013

Re: Changes to Notice Requirements for Tall Grass and Weeds Violations

THE ISSUE:

Proposed modifications to City Code to reflect recent changes in the General Assembly regarding notice requirements for tall grass and weeds violations.

RELATIONSHIP TO STRATEGIC PLAN:

This text amendment correlates to the Goal #2 of "Develop a High Performing Organization" and Goal #4 "Create a More Livable City For All" by improving the tools available for code enforcement staff to correct and abate tall grass and weeds violations throughout the City.

BACKGROUND:

During the 2013 session of the General Assembly, changes were made to amend and reenact §15.2-901 of the Code of Virginia to amend the provisions pertaining notice requirements for violations of excessive grass height. The change states that one notice per growing season shall constitute reasonable notice for properties that exceed the maximum allowable height for grass violations. Additionally, an abatement fee is proposed in cases where City staff must hire a contractor to abate the violation in order to cover the administrative costs of this abatement. (Full staff report attached).

BUDGET IMPACT:

No funding is required.

OPTIONS:

- Adopt the proposed changes which include:
 - o Modifying the written notice requirements for tall grass and weeds violations to once per growing season
 - o Adopt a \$50 abatement fee to cover administrative costs associated with the abatement.
- Make no changes to existing code

RECOMMENDATIONS:

The Director of Zoning and Inspections recommends adoption.

AN ORDINANCE TO AMEND AND REENACT SECTIONS 30-49, 30-51, 30-52 AND 11-38 OF THE WINCHESTER CITY CODE PERTAINING TO NOTICE REQUIREMENTS FOR GRASS, WEEDS, AND OTHER FOREIGN GROWTH ON PRIVATE PROPERTY AND FEES FOR ABATEMENT OF TRASH AND TALL GRASS AND WEEDS BY THE CITY.

REQUEST DESCRIPTION

This ordinance to amend City Code is to maintain compliance with the Code of Virginia, following the adoption of some bills recently in the General Assembly. Specifically revisions were adopted pertaining to the notice requirements for violations of tall grass provisions.

STAFF COMMENTS

During the 2013 session of the General Assembly, changes were made to amend and reenact §15.2-901 of the Code of Virginia to amend the provisions pertaining notice requirements for violations of excessive grass height. The change states that one notice per growing season shall constitute reasonable notice for properties that exceed the maximum allowable height for grass violations.

Currently the City Code requirements involve the drafting and sending of a written notice each time the vegetation on private property reached height in excess of ten inches. In a majority of cases it can take two weeks for the required certified return receipt to be returned to staff to confirm that the property owner has received the notice, meanwhile the grass or weed violation continues to get worse. With properties involving absentee landowners or foreclosure the time required can increase. If the property owner does not abate the violation, then the Zoning and Inspections department typically hires a contractor to abate the violation and then sends a bill to the property owner. If the bill is not paid, then the amount due is added to the City real estate tax bill for the subject property and will constitute a lien on such property to the same extent and effect as real estate tax. Staff anticipates a small reduction in postage costs as there would be a minor reduction in the number of second and additional notices sent to property owners (the current price for staff to send a notice of violation with certified return receipt is \$6.11).

This proposal will dramatically improve Zoning and Inspections efforts to proactively address tall grass and weeds violations throughout the City. Rather than having to send out a notice of violation several times throughout the growing season, staff will need to send a notice of violation once at the beginning of the season at the first observation of a violation, rather than repeatedly throughout the year. The growing season dates are based on first and last frost dates for our location as provided by the Virginia Cooperative Extension for the local area. General guidance is that although the dates are an average the frost can generally occur within 10 days on either side of the given dates.

Lastly, the proposed ordinance includes a provision for an administrative abatement fee to be charged each time the City is required to utilize a contractor to abate a tall grass or trash violation. These administrative fees would cover the costs of certified mailings, re-inspections of the property by staff, administrative work with receiving an estimate with the contractor, paying the contractor, billing the

property owner, and if no payment then working with the necessary City departments to place a lien on the property.

RECOMMENDATION

Staff recommends approval of this ordinance amendment.

AN ORDINANCE TO AMEND AND REENACT SECTIONS 30-49, 30-51, 30-52 AND 11-38 OF THE WINCHESTER CITY CODE PERTAINING TO NOTICE REQUIREMENTS FOR GRASS, WEEDS, AND OTHER FOREIGN GROWTH ON PRIVATE PROPERTY AND FEES FOR ABATEMENT OF TRASH AND TALL GRASS AND WEEDS BY THE CITY.

WHEREAS, the Winchester City Code presently contains a requirement for property owners to maintain their grass at a height of no higher than ten inches and a separate written notification must be sent for each violation that occurs throughout the year; and,

WHEREAS, the Code of Virginia was amended during the 2013 General Assembly session to alter the notice requirements, for tall grass and weeds violations, allowing for one written notification to serve as notice for the entire growing season; and,

WHEREAS, in situations where City code enforcement staff must hire a contractor to abate a trash or tall grass violation, an abatement fee is proposed in order to cover the administrative costs associated with the abatement process;

WHEREAS, the proposed Ordinance will expedite Code Enforcement staff's ability to address tall grass and weeds violations in a timely manner, thereby resulting in a "High Performing Organization" in line with Goal #2 of the 2013 City Strategic Plan;

NOW THEREFORE BE IT ORDAINED by the Common Council of the City of Winchester, Virginia, that Sections 30-49, 30-51, 30-52, and 11-38 of the Winchester City Code are hereby amended.

AN ORDINANCE TO AMEND AND REENACT SECTIONS 30-49, 30-51, 30-52 AND 11-38 OF THE WINCHESTER CITY CODE PERTAINING TO NOTICE REQUIREMENTS FOR GRASS, WEEDS, AND OTHER FOREIGN GROWTH ON PRIVATE PROPERTY AND FEES FOR ABATEMENT OF TRASH AND TALL GRASS AND WEEDS BY THE CITY.

*Ed. Note: The following text represents excerpts of City Code that are 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.*

CHAPTER 30

VEGETATION

ARTICLE III. GRASS, WEEDS AND OTHER FOREIGN GROWTH ON PRIVATE PROPERTY

SECTION 30-49. DEFINITIONS.

For the purpose of this article, the following words shall have the meanings respectively ascribed to them by this section:

Growing Season: **Time period beginning April 20th and ending October 29th. Source; Vegetable Planting Guide and Recommended Planting Dates, Virginia Cooperative Extension Publication 426-331**

Owners: Persons holding title to any land or lot in the City; lessees, tenants and principal occupants of any land or lot in the City or agents of persons holding title to such lands or lots, and agents of persons having care, custody, control or management of the land or lot; and fiduciaries holding title to or having the care, custody, control or management of land or lots in the City for others.

Weeds: Wild or uncontrolled growth or vegetation of every kind standing on land, other than trees, ornamental shrubbery, flowers and garden vegetables.

(Code 1959, §1-5; Ord. No. 049-95, 10-17-95)

SECTION 30-51. NOTICE TO CUT.

Where grass, weeds or other foreign growth in excess of ten (10) inches in height are found upon property, the code enforcement officer, as defined in section 11-2 shall immediately notify the owner of such property to cut such grass, weeds, or other foreign growth down to a height not to exceed three (3) inches. **One written** ~~N~~ **notifications per growing season to the owner shall be considered reasonable notice for this article provided** ~~shall be~~ it is made by the same procedure as set forth in Section 11-37 of this Code.

(Code 1959, §11-5; Ord. No. 048-88, 11-15-88; Ord. No. 029-91; 6-11-91; Ord. No. 022-94, 07-12-94; Ord. No. 028-97, 10-14-97)

SECTION 30-52. CUTTING BY THE CITY.

- (a) If grass, weeds, or other foreign growth have not been cut within ten (10) days from the date the notice provided for in Section 30-51 is sent, the code enforcement officer, as defined in section 11-2 shall cause the cutting by the City's forces or the City's agent of such grass, weeds or other foreign growth forthwith.
- (b) Where grass, weeds or other foreign growth have been cut by order of the code enforcement officer pursuant to the provisions of this section, the cost of such cutting **and a Fifty Dollar (\$50) fee to offset the administrative expenses** shall be billed to the owner of the property. If such bill is not paid, it shall be added to the City real estate tax bill on such property and shall be a lien on such property to the same extent and effect as such real estate tax is.
(Code 1959, §11-5; Ord. No. 048-88, 11-15-88; Ord. No. 029-91, 6-11-91; Ord. No. 022-94, 07-12-94; Ord. No. 028-97, 10-14-97)

State Law References--Authority of city to require cutting or removal of weeds and other foreign growth, Code of Virginia, §§15.1-11, 15.1-867, §15.1-901(penalty).

CHAPTER 11 GARBAGE AND REFUSE

ARTICLE III. ACCUMULATIONS OF GARBAGE AND REFUSE

SECTION 11-38. REMOVAL BY THE CITY.

- (a) If the substances referred to in Section 11-36 have not been removed from the property by the owner within seven (7) days from the date the letter has been mailed or the notice posted pursuant to Section 11-37, or, in the case of personal property subject to §11-36(b), within the time prescribed in that subsection, the Code Enforcement Officer may cause the removal by the City's forces or the City's agent of such substances from such property forthwith. (Ord. No. 020-94, 06-14-94; Ord. No. 028-97, 10-14-97)
- (b) Where substances have been removed from property by order of the Code Enforcement Officer pursuant to the provisions of this section, the cost of such removal **and a Fifty Dollar (\$50) fee to offset the administrative expenses** shall be billed to the owner of the property. If such bill is not paid, it shall be added to the City real estate tax on such property and shall be a lien on such property to the same extent and effect as such real estate tax is. (Code 1959, §11-5; Ord. No. 048-88, 11-15-88; Ord. No. 028-91, 6-11-91; Ord. No. 005-93, 02-09-93; Ord. No. 028-97, 10-14-97)

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, VIRGINIA

PROPOSED CITY COUNCIL AGENDA ITEM

CITY COUNCIL MEETING OF: 10/22/13 (Work Session), **CUT OFF DATE:** 10/15/13
11/12/13 (First Reading) 12/10/13 (2nd Reading/Public Hearing)

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

ITEM TITLE:
AN ORDINANCE TO AMEND AND REENACT SECTIONS 6-8, 6-9, AND 6-144 OF THE WINCHESTER CITY CODE PERTAINING TO VACANT BUILDING REGISTRATIONS, FEES AND PENALTIES, AND CIVIL PENALTIES FOR VIOLATIONS OF THE VIRGINIA MAINTENANCE CODE.

STAFF RECOMMENDATION:
Approval.

PUBLIC NOTICE AND HEARING:
Public Hearing Required – 12/10/13.

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. City Attorney	<i>[Signature]</i>		10/10/2013
2. City Manager	<i>[Signature]</i>		10-16-2013
3. Clerk of Council			

Initiating Department Director's Signature: *[Signature]* 10/9/13
(Zoning and Inspections)



APPROVED AS TO FORM:
[Signature]
CITY ATTORNEY

CITY COUNCIL ACTION MEMO

To: Honorable Mayor and Members of City Council
From: Aaron Grisdale, Director of Zoning and Inspections
Date: October 22, 2013
Re: Changes to Registration Requirements for Vacant Buildings and Increase Penalties for Virginia Maintenance Code Violations

THE ISSUE:

Proposed modifications to City Code to reflect recent changes in the General Assembly regarding registration requirements, fees, and penalties for vacant buildings. Additionally, increase the assessed penalties for violations of the Virginia Maintenance Code.

RELATIONSHIP TO STRATEGIC PLAN:

This text amendment correlates to the Goal #4 "Create a More Livable City For All" by addressing the tools available for code enforcement staff to identify vacant buildings and improve the tools to help correct property maintenance violations throughout the City.

BACKGROUND:

During the 2013 session of the General Assembly, changes were made to amend and reenact §15.2-1127 of the Code of Virginia to amend the provisions pertaining to vacant buildings. The change requires that vacant buildings subject to registration must also meet the definition of derelict building, as defined in §15.2-907.1, and Chapter 6, Section 132 of City Code. Additionally, the proposed ordinance would incorporate increases to the schedule of civil penalties for violations of the Virginia Maintenance Code in line with increases in the enabling legislation in the Code of Virginia. (Full staff report attached).

BUDGET IMPACT:

No funding is required.

OPTIONS:

- Adopt the proposed changes which include:
 - o Modify the requirement for vacant buildings to register with the Building Official to only vacant buildings that also are derelict, as defined.
 - o Increase both the registration fee for vacant buildings and penalty for failing to register.
 - o Increase the penalties for violations of the Virginia Maintenance Code.
- Make no changes to existing code

RECOMMENDATIONS:

The Director of Zoning and Inspections recommends adoption.

AN ORDINANCE TO AMEND AND REENACT SECTIONS 6-8, 6-9, AND 6-144 OF THE WINCHESTER CITY CODE PERTAINING TO VACANT BUILDING REGISTRATIONS, FEES AND PENALTIES, AND CIVIL PENALTIES FOR VIOLATIONS OF THE VIRGINIA MAINTENANCE CODE.

REQUEST DESCRIPTION

This ordinance to amend City Code is to maintain compliance with the Code of Virginia, following the adoption of some bills recently in the General Assembly. Specifically revisions were adopted pertaining to the City's Vacant Building registration requirement and fees, as well as the maximum amounts that localities can issue as part of civil penalties for violations of the Virginia Maintenance Code.

STAFF COMMENTS

During the 2013 session of the General Assembly, changes were made to amend and reenact §15.2-1127 of the Code of Virginia to amend the provisions pertaining to vacant buildings. The change requires that vacant buildings subject to registration must also meet the definition of derelict building, as defined in §15.2-907.1, and Chapter 6, Section 132 of City Code.

A derelict building is defined as a residential or nonresidential building or structure, whether or not construction has been completed, that might endanger the public's health, safety, or welfare and for a continuous period in excess of six months, it has been (i) vacant, (ii) boarded up in accordance with the building code, and (iii) not lawfully connected to electric service from a utility service provider or not lawfully connected to any required water or sewer service from a utility service provider. Not being lawfully connected as used in this definition would be the ability to use the service provided, instead of a lack of physical connection. Boarded up in accordance with the building code is achieved by securing the property from public entry. Actual boarding of buildings is usually ordered as a result of the doors, windows being damaged or by City code officials finding repeated unauthorized entry points. An uninhabitable or unsafe building would be considered boarded or secure if all windows and doors were secured and undamaged and capable from preventing unauthorized entry by the general public.

There is likely to be a reduction of the number of vacant buildings registered with the City, due to some property owners having maintained utility connections even though they are vacant. Buildings currently registered as vacant would be reviewed during the annual renewal and the owners made aware of the changes of the registry requirements. The properties that are currently registered that do not meet the new requirements would then not be required to register.

Additionally, the General Assembly has increased the fees authorized to cover costs associated with maintaining the registry from \$25 to \$100 and increase the civil penalty for failing to register from \$50 to \$200. These changes have been incorporated with the proposed City Code ordinance. These fees, which are set by the enabling legislation, have not been increased since when the ordinance was first adopted in 2005.

Lastly, the proposed ordinance would incorporate increases to the schedule of civil penalties for violations of the Virginia Maintenance Code in line with increases in the enabling legislation in the Code of Virginia. These increases include changes to the first civil penalty from \$75 to \$100, and for second and subsequent penalties from \$150 to \$350. These fees have not been revisited or adjusted since 2005.

RECOMMENDATION

Staff recommends approval of this ordinance amendment.

AN ORDINANCE TO AMEND AND REENACT SECTIONS 6-8, 6-9, AND 6-144 OF THE WINCHESTER CITY CODE PERTAINING TO VACANT BUILDING REGISTRATIONS, FEES AND PENALTIES, AND CIVIL PENALTIES FOR VIOLATIONS OF THE VIRGINIA MAINTENANCE CODE.

WHEREAS, the Winchester City Code presently contains a requirement for buildings that have been vacant for at least one year to be registered with the Building Official and pay a fee; and,

WHEREAS, the Code of Virginia was amended during the 2013 General Assembly session to alter the requirements, penalties and fees of vacant properties that must be registered with the City; and,

WHEREAS, the vacant building registry requirement is an important tool in ensuring that vacant properties throughout the City are monitored to prevent deterioration of the property and loss of the quality of life in the surrounding neighborhood; and,

WHEREAS, the Code of Virginia has been amended to increase the penalties that municipalities may issue for violations of the Virginia Maintenance Code;

NOW THEREFORE BE IT ORDAINED by the Common Council of the City of Winchester, Virginia, that Sections 6-8, 6-9 and 6-1444 of the Winchester City Code are hereby amended.

AN ORDINANCE TO AMEND AND REENACT SECTIONS 6-8, 6-9, AND 6-144 OF THE WINCHESTER CITY CODE PERTAINING TO VACANT BUILDING REGISTRATIONS, FEES AND PENALTIES, AND CIVIL PENALTIES FOR VIOLATIONS OF THE VIRGINIA MAINTENANCE CODE.

*Ed. Note: The following text represents excerpts of City Code that are 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.*

CHAPTER 6

BUILDING REGULATIONS

SECTION 6-9. VACANT BUILDING REGISTRATION; PENALTY

The following words, terms and phrases, when used in this article, shall have the meaning ascribed to them in this section:

Owner means the person shown on the current real estate assessment books or current real estate assessment records.

Vacant ~~Building~~ means ~~a building that~~:

- No person or persons actually, currently conducts a lawfully licensed business; or,
- No person or person(s) lawfully resides or lives in the building as the legal or equitable owner(s) or tenant-occupant(s), or owner-occupants, or tenant(s) on a permanent, non-transient basis; or,
- All residential and business activity has ceased; or,
- Has been declared unsafe or unfit for human habitation as defined in the Virginia Maintenance Code and ordered vacated by the Building Official and or his designee; and,
- Does not include buildings which are undergoing construction, renovation, or rehabilitation and which are in compliance with all applicable ordinances, codes, and regulations, and for which construction, renovation or rehabilitation is proceeding diligently to completion.

(a) The owner of a vacant building which has been continuously vacant for a period of twelve (12) months or more **and which meet the definition of "derelict building" under Section 6-132 of the City code**, must register the building annually with the Building Official. Such registration shall be on a form prescribed by the Building Official. A building shall be deemed "continuously vacant", as that term is used in this subsection, even if it is sporadically or intermittently occupied during the twelve (12) month period.

(b) The annual fee for such registration shall be **One Hundred Dollars (\$100)** ~~Twenty Five Dollars (\$25.00)~~. The fee shall be paid at the time that the building is initially registered. For each subsequent year, or any part of such year, that the building remains continuously vacant, an annual and non-

refundable fee of **One Hundred Dollars (\$100)** ~~Twenty-Five Dollars (\$25.00)~~ shall be paid within fifteen (15) days of the anniversary date of the building's initial registration.

(c) Failure to register a vacant building as required by this section shall be punishable by a civil penalty not exceeding **Two Hundred Dollars (\$200)** ~~Fifty Dollars (\$50.00)~~. ~~Failure to register in conservation and rehabilitation districts designated by the Common Council for the City of Winchester, or other areas designated as blighted pursuant to section 36-49.1:1 of the Code of Virginia, 1950, as amended, shall be punishable by a civil penalty not exceeding Two Hundred Fifty Dollars (\$250.00).~~

(d) The Building Official, or his or her designee, shall mail a Notice of violation to the owner(s) of the vacant building, at the address to which property tax notices are sent, at least thirty (30) days prior to the assessment of the civil penalty.

(Ord. No. 028-2005, 9-13-05; Ord. No. 2008-29, 6-10-08)

State Law Reference—Code of Virginia, §15.2-1127.

SECTIONS 6-10 - 6-15. RESERVED.

(Ord. No. 004-90, 2-13-90; Ord. No. 023-92, 12-8-92)

SECTIONS 6-144. UNIFORM SCHEDULE OF CIVIL PENALTIES AND SUMMONS FORMAT.

The following Uniform Schedule of Civil Penalties is hereby adopted by the City of Winchester:

**City of Winchester
Department of Zoning and Inspections
Uniform Schedule of Civil Penalties**

Fail to display Street Numbers (CC -26-3, IPMC 304.3)	1 st \$75.00 \$25.00 2nd and subsequent violations <u>\$150.00</u> \$50.00
Fail to obtain any required inspection (CC-6-91(f))	\$50.00
Fail to provide Notification of Rental Housing (CC-6-90(b))	\$50.00
Fail to register Vacant Building (CC-6-9)	<u>\$200.00</u> \$50.00
Zoning Violations (scheduled in Sec. 21-3, Z.O.)	1st \$200.00 2nd and subsequent violations \$500.00
Violations of the Virginia Maintenance Code (CC-6-8)	1st <u>\$100.00</u> \$75.00 2nd and subsequent violations <u>\$350.00</u> \$150.00
Weeds and Tall Grass (fail to cut) (CC-30-50) Trash and Rubbish (fail to remove) (CC-11-36)	1st and subsequent from same set of facts \$50.00 2nd within 12 months \$200.00 similar violations not of same facts 1st and subsequent from same set of facts \$50.00 2nd within 12 months \$200.00 similar violations not of same facts

SECTION 6-8. VIOLATIONS OF VIRGINIA UNIFORM STATEWIDE BUILDING CODE, VIRGINIA MAINTENANCE CODE; MISDEMEANOR, CIVIL PENALTIES.

(a) Violations of Chapter 1, Section 105, Virginia Maintenance Code, unsafe structures or structures unfit for human habitation shall be deemed a misdemeanor. Penalties shall be as set out in §36-106(A) of the Code of Virginia as amended.

(b) Violations resulting or that results in a dwelling not being a safe, decent and sanitary dwelling, as defined in §25.1-400 Code of Virginia, shall be deemed a misdemeanor. Penalties shall be as set out in §36-106(B) Code of Virginia as amended.

(c) In lieu of criminal penalties otherwise chargeable under the Virginia Uniform Statewide Building Code, Virginia Maintenance Code and in accordance with §36-106(C) of the Code of Virginia as amended, except for any violation resulting in injury to any person or persons, the following civil

penalties shall be imposed upon any person who violates the provisions thereof after compliance with the initial notice has not been achieved:

Failure to obtain any required inspection:

First summons, per day	\$100.00
Second or subsequent summonses, per day	\$150.00

Violation of any other provision of Virginia Maintenance Code of the Virginia Uniform Statewide Building Code:

First summons, per day:	\$75.00 <u>\$100.00</u>
Second or subsequent summonses, per day	\$150.00 <u>\$350.00</u>

Failure to display or maintain street numbers:

First summons	\$ 75.00
Second or subsequent summonses, per summons	\$ 150.00

(d) With the exception of the street numbering provisions of Section 26-3, each day during which a violation exists shall constitute a separate violation. However, a series of violations arising from the same operative set of facts shall not give rise to the levying of a civil penalty more frequently than once in any ten (10) day period, and shall not result in civil penalties exceeding a total of **four thousand dollars (\$4,000)** ~~three thousand dollars (\$3,000.00)~~.

(Ord. No. 021-2005, 6-14-05; Ord. No. 2008-04, 01-08-08; Ord. No. 2011-21, 10-11-11)

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, VIRGINIA

PROPOSED CITY COUNCIL AGENDA ITEM

CITY COUNCIL MEETING OF: 10/15/13 (work session), CUT OFF DATE: 10/10/13
11/12/13 (regular mtg)

RESOLUTION X ORDINANCE PUBLIC HEARING

ITEM TITLE:

A RESOLUTION TO ACCEPT THE DETAILED TIME SCHEDULE AND DETAILED GATEWAY ENHANCEMENT PLAN PREPARED BY SHENANDOAH UNIVERSITY FOR THE MILLWOOD AVENUE PROJECT

STAFF RECOMMENDATION:

Approval if Council finds the Schedule and Plan acceptable.

PUBLIC NOTICE AND HEARING:

N/A

ADVISORY BOARD RECOMMENDATION:

None

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 Public Services, City Attorney, City Manager, and Clerk of Council.

Initiating Department Director's Signature: [Signature] 10/10/13



APPROVED AS TO FORM:

[Signature] 10/10/2013 CITY ATTORNEY

CITY COUNCIL ACTION MEMO

To: Mayor and Members of City Council
From: Tim Youmans, Planning Director
Date: October 10, 2013
Re: Millwood Avenue- SU Schedule and Gateway Plan

THE ISSUE:

Shenandoah University (SU) has prepared a detailed schedule of work and a detailed gateway enhancement plan for Millwood Avenue. The attached resolution, if approved, would memorialize City Council's acceptance as called for in the Development Agreement.

RELATIONSHIP TO STRATEGIC PLAN:

Goal 4: Create a More Livable City for All
High Priority Policy Agenda Action: City Gateway Beautification Project (landscaping & signage)

BACKGROUND:

The Development Agreement between SU and the City which was approved by City Council on Sept 11, 2012 and subsequently executed by the City Manager calls for SU to prepare a detailed Schedule for completing the Millwood Ave project. It also calls for preparation of a detailed gateway plan. Both items are required to be presented to City Council for approval within six (6) months of the CTB approval of the Limited Access modification which occurred on April 17, 2013. A video simulation of the gateway plan will be presented on Oct 15, 2013.

The City Manager, Planning Director, and Public Services Director met with SU officials and their consultants on Oct 1, 2013 to review the Gateway Plan, but not the project schedule. Some suggestions were offered with regard to lighting, signage, landscaping selections, and the inclusion of a bus shelter at the designated bus stop near Millwood Ave & University Dr.

The attached Schedule was received on October 10, 2013. Gateway Plan exhibits have not yet been received from SU and will be distributed to City Council upon receipt by City staff.

BUDGET IMPACT:

The City would likely administer the portion of the Millwood Ave construction project entailing work within the public rights of way using funding provided by SU. The Development Agreement specifically precludes any public money being used on the project.

OPTIONS:

- 1) Approve the Resolution as presented
- 2) Disapprove the Resolution citing specific concerns with the Schedule and/or Gateway Plan
- 3) Table approval citing specific concerns with the Schedule and/or Gateway Plan

RECOMMENDATIONS:

Staff recommends Option #1 if Council finds the Plan and Schedule acceptable or Option #3 if any concerns are raised.

**A RESOLUTION TO ACCEPT THE DETAILED TIME SCHEDULE AND
DETAILED GATEWAY ENHANCEMENT PLAN PREPARED BY
SHENANDOAH UNIVERSITY FOR THE MILLWOOD AVENUE PROJECT
R-2013-XX**

WHEREAS, a Memorandum of Understanding was executed between the City of Winchester and Shenandoah University (hereinafter 'University') including an agreement that the two entities would work on creating a new entrance to Winchester and the University from Route 50 as well as examining and improving the traffic flow around Jubal Early and Millwood Avenue; and

WHEREAS, City Council, at its September 11, 2012 regular meeting approved a resolution (**R-2012-53**) to authorize the City Manager to execute a Development Agreement in furtherance of the Millwood Avenue Project, said agreement titled: "DEVELOPMENT AGREEMENT BETWEEN THE CITY OF WINCHESTER, VIRGINIA, AND SHENANDOAH UNIVERSITY FOR THE MILLWOOD AVENUE PUBLIC IMPROVEMENT PROJECT" (hereinafter 'Agreement'); and

WHEREAS, the Agreement stipulated that within six (6) months of the date the Commonwealth Transportation Board approves the Modified Limited Accesses described in the Agreement, the University shall, at no cost to the City, prepare and present to Common Council for its approval, which shall not be unreasonably withheld, a **detailed time schedule** for the project outlining the specific dates of completion for the various stages of the project; and

WHEREAS, the Agreement also stipulated that within six (6) months of date the Commonwealth Transportation Board approves the Modified Limited Accesses described in the Agreement, the University shall, at no cost to the City, prepare and present to Common Council for its approval, a **detailed plan outlining the gateway**; and

WHEREAS, the Commonwealth Transportation Board, at its meeting on April 17, 2013, unanimously approved the Modified Limited Accesses described in the Agreement; and

WHEREAS, the University has prepared a detailed time schedule for the project outlining the specific dates of completion for the various stages of the project and has prepared a detailed plan outlining the gateway enhancements and presented both to Common Council for its approval,

NOW THEREFORE BE IT RESOLVED that City Council does hereby accept the detailed time schedule and the detailed gateway enhancement plan for the Millwood Avenue project, and encourages the University to proceed in a timely manner, without expense to the City, with the next steps of the project so that all duties and responsibilities of the City and the University are satisfactorily completed within three (3) years of the September 11, 2012 execution of the Development Agreement as stipulated in the Agreement.

DRAFT MILLWOOD CONSTRUCTION TIMELINE*

October 2013: Completion of landscaping and gateway conceptual plan presented to City Council in October work session.

November 2013: City Council approval of gateway conceptual plan.

January 2014: Completion of final construction plans to include final design revisions from Greenway, signal design plan from Sabra-Wang. Completion of adjoining property owner agreements; completion of right-of-way vacation and conveyance plats.

February 2014 - March 2014: Procurement for construction contractor for phase 1 improvements. Final landscape design plan from BCWH/Van Yahres Studio

April 2014: Completion of agreements for utility relocation.

May 2014: City issuance of notice to proceed for construction of phase 1 improvements. (Anticipated 150 day completion of construction)

November 2014: SU to commence construction of phase 2 improvements.

Spring 2015: Installation of final landscaping elements to complete phase 2 improvements.

***October 2012 Development Agreement between Shenandoah University and City of Winchester allows until October 2015 to have the Millwood Public Improvement Plan completed.**

CITY OF WINCHESTER, VIRGINIA

PROPOSED CITY COUNCIL AGENDA ITEM

CITY COUNCIL/COMMITTEE MEETING OF: November 12, 2013 CUT OFF DATE:

RESOLUTION ORDNANCE PUBLIC HEARING
MOTION X

ITEM TITLE:

Motion to Authorize the City Manager to Execute the NRJDC MOU Regarding the Provision of HR and Other Ancillary Services to the Northwestern Regional Juvenile Detention Center

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, Human Resources, City Attorney, City Manager, and Clerk of Council.

Initiating Department Director's Signature:

Erin Maloney, JDC Superintendent

10/23/13 Date



APPROVED AS TO FORM:

CITY ATTORNEY

CITY COUNCIL ACTION MEMO

Honorable Mayor and Members of City Council

Erin Maloney, Juvenile Detention Center Superintendent

November 12, 2013

MOU to amend the 2004 Juvenile Detention Center agreement

THE ISSUE: In year 2004, the NRJDC Service Agreement was amended with the consent of all participating jurisdictions to place the operational control over the NRJDC facility under the NRJDC Commission. No action was taken to memorialize the continuity of the provision of HR related services to the NRJDC including the applicability and enforcement of the CEMS with regard to NRJDC personnel. The NRJDC Commission has expressed a desire for Winchester to continue to provide these services to the NRJDC and wishes to memorialize it through the attached Memorandum of Understanding which has been approved by the NRJDC Commission.

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

BACKGROUND: The NRJDC Service Agreement sets forth the general agreement between the participating jurisdictions with regard to the funding and operation of the Northwestern Regional Juvenile Detention Center. These "member jurisdictions" include Clarke County, Frederick County, the City of Winchester, Shenandoah County, Page County, and Warren County. The original Service Agreement set forth the operational control of the facility and vested this authority in the City of Winchester. Over the years, this was interpreted to include the provision of Human Resource related services. NRJDC employees were hired, trained, and subjected to the same disciplinary processes as City of Winchester employees.

The Service Agreement was amended and readopted several times over the years. Each amendment to the Service Agreement requires approval of each of the participating member jurisdictions. The most recent amendment in year 2004, eliminated the responsibility for operational control over the facility from the City of Winchester and vested the operational control over the facility in the Northwestern Regional Juvenile Detention Center Commission.

In order to continue to receive the benefits of the Human Resources and other specified ancillary services that have been provided by the City of Winchester since the opening of the NRJDC facility, the attached documents are required to formally (1) grant the authority to the City of Winchester to provide these services; and (2) memorialize the understanding between the City of Winchester and the NRJDC with regard to the provision of these services.

At the October 15, 2013 City Council Work Session, no amendments were made and Council voted to move the resolution forward to the November 12, 2013 meeting for consideration.

BUDGET IMPACT: No budget impact to the City is anticipated. The City has already been providing the services identified in the MOU for decades. Nothing contained in this document shall have any effect upon the duties and responsibilities of the respective entities with regard to other obligations to provide and receive other services including but not limited to the City of Winchester's obligations as fiscal agent for the facility. This MOU is not a fiscal funds obligation, or disbursement document.

OPTIONS: The City will provide services and assistance to the NRJDC in the uniform administration and enforcement of the personnel policies, including amendments, additions, delegations, and administrative policies, upon all NRJDC employees in the same manner that the City administers and enforces such policies with regard to City employees.

This MOU also outlines what services the City will provide to the JDC, without cost:

- Assist in and conduct searches for employees to fill open job positions; conduct job interviews; make recommendations for hiring; and provide related employee hiring assistance.
- Provide advice and assistance to the Center in the application, interpretation, and enforcement of the personnel policies.
- Conduct grievance procedures proceedings pursuant to the personnel policies.

- The provisions of Comprehensive Employment Management System (CEMS), and subsequent revisions thereto, as well as any policies and procedures formally adopted by the Commission shall be administered and enforced on NRJDC employees in the same manner that it is administered and enforced on City employees.

The Juvenile Detention Commission approved the resolution and MOU at its September 24, 2013 meeting. Please See exhibit "A" for the adopted resolution.

RECOMMENDATIONS: Staff recommends that Common Council authorize the Manager to execute the MOU as proposed on behalf of the City. The NRJDC Commission maintains that the 2004 amendment to the Service Agreement (adopted by the participating jurisdictions) gives operational control to the facility which allows the NRJDC Commission to approve the MOU on behalf of the participating member localities.

MEMORANDUM OF UNDERSTANDING
FOR PERSONNEL SERVICES

THIS MEMORANDUM OF UNDERSTANDING, dated the _____ day of _____, 2013, is by and between the NORTHWESTERN REGIONAL JUVENILE DETENTION CENTER COMMISSION ("Commission") and the CITY OF WINCHESTER, VIRGINIA ("City").

*Insert detail
Copy from
Bob*

RECITALS

WHEREAS, by virtue of the provisions of the Amended and Restated ment dated December 11, 2004 ("Agreement") establishing the northwestern Regional Juvenile Detention Center ("NRJDC"), the Commission is vested with the power and authority to make regulations and policies governing the operation of the NRJDC; and

WHEREAS, the Commission, by resolution, has adopted the personnel policies of the City as the personnel policies applicable to all employees of the NRJDC; and

WHEREAS, the Commission has authorized and requested that the City provide services and assistance to the NRJDC in the uniform administration and enforcement of the personnel policies upon all NRJDC

employees in the same manner that the City administers and enforces such policies with regard to City employees, ; and

WHEREAS, the Commission and the City desire to herein set forth their understanding as to the providing of such services and assistance by the City.

TERMS

The understanding of the Commission and the City with respect to the City providing services and assistance to the NRJDC in the administration and enforcement of the City personnel policies is as follows:

1. The City will provide services and assistance to the NRJDC in the uniform administration and enforcement of the personnel policies, including amendments, additions, delegations, and administrative policies, upon all NRJDC employees in the same manner that the City administers and enforces such policies with regard to City employees. All decisions regarding the administration and application of such policies shall be determined solely by the City. Such services shall be provided without cost to the NRJDC, which services and assistance shall, without limitation, include the following:

(a) Assist in and conduct searches for employees to fill open job positions; conduct job interviews; make recommendations for hiring; and provide related employee hiring assistance.

(b) Provide advice and assistance to the NRJDC in the application, interpretation, and enforcement of the personnel policies.

(c) Conduct grievance proceedings pursuant to the requirements of the Code of Virginia and applicable personnel policies.

2. The provisions of the City Comprehensive Employment Management System (“CEMS”), and subsequent revisions thereto, as well as any policies and procedures formally adopted by the Commission shall be administered and enforced on NRJDC employees in the same manner that it is administered and enforced on City employees. The Commission shall require all directors, staff, and employees of the NRJDC to comply with CEMS and to attend any required human resources training, including but not limited to, trainings and informational sessions regarding benefits and other personnel matters for the duration that the NRJDC relies on the City of Winchester to provide these services to the directors, staff, and employees of the NRJDC.

3. The NRJDC shall promptly provide current copies of all NRJDC policies and procedures upon their formal adoption by the NRJDC to the Winchester Director of Human Resources and City Attorney who shall review and approve or recommend modification of all policies as they may affect administration and enforcement of personnel policies by the City.

4. Except as expressly stated, nothing contained in this document shall

be construed in any way to create an employment relationship between the City of Winchester, its employees, agents, and assigns and the NRJDC. The City of Winchester shall be considered an independent service provider to the NRJDC with regard to the performance of this Agreement. At all times herein mentioned the City of Winchester and NRJDC shall remain separate and distinct legal entities.

5. Nothing contained in this document shall have any effect upon the duties and responsibilities of the respective entities with regard to other obligations to provide and receive other services including but not limited to the City of Winchester's obligations as fiscal agent for the facility. To the extent that this document conflicts with the terms of any other lawfully adopted agreement between the parties or other legal authority, the terms of the lawfully adopted agreement or other legal authority shall supersede.

6. This MOU is not a fiscal funds obligation, or disbursement document. Any monetary obligations, requests, or disbursements shall be made according to Governing Law and previously signed and executed Agreements related to the NRJDC, and between the City of Winchester, other Member Jurisdictions, and the Commission.

7. This MOU does not impart any additional or future obligations on either City of Winchester or the NRJDC with respect to the role of the City of Winchester as a fiscal agent for the NRJDC.

DURATION/MODIFICATION/TERMINATION

8. This MOU is to take effect upon signature of the City of Winchester and the NRJDC and remain in effect until terminated pursuant to paragraph 10, below.

9. Modifications to this MOU shall be made by mutual consent of the City of Winchester and the Commission, through issuance of a written modification, signed and dated by both parties, prior to any changes.

10. Either the City of Winchester or the Commission may terminate its participation in this MOU by providing written notice to the other at least thirty (30) days in advance of the desired termination date.

11. To the extent permissible under the laws of the Commonwealth of Virginia, the NRJDC shall indemnify and hold the City of Winchester harmless for any claim arising from an act or omission committed pursuant to this Agreement. The City shall not be liable for acts or omissions of the Commission, the NRJDC, or its employees, agents, or contractors in the administration and/or enforcement of the personnel policies.

12. If any provision contained in this Agreement shall be deemed to be inconsistent with the laws of the Commonwealth of Virginia or other lawful authority, said provision shall be deemed severed and stricken from this Agreement and the remaining provisions shall continue in full force and effect.

13. This Agreement shall be construed exclusively under the laws of the Commonwealth of Virginia.

14. Any dispute arising from the performance or non-performance of this Agreement shall be litigated solely in the Circuit Court for the City of Winchester, Virginia or in the U.S. District Court for the Western District of Virginia in Harrisonburg, Virginia.

**NORTHWESTERN REGIONAL JUVENILE
DETENTION CENTER COMMISSION**

Date: _____ By: _____
Erin Maloney, Superintendent NRJDC

CITY OF WINCHESTER, VIRGINIA

Date: _____ By: _____
_____, _____

Exhibit "A"

RESOLUTION

WHEREAS, the Northwestern Regional Juvenile Detention Center ("NRJDC") is a Regional Juvenile Detention Facility formed and operating under the laws of the Commonwealth of Virginia; and

WHEREAS, the NRJDC is run under the operational control of the NRJDC Commission (the "Commission") which is an independent public body corporate in accordance with Virginia Code §§16.1-315 *et. seq.*; and

WHEREAS, the City of Winchester, Virginia ("City") is a participating member jurisdiction with a member appointed to the Commission; and

WHEREAS, by virtue of the provisions of the Amended and Restated Agreement dated December 11, 2004 ("Agreement") establishing the NRJDC, the Commission is vested with the power and authority to make regulations and policies governing the operation of the Center; and

WHEREAS, the Commission finds it advisable to establish personnel policies to apply to all employees of the NRJDC; and

WHEREAS, the Commission desires to adopt the personnel policies of the City to apply to all employees of the NRJDC; and

WHEREAS, the Commission desires to have the City provide services and assistance to the Center in the administration and enforcement of the personnel policies;

NOW, THEREFORE, be it RESOLVED as follows:

- 1. The Commission hereby adopts the personnel policies of the City, including, without limitation, the City Comprehensive Employment Management System (“CEMS”), as the personnel policies applicable to all employees of the NRJDC.**

- 2. The Commission hereby authorizes and requests that the City of Winchester provide services and assistance to the NRJDC in the uniform administration and enforcement of the personnel policies, including amendments, additions, delegations, and administrative policies, upon all NRJDC employees in the same manner that the City administers and enforces such policies with regard to City employees, as determined solely by the City.**

- 3. Such services and assistance by the City shall be provided in accordance with the attached Memorandum of Understanding between the Commission and the City, which Memorandum of Understanding is hereby approved by the Commission, and which the Superintendent is hereby directed to execute on behalf of the Commission.**

D-2013-36

CITY OF WINCHESTER, VIRGINIA

PROPOSED CITY COUNCIL AGENDA ITEM

CITY COUNCIL MEETING OF: 10/22/13 (work session), CUT OFF DATE: 10/16/13
11/12/13(1st Reading) 12/10/13 (2nd reading)

RESOLUTION ___ ORDINANCE X PUBLIC HEARING X

ITEM TITLE:

RZ-13-500 AN ORDINANCE TO CONDITIONALLY REZONE 7.7076 ACRES OF LAND AT 940 CEDAR CREEK GRADE (Map Number 249-01-2) FROM RESIDENTIAL OFFICE (RO-1) DISTRICT WITH CORRIDOR ENHANCEMENT (CE) DISTRICT OVERLAY TO HIGHWAY COMMERCIAL (B-2) DISTRICT WITH PLANNED UNIT DEVELOPMENT (PUD) & CE DISTRICT OVERLAY

STAFF RECOMMENDATION:

Approval

PUBLIC NOTICE AND HEARING:

Public hearing for 12/10/13 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.

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

Initiating Department Director's Signature: (Planning)

Handwritten signature of the initiating department director.

10/16/13



APPROVED AS TO FORM:

Handwritten signature and date 10/16/13 over the text CITY ATTORNEY.

CITY COUNCIL ACTION MEMO

To: Mayor and Members of City Council
From: Tim Youmans, Planning Director
Date: October 16, 2013
Re: RZ-13-500

THE ISSUE:

Rezoning a 7.74-acre tract from RO-1 to B-2 with PUD overlay. The existing CE overlay zoning would remain on the front portion of the property. The existing RO-1 zoning would permit office development consistent with the recommendation shown in the Comp Plan. The proposed B-2(PUD) zoning would result in a 132-unit apartment complex and some commercial use.

RELATIONSHIP TO STRATEGIC PLAN:

Goal 4: Create a more liveable city for all

Vision 2028- Great neighborhoods with a range of housing choices

BACKGROUND:

See attached staff report (updated to reflect 10-11-13 version of Proffer Statement)

BUDGET IMPACT:

Because there are no units with more than two bedrooms, the project would not likely generate school-aged children adding to attendance at City schools. In addition to some revenue from on-site commercial use, this new high-quality multifamily development would create more demand for commercial development elsewhere.

OPTIONS:

- Approve subject to latest version of proffers and Development Plan
- Deny (must state reasons for denial in the motion- e.g. "inconsistent with Comp Plan")

RECOMMENDATIONS:

Planning Commission recommended approval subject to the 10-11-13 version of proffers and the latest Development Plan.

RZ-13-500 AN ORDINANCE TO CONDITIONALLY REZONE 7.7076 ACRES OF LAND AT 940 CEDAR CREEK GRADE (Map Number 249-01-2) FROM RESIDENTIAL OFFICE (RO-1) DISTRICT WITH CORRIDOR ENHANCEMENT (CE) DISTRICT OVERLAY TO HIGHWAY COMMERCIAL (B-2) DISTRICT WITH PLANNED UNIT DEVELOPMENT (PUD) & CE DISTRICT OVERLAY

REQUEST DESCRIPTION

The applicant is requesting to change the underlying zoning of a large tract of mostly vacant land at the western limits of the City along the north side of Cedar Creek Grade from RO-1 to B-2 subject to proffers. The proposal keeps the Corridor Enhancement (CE) overlay zoning in place for the first 125 feet back into the site from Cedar Creek Grade, but eliminates it from the remainder of the site where the taller residential structures are proposed. The request proposes to add Planned Unit Development (PUD) overlay zoning across the entire site. The B-2 rezoning would permit the construction of up to 139 apartment units, assuming that the overlay Planned Unit Development (PUD) provisions and Corridor Enhancement (CE) provisions are met. The applicant has provided a Conceptual Site Layout Plan depicting 132 apartment units in 5 three-story buildings and 2 four-story buildings. A separate two-story mixed use with offices on the ground floor and 1-bedroom apartments on the second floor is proposed near the Cedar Creek Grade frontage of the site. The applicant has included an alternative scenario that would eliminate the second floor apartments and extend another 9,846 square feet of commercial use to the upper level, depending upon market demand. Recreational amenities include 2 proposed bocce ball courts out close to Cedar Creek Grade which is available for use by the occupants only and a perimeter walking trail with exercise stations that would be available to the public for at least 2 years. There are also some exercise stations toward the interior of the site.

AREA DESCRIPTION

The subject parcel contains a vacant single-family residence and some agricultural structures. This parcel and one residentially used property immediately to the east comprise an existing RO-1 district. Along with numerous other properties throughout the City, these two properties were rezoned by the City (i.e. not at property owner request) in the 1990's in an effort to stem what was then viewed as undesirable multifamily rental housing. Land to the north and further to the east is zoned HR and contains multifamily development as well as townhouse development. Land to the south fronting along Cedar Creek Grade is also zoned HR and contains single-family residences.



Land to the west is situated in Frederick County. The adjoining Frederick County parcel owned by Greystone Properties, LLC was conditionally rezoned from Rural Areas (RA) to Residential Planned Community (R4) by Frederick County along with other properties including a larger tract owned by Miller & Smith about five years ago. The 360-acre Willow Run project is slated for 1,390 residential units as well as 36 acres of commercial uses. The Greystone Properties portion of the larger Willow Run

project is primarily single-family attached (i.e. townhouse) residential and age-restricted housing. It includes a spine road (Birchmont Dr) that connects Cedar Creek Grade with the extension of Jubal Early Drive to the north. That connection is required to be built prior to the 200th residential permit being issued. A public street connection to Cidermill Lane from the County spine road is also part of the approved Willow Run project. Cidermill Lane is currently being extended to the County line as part of the last phase of the Orchard Hill townhouse development.

COMMENTS FROM STAFF

In a letter (see attached) to the Planning Director dated September 17, 2013, Mr. Timothy Painter of Painter-Lewis PLC, applicant for the owner (Mr. Scott Rosenfeld-Cedar Creek Place LLC), explains the proposed rezoning and the proposed Cedar Creek Place mixed use project. The applicant also provided an original Proffer Statement dated September 9, 2013 which was superseded by a 1st Revision dated September 30, 2013 (received by the Planning Department on October 2, 2013), and a 2nd Revision dated October 11, 2013 (received by the Planning Department on October 11, 2013). The Proffer Statement is addressed further below in the comments from staff. Along with the original letter and Proffer Statement, a 1-sheet Development Plan exhibit dated September 9, 2013 and titled 'Conceptual Site Layout Plan, Rezoning Exhibit "A"' was submitted. A revised 3-page Development Plan was submitted to the Planning Department on October 2, 2013. The Development Plan was revised again on October 11, 2013 to show updated phasing on the cover sheet. It includes detailed phasing, conceptual utility layout, perimeter buffering, and existing topography.

Comprehensive Plan Consistency

The Character Map contained in the adopted Comprehensive Plan calls for a Commerce Revitalization/Infill in this area and for the connection of Stoneleigh Drive to Cedar Creek Grade. PUD overlay allows for consideration of up to 18 dwelling units per acre, which in the case of 7.74 acres would translate to a maximum of 139 dwelling units. The applicant is proposing 132 dwelling units in addition to a building housing commercial offices. 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 Cedar Creek Grade corridor has undergone considerable change over the past 25 years from being primarily single-family development along a two-lane roadway to becoming a mixed use corridor served by a four-lane arterial. A number of sites that were rezoned to RO-1 by the City in the 1990's were subsequently rezoned on a conditional basis to Highway Commercial (B-2) by private developers. These conditional B-2 rezonings often included restrictions on commercial uses. This effort includes the two lots along the south side of Cedar Creek Grade across from the east end of the subject property where two large office buildings are situated today. Corridor Enhancement (CE) overlay zoning was established along Cedar Creek Grade in 2006.

Potential Impacts & Proffers

Since this is a conditional rezoning request wherein the applicant has voluntarily submitted proffers to mitigate potential impacts arising from the rezoning of the property from RO-1(CE) to B-2 (PUD/CE). The September 9, 2013 Proffer Statement and the September 30th revision to it is structured to address six areas under the heading of Site Planning Improvements. These are: Street and Access Improvements; Interior Site Circulation; Site Development; Landscaping and Design; Recreation; and, Storm water Management. The last paragraph of the Proffer Statement binds the developer to develop the site in accordance with the Conceptual Site Layout Plan, Rezoning Exhibit "A" dated September 9, 2013.

The applicant has conducted 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

Because the multifamily (i.e. non-commercial) component of the project, from a land use perspective, is inconsistent with the adopted Comprehensive Plan, a Fiscal Impact Analysis was prepared. That Analysis, dated September 2013, shows the impacts on City revenue and expenditures generated by the project as compared to revenue and expenditures arising from development allowed under the current RO-1 development. While the current RO-1 zoning permits office development which generates no school-aged population, it also permits single-family residential homes at a density of 4.3 units per acre which is between the current LR and MR residential district densities. Single-family homes tend to generate more school-aged population than multifamily units, but there would be many fewer single-family homes possible under the current RO-1 zoning than possible under the proposed HR zoning.

The proposed conditional B-2 (PUD) zoning permits commercial office development, and also would permit up to 139 apartment units, in this case primarily consisting of two-bedroom units. The applicant is NOT asking to have any three bedrooms which might increase the likelihood of school-aged population. The Fiscal Analysis shows that the development would result in a net revenue benefit to the City, annually after build-out of nearly \$163,000, including on-site and off-site impacts. This assumes that the nonresidential component is built in a timely manner, which is discussed further under the review of the phasing plan.

Mr. Jim Deskins, the City's Economic Redevelopment Director reviewed the proposal and commented on the fiscal impacts associated with changing the zoning from the current RO-1 which would support general and medical office development to instead have mixed use under B-2 (PUD) zoning that would specifically consist of 132 one- and two-bedroom apartment units and 8,800 square feet of commercial development. (Note: the latest Development Plan calls for 9,846 square feet of commercial development which would only make the revenue figures even better than in the report.) In an email to the Planning Department, Mr. Deskins stated that, even with a higher number of students than what he would expect from the development, the report reflects a positive cash flow for the City.

Traffic Impact Analysis

A Traffic Signal Warrant Study dated 9/4/13 was submitted on 9/9/13 to the Planning Director and to the Public Services Director, Perry Eisenach. The Warrant Study concluded that a traffic signal would not be warranted at the proposed intersection of Cedar Creek Grade and the extension of Stoneleigh Drive, even if situated opposite of the existing Cedar Creek Grade/Stone Ridge Rd intersection. The Public Services Director reviewed the study and agreed with the findings.

The Traffic Signal Warrant Study included an analysis of Trip Generation based upon four different Development Scenarios. The figures are contained in Table 1 on page 6 of the Study (See attached Table 1). The proposed scenario identifies 132 apartment units and 8,500 square feet of specialty retail. It would generate 144 trips in the PM Peak Hour and an Average Daily Traffic (ADT) volume of 1,419 trips. The latest Development Plan calls for at least 9,846 square feet of commercial space which will most likely be dominated by office use instead of specialty retail. The trip generation figures should not change considerably from what was analyzed, but the traffic report should be updated to reflect the

latest development proposal including the option to do commercial use on the upper level of the front building. If the 7.74 acres were instead developed with by-right office development consisting of upwards of 120,000 square feet of medical-dental office development, then it would generate 424 trips in the PM Peak Hour and an ADT volume of 4,692 trips (over 3 times the amount of traffic generated by the development proposed with the rezoning). If the site was rezoned to HR District without the proposed PUD overlay zoning, then it would support upwards of 108 multifamily units. This development would generate 77 trips in the PM Peak Hour and an ADT volume of 799 trips. Staff has not observed problems at intersections such as Harvest Drive and W. Jubal Early Dr where considerably larger numbers of apartments, retirement cottages, assisted living, and conventional single-family units are linked to major streets in the City.

Based upon the Development Plan, the development is proposed to include a private extension of Stoneleigh Drive connecting with another private drive that then intersects Cedar Creek Grade at an unsignalized intersection located approximately 240 feet west of the Harvest Drive intersection. This new location is where the existing driveway into the adjoining Horton property is currently located. That driveway would be eliminated under the proposal and a connection to the Horton property would be provided from a point internal to the Cedar Creek Place development north of the existing Horton residence closest to Cedar Creek Grade.

The proposed street location minimizes impacts on the Harvest Drive neighborhood and provides for an indirect connection to the public portion of Stoneleigh Drive in the Orchard Hill neighborhood. It also provides for good sight distance to the west. It will, however, require the granting of an exception by City Council to allow for the new private street to be situated within 300 feet of the existing Harvest Drive intersection.

Alterations were made to traffic flow on Cedar Creek Grade at Stoneridge Rd intersection after VDOT had widened the road from two lanes to four lanes in 1993. The alteration decreased the capacity of Cedar Creek Grade by converting one of the two eastbound lanes and one of the two westbound lanes approaching Stoneridge Rd into right-turn and left-turn lanes respectively. That change essentially reduced Cedar Creek Grade down to a single through lane eastbound and westbound at that one location.

The applicant is proffering to extend a private roadway northward to connect with another private roadway internal to the apartment development. It would also connect to the privately-owned portion of Stoneleigh Drive serving the existing Summerfield Apartment development. Summerfield Apartments were approved with improved access only to the north connecting with the public portion of Stoneleigh Dr in the Orchard Hill townhouse development. The developer of the Summerfield Apartment development offered to extend Stoneleigh Drive as a public street southward to allow for an orderly extension of that street ultimately to Cedar Creek Grade once the former Racey property was developed. Due to strong opposition from adjoining Orchard Hill residents, City Council turned down a subdivision proposal in 1997 that would have extended the public street, but the apartment development site plan was nonetheless approved relying solely upon access to Harvest Drive, a Category II Collector Street via local (Category I) streets within the Orchard Hill development.

As noted above, the Comprehensive Plan calls for the orderly extension of roadway connecting the Summerfield and Orchard Hill neighborhoods to Cedar Creek Grade. This allows for improved traffic flow and improved service delivery for City services such as fire and rescue, police, school buses, and refuse, yard waste, and recycling pickup. It also implements the New Urbanism principle of an interconnected

grid street network advocated in the Comprehensive Plan and avoids undesirably long an inefficient single-access point development typical of 1960's – 1990's suburban sprawl. Total traffic on any one street is reduced since residents do not have to drive through other neighborhoods to get to the major streets in the City. The applicant is also proffering traffic calming measures along the proposed private roadway.

Site Development and Buffering

The Conceptual Site Layout Plan depicts 132 apartment units in 5 three-story buildings, 2 four-story buildings, and the upper floor of the two-story mixed use building out front. Proffers #3 & 4 address Site Development as well as Landscaping and Design. Three of the 5 three-story buildings would back up to the Summerfield Apartment development along the northern boundary furthest from Cedar Creek Grade. One of the 2 four-story structures is located along the west side of site adjoining Frederick County. Per the proffered layout, all of the residential-only buildings would be situated at least 140 feet away from Cedar Creek Grade. Only the apartments on the upper floor of the mixed use building would be within 140 feet of Cedar Creek Grade. In Proffer #3, the applicant has proffered minimum separations between building within the site and between buildings and of-street parking areas. Proffer#3 also now notes that the project will generally conform to the architectural floor plans and elevations prepared by Design Concepts, Inc. Proffer #4 provides detailed information about the landscaped buffers, including the quantity of evergreen and deciduous trees required. Upright evergreen screening consisting of a hedgerow or staggered double row of evergreens is proffered along the west, north and east perimeter of the site including the boundary adjoining the Horton property to the east.

Recreation and Open Space

Proffer #5 addresses recreational amenities and open space. The applicant is proposing a 5-foot wide walking trail with exercise stations for public use for at least a 2-year period and 2 bocce ball courts and a gazebo situated out close to Cedar Creek which would be for use only by the occupants. A 2-court bocce ball facility for a multifamily development of this size is on the low end of facilities provided per dwelling unit. Unlike the recently approved Jubal Square project, no swimming pool and community building is depicted on the plan and the applicant should clarify whether or not a fitness center is proposed in the front mixed use building.

Storm water Management

Proffer #6 addresses the impacts of storm water management and the applicant's measures to mitigate the potential impacts. A detailed storm water analysis would be generated by the applicant and reviewed by the City at the time of site plan. On sheet RZ2 of the applicant's proposed Development Plan layout, two large underground storm water management systems are depicted.

Project Phasing

The applicant proposes to phase the project in 8 phases over a 5-year timeframe as part of the PUD rezoning. Any phasing plan should clearly note the timing of the roadway connection to Summerfield Apartments and the completion of the recreational amenities relative to occupancies of any units. The bocce ball courts and gazebo are annotated as part of Phase 1. In response to concerns raised by City staff, the applicant has amended the phasing plan so that at least half of the winged mixed use building be constructed no later than the completion of Phase 5 and that it be ready for occupancy no later than the occupancy of the Phase 6 building. The latest version of the phasing proposal calls for flexibility with regard to the project phasing such that the Planning Director can administratively modify the phasing shown on the cover sheet of the Development Plan. This would, for example, allow the developer to

proceed with the second 4-story building in advance of commencing the 3-story buildings shown as Phases 5 and 6.

Other Issues

The applicant should review all of the requirements for a complete PUD proposal as spelled out in Section 13-4 of the Zoning Ordinance. Among the Development Plan requirements is the following:

- A plan or statement detailing covenants, restrictions, and conditions pertaining to the use, maintenance and operation of common spaces.

RECOMMENDATION

At its October 15, 2013 meeting, the Planning Commission forwarded **RZ-13-500** to City Council recommending approval of the rezoning as depicted on an exhibit entitled *“Rezoning Exhibit RZ-13-500, Prepared by Winchester Planning Department, October 1, 2013”* because the proposed B-2 (PUD/CE) zoning supports the expansion of housing serving targeted populations, facilitates the connection of Stoneleigh Drive to Cedar Creek Grade, and provides for commercial space in support of the Commerce Revitalization/Infill character designation in the Comprehensive Plan. The recommendation is subject to adherence with the latest Development Plan titled ‘CONCEPTUAL SITE LAYOUT PLAN EXHIBIT “A”’ dated September 9, 2013 (last updated on Oct 11, 2013) and the submitted proffers dated September 9, 2013 and last revised October 11, 2013.

PAINTER-LEWIS, P.L.C.

CONSULTING ENGINEERS

817 Cedar Creek Grade, Suite 120
Winchester, Virginia 22601

Tel.: (540) 662-5792
Fax: (540) 662-5793

September 17, 2013

Mr. Timothy P. Youmans, Director of Planning
City of Winchester, Virginia
15 N. Cameron Street
Rouss City Hall
Winchester, Virginia 22601

Re: Cedar Creek Place Commercial & Apartment Complex
940 Cedar Creek Grade
Winchester, Virginia
Tax Map: 249-01-2
Rezoning Application: RZ-13-500

Dear Sir:

The Comprehensive Plan of the City of Winchester recommends that the area in and around the above-referenced project have an Residential Office District (RO-1) zoning. This district permits a combination of residential and light commercial uses.

This rezoning proposal is requesting that this parcel be rezoned to a B-2 Highway Commercial District (B-2) with a Planned Unit Development District (PUD) overlay. The area along Cedar Creek Grade would house the commercial element and a high-density multifamily development would be developed on the rear of the parcel. The Corridor Enhancement (CE) overlay is proposed to be maintained along the Cedar Creek Grade corridor and extend into the property for one hundred twenty-five feet (125') from the Cedar Creek Grade right-of-way. This zoning would permit the use of a mixture of commercial and multifamily residential uses on this site.

The current RO-1 district allows the use of light-commercial (office) developments and is primarily for single-family residential uses. The B-2 zoning allows for more diversity in the commercial element and allows for a multifamily residential element, as well. Even though this proposal varies from the existing zoning district, it does provide a similar type of housing to what exists on the adjacent property to the north and generally conforms to the use of mixed housing types in the area.

Mr. Timothy P. Youmans, Director of Planning
City of Winchester, Virginia

September 17, 2013
Cedar Creek Place

This proposal, to develop the above-referenced project into a combined commercial and high-density residential district with a multifamily use and a PUD overlay, generally conforms to the Comprehensive Plan of the City of Winchester by allowing a varied residential use in this area and still providing a commercial use to serve the general area. This combination of uses and development of this site, as a result of this rezoning, will have a positive impact for the City of Winchester; it generally conforms to the Comprehensive Plan for this area.

Thank you for your attention to this matter. If you would have any questions or would require further information please do not hesitate to contact me.

Sincerely,



Timothy G. Painter, P. E.

c. Mr. Scott Rosenfeld
Cedar Creek Place, LLC
821 Apple Pie Ridge Road
Winchester, Virginia 22603

**CEDAR CREEK PLACE
COMMERCIAL and APARTMENT COMPLEX
REZONING REQUEST PROFFER
(Conditions for this Rezoning Request)**

**Tax Map Number: 249-01-2
Owner: Cedar Creek Place, L.L.C.
Applicant: Painter-Lewis, P.L.C.**



**September 9, 2013
Latest Revision: October 11, 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 7.7076 acres from Residential Office District (RO-1) to Highway Commercial District (B-2) with a Planned Unit Development District (PUD) overlay and maintaining the Corridor Enhancement District (CE) along Cedar Creek Grade for 125' from the right-of-way line into the parcel (to include the commercial space and the recreational area along Cedar Creek Grade), 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 affect.

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. Street and Access Improvements

- ❖ Design and construction of approximately 1120 feet of Private Street from the existing Cedar Creek Grade Right-of-Way to the private street section of Stoneleigh Drive in the Summerfield Luxury Apartment Complex to the north of this property.
- ❖ Traffic calming measures shall be installed along this private street section to lessen the adverse effects of traffic in this apartment complex development.

2. Interior Site Circulation

- ❖ Access shall be provided via interior driveways and drive aisles which connect to the proposed private street section to provide the needed access to Cedar Creek Grade Roadway.

**CEDAR CREEK PLACE COMMERCIAL and APARTMENT COMPLEX
Rezoning Request Proffer**

3. Site Development:

- ❖ A minimum separation distance of thirty-two feet (32') shall be maintained between all building pads.
- ❖ A minimum separation distance of ten feet (10') shall be maintained between the building lines of the apartment buildings and the face of curb of the adjacent parking areas.
- ❖ No apartment buildings shall be constructed closer than one hundred forty feet (140') of the Cedar Creek Grade Right-of-Way and the commercial shall be situated no closer than forty feet (40') of the Cedar Creek Grade Right-of-Way.
- ❖ A minimum separation distance of six feet (6') shall be maintained between the building lines of the commercial buildings and the face of curb of the adjacent parking areas.
- ❖ The architectural building layouts and characteristics shall generally conform to the floor plans and building elevations indicated in the Cedar Creek Place renderings, as prepared by Design Concept Inc. The building renderings referenced were submitted to the City of Winchester on September 11, 2013 and shall be considered part of this application to present a standard of quality to be used for this project. The exterior building materials shall be as follows:
 - The exterior siding finishes shall be stone or masonry or a combination thereof on all buildings for the main floor level.
 - The upper level exterior finishes shall be a combination of stone, masonry, or vinyl siding.
 - The roofing materials shall be Architectural grade asphalt shingles that will accent the color scheme of the buildings.The final combinations and color selections shall be determined at the time of the site plan submittal for final review and approval.

4. Landscaping and Design:

- ❖ In the perimeter areas of the site where existing residential developments have been constructed, specifically along the eastern, western, and northern boundary lines, an opaque screen consisting of an evergreen hedgerow or double row of evergreens shall be constructed.

5. Recreation:

- ❖ An active recreation and landscaping buffer shall be provided along the Cedar Creek Grade Right-of-Way in the areas not included as part of the commercial portion of this development. This area shall be dedicated to active recreation for use by the residents of this development. The active recreation element shall include a minimum five foot (5') wide walking trail with exercise stations that will become part of the local trail system for use by the residents and local public for a period of two (2) years after completion of the trail network. The permitted use by the local public shall be evaluated by the current ownership on an annual basis thereafter and may be restricted dependent upon the future changes in the development.

**CEDAR CREEK PLACE COMMERCIAL and APARTMENT COMPLEX
Rezoning Request Proffer**

- ❖ Additionally, two bocce courts with community gazebo shall be constructed as part of this development that will be available for private use of the residents of this complex, only.

6. Storm Water Management:

- ❖ All storm water management and storm water quality facilities shall be installed underground in accordance with the standards and specifications of the Winchester Public Works Department. These facilities shall be maintained by the owner of the development and be constructed so as to secure the safety of the public at all times.

The conditions proffered above and in accordance with the accompanying rezoning exhibit, entitled Conceptual Site Layout Plan, Exhibit "A", dated September 9, 2013, and as prepared by Painter-Lewis, PLC, 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.

Respectfully submitted,

PROPERTY OWNER

By: _____ Date: _____

STATE OF VIRGINIA, AT LARGE
COUNTY OF _____, To Wit:

The foregoing instrument was acknowledged before me this ____ day of _____, 2013,
by _____.

My Commission expires _____.

Notary Public _____

Trip Generation

Trip generation for the planned apartment complex was developed from the TripGen Software and is based on the Institute of Transportation Engineers Manual, Trip Generation Manual, 9th edition. The full build-out of the project is planned to occur by the year 2019. The resulting trips generated by the project are summarized as Scenario 3 in Table 1.

In addition to the trip generation resulting from the proposed project, several other potential development types were evaluated for comparison. These are also presented in Table 1.

Table 1 Trip Generation Comparisons

Scenario 1 - Developed under current
RO-1 w/ single family detached
dwellings

Land Use	ITE Code	Amount	AM Peak Hour			PM Peak Hour			Avg. Daily Trips
			In	Out	Total	In	Out	Total	
Residential - single family detached (27 units)	210	27	8	23	31	23	12	35	312
Total New Trips			8	23	31	23	12	35	312

Scenario 2 - Developed under HR
zoning w/o PUD overlay

Land Use	ITE Code	Amount	AM Peak Hour			PM Peak Hour			Avg. Daily Trips
			In	Out	Total	In	Out	Total	
Apartments (108 units)	220	108	12	45	57	50	27	77	799
Total New Trips			12	45	57	50	27	77	799

Proposed Development

Scenario 3 - Developed under HR
zoning with PUD overlay

Land Use	ITE Code	Amount	AM Peak Hour			PM Peak Hour			Avg. Daily Trips
			In	Out	Total	In	Out	Total	
Apartments (1124 units)	220	124	13	51	64	56	30	86	875
Specialty Retail (8,500 sq. ft.)	826	8.5	16	16	32	32	26	58	544
Total New Trips			29	67	96	88	56	144	1419

now 95464

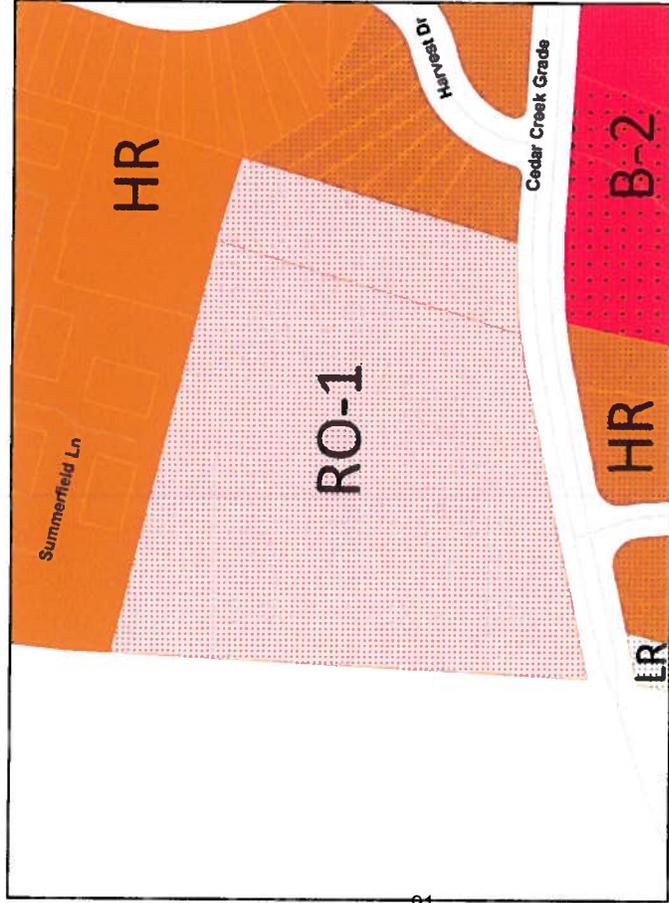
Scenario 4 - Developed under B-2
zoning as Medical-Dental Offices

Land Use	ITE Code	Amount	AM Peak Hour			PM Peak Hour			Avg. Daily Trips
			In	Out	Total	In	Out	Total	
Medical-Dental Office Building (120,000 sq ft FAR = .35)	720	120	280	144	424	213	319	532	4,692
Total New Trips			280	144	424	213	319	532	4,692

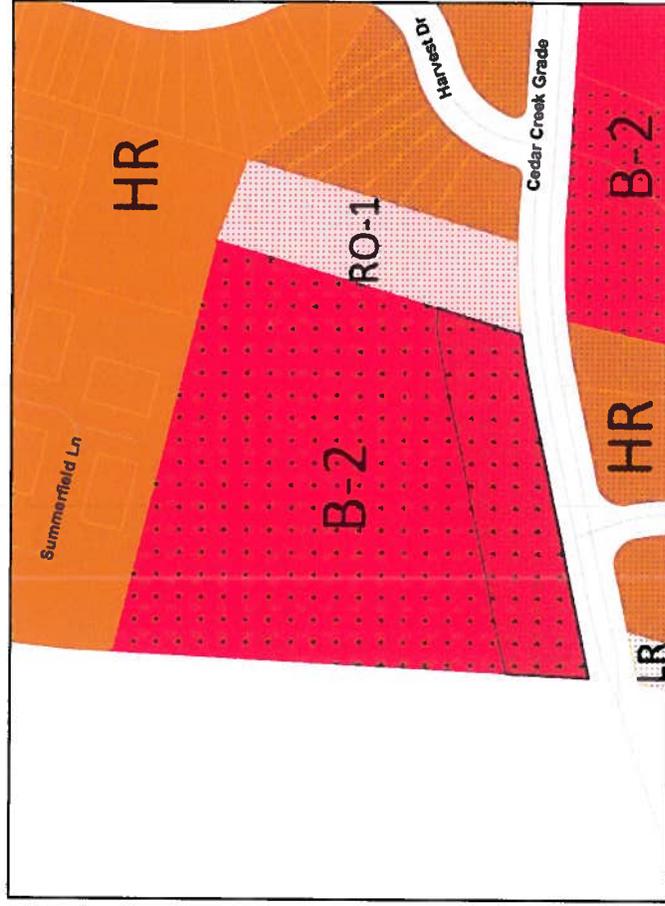
REZONING EXHIBIT

RZ-13-500

PREPARED BY WINCHESTER PLANNING DEPARTMENT
OCTOBER 1, 2013



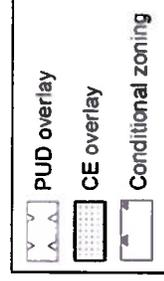
EXISTING



PROPOSED

RO-1 (CE) ZONING FOR 940 CEDAR CREEK GRADE

CONDITIONAL B-2 (PUD/part CE) ZONING FOR 940 CEDAR CREEK GRADE



AN ORDINANCE TO CONDITIONALLY REZONE 7.7076 ACRES OF LAND AT 940 CEDAR CREEK GRADE (Map Number 249-01-2) FROM RESIDENTIAL OFFICE (RO-1) DISTRICT WITH CORRIDOR ENHANCEMENT (CE) DISTRICT OVERLAY TO HIGHWAY COMMERCIAL (B-2) DISTRICT WITH PLANNED UNIT DEVELOPMENT (PUD) & CE DISTRICT OVERLAY

RZ-13-500

WHEREAS, the Common Council has received an application from Painter-Lewis, PLC on behalf of Cedar Creek Place, LLC to rezone property at 940 Cedar Creek Grade from Residential Office with Corridor Enhancement District overlay to Highway Commercial District with Planned Unit Development District overlay and Corridor Enhancement District overlay; and,

WHEREAS, the Planning Commission forwarded the request to Council on October 15, 2013 recommending approval of the rezoning as depicted on an exhibit entitled "*Rezoning Exhibit RZ-13-500, Prepared by Winchester Planning Department, October 1, 2013*" because the proposed B-2 (PUD/CE) zoning supports the expansion of housing serving targeted populations, facilitates the connection of Stoneleigh Drive to Cedar Creek Grade, and provides for commercial space in support of the Commerce Revitalization/Infill character designation in the Comprehensive Plan. The recommendation is subject to adherence with the Development Plan titled 'CONCEPTUAL SITE LAYOUT PLAN EXHIBIT "A"' dated September 9, 2013 (last updated on October 11, 2013) and the submitted proffers dated September 9, 2013 and last revised October 11, 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, facilitates the connection of Stoneleigh Drive to Cedar Creek Grade, and provides for commercial space in support of the Commerce Revitalization/Infill character designation 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 designation of Residential Office with Corridor Enhancement District overlay to Highway Commercial District with Planned Unit Development District overlay and Corridor Enhancement District overlay:

7.7076 acres of land at 940 Cedar Creek Grade as depicted on an exhibit entitled "*Rezoning Exhibit RZ-13-500 Prepared by Winchester Planning Department, October 1, 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 'CONCEPTUAL SITE LAYOUT PLAN EXHIBIT "A"' dated September 9, 2013 (last updated on October 11, 2013) and the submitted proffers dated September 9, 2013 and last revised October 11, 2013.

CITY OF WINCHESTER, VIRGINIA

PROPOSED CITY COUNCIL AGENDA ITEM

CITY COUNCIL MEETING OF: 11/5/2013

CUT OFF DATE: 10/31/2013

RESOLUTION xx ORDINANCE PUBLIC HEARING

ITEM TITLE: Resolution of the Common Council of the City of Winchester, Virginia Authorizing the Issuance, in an Aggregate Principal Amount not to Exceed \$115,000,000, By The Economic Development Authority of the City of Winchester, Virginia of its Hospital Revenue Bonds (Valley Health System Obligated Group), Series 2013A and its Hospital Revenue Bonds (Valley Health System Obligated Group), Series 2013B

STAFF RECOMMENDATION: Approval recommended by the Economic Redevelopment Director

PUBLIC NOTICE AND HEARING: N/A

ADVISORY BOARD RECOMMENDATION: Will be presented to the EDA for approval at a special meeting to be held on 11/5/13

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 Finance, City Attorney, and City Manager.

Initiating Department Director's Signature:

APPROVED AS TO FORM:



CITY ATTORNEY

CITY COUNCIL ACTION MEMO

To: Honorable Mayor and Members of City Council
From: Jim Deskins, Director of Economic Redevelopment
Date: 10/31/13
Re: Resolution authorizing the issuance of an amount not to exceed \$115,000,000 by the EDA of Hospital Revenue Bonds, series 2013A and its Hospital Revenue Refunding Bonds, series 2013B

THE ISSUE: The authorization by City Council for the EDA bond issuance of \$115,000,000.

RELATIONSHIP TO STRATEGIC PLAN: Goal 1, Grow the Economy by helping to maintain Valley Health’s financial viability.

BACKGROUND: The EDA has received an application from Valley Health for the issuance of \$70,000,000 refunding bonds to refund previously issued EDA series 2000 bonds and up to \$45,000,000 to fund a new Page county facility.

BUDGET IMPACT: The EDA will receive 1/10 of one percent of the outstanding bonds as an annual administrative fee.

OPTIONS: Council may approve or disapprove.

RECOMMENDATIONS: We recommend that the Council approve the attached Resolution.

RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF WINCHESTER, VIRGINIA AUTHORIZING THE ISSUANCE, IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$115,000,000, BY THE ECONOMIC DEVELOPMENT AUTHORITY OF THE CITY OF WINCHESTER, VIRGINIA OF ITS HOSPITAL REVENUE BONDS (VALLEY HEALTH SYSTEM OBLIGATED GROUP), SERIES 2013A AND ITS HOSPITAL REVENUE REFUNDING BONDS (VALLEY HEALTH SYSTEM OBLIGATED GROUP), SERIES 2013B

WHEREAS, the City of Winchester, Virginia (the “City”) is a political subdivision of the Commonwealth of Virginia exercising public and essential governmental functions pursuant to the Constitution and the laws of the Commonwealth of Virginia; and

WHEREAS, the Economic Development Authority of the City of Winchester, Virginia (the “Authority”) is a political subdivision of the Commonwealth of Virginia and is authorized under Chapter 49, Title 15.2, Code of Virginia of 1950, as amended (the “Act”), to borrow money for the purpose of providing funds to finance the acquisition, construction, equipping, expansion, enlargement and improvement of medical facilities in order to provide modern and efficient medical services to the inhabitants of the Commonwealth of Virginia, to refinance medical facilities in order to reduce the costs to residents of the Commonwealth of utilizing such facilities and to issue its revenue bonds for the purpose of carrying out any of its powers; and

WHEREAS, Winchester Medical Center (“Winchester”) is a private, nonstock corporation duly incorporated and validly existing under and by virtue of the laws of the Commonwealth of Virginia, which operates medical facilities located in the City of Winchester, Virginia; and

WHEREAS, Page Memorial Hospital (“Page”) is a private, nonstock corporation duly incorporated and validly existing under and by virtue of the laws of the Commonwealth of Virginia, which operates medical facilities located in the Town of Luray, Page County, Virginia; and

WHEREAS, Winchester and Page have requested that the Authority issue two series of its revenue bonds (the “Series 2013A Bonds” and the “Series 2013B Bonds” and, together, the “Bonds”), in an aggregate principal amount not to exceed \$115,000,000; and

WHEREAS, the Series 2013A Bonds will be issued for the purpose of making a loan to Page (a) to pay, or reimburse Page for paying, the cost of the construction and equipping of a new hospital facility to replace Page’s current hospital facility and to consist of 68,000 square feet of space on two floors above ground and one floor below ground and to house 25 acute care beds (the “Page Replacement Hospital”) and (b) to pay certain expenses incurred in connection with the authorization, issuance and sale of the Series 2013A Bonds; and

WHEREAS, the Series 2013B Bonds will be issued for the purpose of making a loan to Winchester (a) to refund the outstanding Industrial Development Authority of Clarke County, Virginia Hospital Facility Revenue Bonds (Winchester Medical Center, Inc.), Series 2000, issued in the original aggregate principal amount of \$70,000,000 (the “Series 2000 Bonds”), and (b) to

pay certain expenses in connection with the authorization, issuance and sale of the Series 2013B Bonds; and

WHEREAS, the Series 2000 Bonds were issued for the purpose of providing funds, together with other available funds, (a) to pay, or reimburse Winchester for paying, the costs of (i) the replacement and expansion of the emergency room at the general acute care hospital and regional referral center known as Winchester Medical Center (the “Medical Center”), (ii) the renovation, expansion and equipping of the Medical Center over a period of three years to accommodate increased growth needs, including the renovation of space for food service, the relocation and expansion of space for medical outpatient services, the relocation and expansion of space for morning admissions of patients, the renovation and expansion of operating rooms, the expansion of space for child care, the expansion of space for the imaging center, the acquisition and installation of additional magnetic resonance imaging equipment, the installation of a new telephone system, the installation of a temperature control system as part of the energy management program, the expansion of space for cardiac catheterization services and the holding area for such services, the renovation and relocation of space for outpatient physical therapy and occupational therapy, and other general renovations of the Medical Center and acquisition of general equipment for use at the Medical Center, (iii) the renovation of Winchester’s central plant facilities (the “Central Plant Renovations”), and (iv) the construction of a new interchange on Route 37 (the “Interchange”) to provide additional access to the Medical Center and relieve traffic congestion at its Amherst Street entrances, and (b) to pay certain costs of issuance, including certain fees for a liquidity facility and a premium for a municipal bond insurance policy, of the Series 2000 Bonds; and

WHEREAS, the Page Replacement Hospital will be located at 200 Memorial Drive, Luray, Virginia 22835; and the Page Replacement Hospital will be owned and operated by Page, whose sole corporate member is Valley Health System (“Valley Health System”), a Virginia nonstock corporation; and

WHEREAS, the Medical Center (other than the Central Plant Renovations and the Interchange) is located on a 162-acre campus bounded on the south by Amherst Street, on the west by Route 37, on the north approximately by Pond View Drive and a line extending from the end of Pond View Drive west to Route 37, and approximately on the east by Linden Drive and Whitacre Street, with addresses currently ranging from 1830 to 1890 Amherst Street and from 190 to 400 Campus Blvd., Winchester, Virginia 22604; the Interchange is located primarily in Frederick County, Virginia with a minor portion located in the City of Winchester, Virginia, specifically at an interchange onto Route 37 from the Medical Center between the Route 50 interchange and the Route 522 interchange; and the Central Plant Renovations are located at 333 West Cork Street, Winchester, Virginia 22601; and

WHEREAS, the Medical Center and the Central Plant Renovations are owned and operated by Winchester, whose sole corporate member is Valley Health System; and the Interchange is owned and maintained by the Commonwealth of Virginia; and

WHEREAS, the Authority has by resolution adopted on November 5, 2013 (the “Authority Approval Resolution”) approved the issuance by the Authority of the Bonds, in an

aggregate principal amount not exceeding \$115,000,000, for the purposes hereinabove set forth; and

WHEREAS, the Authority held a public hearing on November 5, 2013 with respect to the issuance of the Bonds in accordance with state and federal law; and

WHEREAS, the Common Council of the City of Winchester, Virginia (the “Winchester Common Council”) must first approve the issuance of the Bonds by the Authority; and

WHEREAS, the Authority has delivered or caused to be delivered to the Winchester Common Council the following: (i) a reasonably detailed summary of the comments expressed at the public hearing held by the Authority in connection with the issuance of the Bonds, (ii) a fiscal impact statement concerning the Page Replacement Hospital and the Bonds in the form specified by Section 15.2-4907 of the Act, and (iii) a copy of the Authority Approval Resolution, which constitutes the recommendation of the Authority that the Winchester Common Council approve the issuance of the Bonds; and

WHEREAS, the Winchester Common Council has determined that it is advisable and in the best interest of the City to approve the issuance by the Authority of the Bonds, in an aggregate principal amount not exceeding \$115,000,000, to protect and promote the health and welfare of the inhabitants of the Commonwealth of Virginia;

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of Winchester, Virginia:

1. The Winchester Common Council hereby approves the issuance by the Authority of the Bonds, in an aggregate principal amount not exceeding \$115,000,000, to provide funds for the purpose of (A) making a loan to Page (1) to pay, or reimburse Page for paying, the cost of the construction and equipping of the Page Replacement Hospital and (2) to pay certain expenses incurred in connection with the authorization, issuance and sale of the Series 2013A Bonds and (B) making a loan to Winchester (1) to refund the Series 2000 Bonds and (2) to pay certain expenses incurred in connection with the authorization, issuance and sale of the Series 2013B Bonds.

2. The Mayor, the Clerk and any Deputy Clerk of the Winchester Common Council are hereby authorized and directed, acting jointly or separately, on behalf of the City, to take all action necessary or desirable, including the execution of any documents, to consummate the issuance of the Bonds.

3. The approval of the issuance of the Bonds, as required by Section 147(f) of the Internal Revenue Code of 1986, as amended, and the Act, does not constitute an endorsement to any prospective purchaser of the Bonds of the creditworthiness of Winchester or Page and, as required by the Act, the Bonds shall provide that neither the Commonwealth of Virginia, the City nor the Authority shall be obligated to pay the principal of, the redemption premium, if any, or the interest on the Bonds or other costs incident thereto except from the revenues and funds pledged therefor and neither the faith or credit nor the taxing power of the Commonwealth of Virginia, the City nor the Authority shall be pledged thereto.

4. This resolution shall take effect immediately upon its passage.

ATTEST:

[Name of Clerk]
Deputy Clerk of the Common Council

RESOLUTION OF THE ECONOMIC DEVELOPMENT AUTHORITY OF THE CITY OF WINCHESTER, VIRGINIA APPROVING THE ISSUANCE, IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$115,000,000, OF ITS HOSPITAL REVENUE BONDS (VALLEY HEALTH SYSTEM OBLIGATED GROUP), SERIES 2013A AND ITS HOSPITAL REVENUE REFUNDING BONDS (VALLEY HEALTH SYSTEM OBLIGATED GROUP), SERIES 2013B

WHEREAS, the Economic Development Authority of the City of Winchester, Virginia (the "Authority") is a political subdivision of the Commonwealth of Virginia and is authorized under Chapter 49, Title 15.2, Code of Virginia of 1950, as amended (the "Act"), to borrow money for the purpose of providing funds to finance the acquisition, construction, equipping, expansion, enlargement and improvement of medical facilities in order to provide modern and efficient medical services to the inhabitants of the Commonwealth of Virginia, to refinance medical facilities in order to reduce the costs to residents of the Commonwealth of utilizing such facilities and to issue its revenue bonds for the purpose of carrying out any of its powers; and

WHEREAS, Winchester Medical Center ("Winchester") is a private, nonstock corporation duly incorporated and validly existing under and by virtue of the laws of the Commonwealth of Virginia, which operates medical facilities located in the City of Winchester, Virginia; and

WHEREAS, Page Memorial Hospital ("Page") is a private, nonstock corporation duly incorporated and validly existing under and by virtue of the laws of the Commonwealth of Virginia, which operates medical facilities located in the Town of Luray, Page County, Virginia; and

WHEREAS, Winchester and Page have requested that the Authority issue two series of its revenue bonds (the "Series 2013A Bonds" and the "Series 2013B Bonds" and, together, the "Bonds"), in an aggregate principal amount not to exceed \$115,000,000; and

WHEREAS, the Series 2013A Bonds will be issued for the purpose of making a loan to Page (a) to pay, or reimburse Page for paying, the cost of the construction and equipping of a new hospital facility to replace Page's current hospital facility and to consist of 68,000 square feet of space on two floors above ground and one floor below ground and to house 25 acute care beds (the "Page Replacement Hospital") and (b) to pay certain expenses incurred in connection with the authorization, issuance and sale of the Series 2013A Bonds; and

WHEREAS, the Series 2013B Bonds will be issued for the purpose of making a loan to Winchester (a) to refund the outstanding Industrial Development Authority of Clarke County, Virginia Hospital Facility Revenue Bonds (Winchester Medical Center, Inc.), Series 2000, issued in the original aggregate principal amount of \$70,000,000 (the "Series 2000 Bonds"), and (b) to pay certain expenses in connection with the authorization, issuance and sale of the Series 2013B Bonds; and

WHEREAS, the Series 2000 Bonds were issued for the purpose of providing funds, together with other available funds, (a) to pay, or reimburse Winchester for paying, the costs of (i) the replacement and expansion of the emergency room at the general acute care hospital and

regional referral center known as Winchester Medical Center (the "Medical Center"), (ii) the renovation, expansion and equipping of the Medical Center over a period of three years to accommodate increased growth needs, including the renovation of space for food service, the relocation and expansion of space for medical outpatient services, the relocation and expansion of space for morning admissions of patients, the renovation and expansion of operating rooms, the expansion of space for child care, the expansion of space for the imaging center, the acquisition and installation of additional magnetic resonance imaging equipment, the installation of a new telephone system, the installation of a temperature control system as part of the energy management program, the expansion of space for cardiac catheterization services and the holding area for such services, the renovation and relocation of space for outpatient physical therapy and occupational therapy, and other general renovations of the Medical Center and acquisition of general equipment for use at the Medical Center, (iii) the renovation of Winchester's central plant facilities (the "Central Plant Renovations"), and (iv) the construction of a new interchange on Route 37 (the "Interchange") to provide additional access to the Medical Center and relieve traffic congestion at its Amherst Street entrances, and (b) to pay certain costs of issuance, including certain fees for a liquidity facility and a premium for a municipal bond insurance policy, of the Series 2000 Bonds; and

WHEREAS, the Page Replacement Hospital will be located at 200 Memorial Drive, Luray, Virginia 22835; and the Page Replacement Hospital will be owned and operated by Page, whose sole corporate member is Valley Health System ("Valley Health System"), a Virginia nonstock corporation; and

WHEREAS, the Medical Center (other than the Central Plant Renovations and the Interchange) is located on a 162-acre campus bounded on the south by Amherst Street, on the west by Route 37, on the north approximately by Pond View Drive and a line extending from the end of Pond View Drive west to Route 37, and approximately on the east by Linden Drive and Whitacre Street, with addresses currently ranging from 1830 to 1890 Amherst Street and from 190 to 400 Campus Blvd., Winchester, Virginia 22604; the Interchange is located primarily in Frederick County, Virginia with a minor portion located in the City of Winchester, Virginia, specifically at an interchange onto Route 37 from the Medical Center between the Route 50 interchange and the Route 522 interchange; and the Central Plant Renovations are located at 333 West Cork Street, Winchester, Virginia 22601; and

WHEREAS, the Medical Center and the Central Plant Renovations are owned and operated by Winchester, whose sole corporate member is Valley Health System; and the Interchange is owned and maintained by the Commonwealth of Virginia; and

WHEREAS, prior to the issuance of the Bonds, it is required by applicable Virginia and federal law that a public hearing be held during which members of the public are given an opportunity to express their views on the proposed issuance of the Bonds; and

WHEREAS, the Authority held a public hearing today at 8:00 A.M. with respect to the issuance of the Bonds in accordance with applicable Virginia and federal law; and

WHEREAS, the Common Council of the City of Winchester, Virginia (the "Winchester City Council"), the Board of Supervisors of Page County, Virginia (the "Page County Board of

Supervisors”) and the Town Council of the Town of Luray, Virginia (the “Luray Town Council”) must first approve (to the extent required by applicable Virginia and federal law) the issuance of the Bonds;

NOW, THEREFORE, BE IT RESOLVED by the Economic Development Authority of the City of Winchester, Virginia:

1. It is hereby found and determined that the issuance of the Bonds will promote the health and welfare of the residents of the City of Winchester, Virginia and surrounding areas, will be in the public interest and will be consistent with the purposes of the Act.

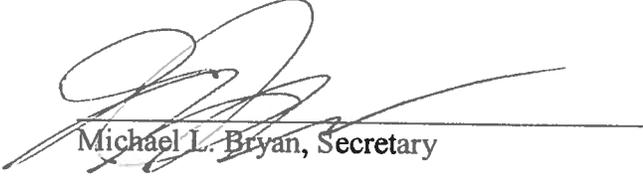
2. Pursuant to the authority granted to it by the Act, the Authority hereby approves the issuance of the Bonds, in an aggregate principal amount not exceeding \$115,000,000, to provide funds for the purpose of (A) making a loan to Page (1) to pay, or reimburse Page for paying, the cost of the construction and equipping of the Page Replacement Hospital and (2) to pay certain expenses incurred in connection with the authorization, issuance and sale of the Series 2013A Bonds and (B) making a loan to Winchester (1) to refund the Series 2000 Bonds and (2) to pay certain expenses incurred in connection with the authorization, issuance and sale of the Series 2013B Bonds.

3. The Chairman or Vice Chairman and the Secretary of the Authority are hereby authorized and directed to deliver to the Winchester City Council, the Page County Board of Supervisors and the Luray Town Council (i) a reasonably detailed summary of the comments expressed at the public hearing held in connection with the issuance of the Bonds, (ii) a fiscal impact statement concerning the Bonds in the form specified in Section 15.2-4907 of the Act and (iii) a copy of this resolution, which constitutes the recommendation of the Authority that the Winchester City Council, the Page County Board of Supervisors and the Luray Town Council approve (to the extent required by applicable Virginia and federal law) the issuance of the Bonds.

4. The Authority shall perform such other acts and adopt such further resolutions as may be necessary or appropriate to implement this resolution.

5. This resolution shall take effect immediately upon its passage.

Adopted November 5, 2013.

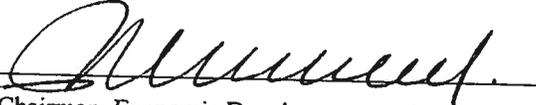

Michael L. Bryan, Secretary

**FISCAL IMPACT STATEMENT
FOR PROPOSED BOND FINANCING**

Date: November 5, 2013

Applicants: Winchester Medical Center and Page Memorial Hospital
Facilities: Facilities in the City of Winchester, Virginia and the Town of Luray/Page County, Virginia

	<u>City of Winchester</u>	<u>Town of Luray/Page County</u>	<u>Total</u>
1. Maximum amount of financing sought.	\$79,000,000	\$36,000,000	\$115,000,000
2. Estimated taxable value of the facility's real property to be constructed in the locality.	n/a	n/a	n/a
3. Estimated real property tax per year using present tax rates.	n/a	n/a	n/a
4. Estimated personal property tax per year using present tax rates.	n/a	n/a	n/a
5. Estimated merchants' capital tax per year using present tax rates.	n/a	n/a	n/a
6. (a) Estimated dollar value per year of goods that will be purchased from Virginia companies within the locality.	\$0*	\$168,000	\$168,000
(b) Estimated dollar value per year of goods that will be purchased from non-Virginia companies within the locality.	\$0*	\$252,000	\$252,000
(c) Estimated dollar value per year of services that will be purchased from Virginia companies within the locality.	\$0*	\$ 64,920	\$ 64,920
(d) Estimated dollar value per year of services that will be purchased from non-Virginia companies within the locality.	\$0*	\$ 21,640	\$ 21,640
7. Estimated number of regular employees on year round basis (FTEs).	2,513	185	2,698
8. Average annual salary per employee.	\$60,475	\$ 61,768	


 Chairman, Economic Development Authority
 of the City of Winchester, Virginia

* Information presented represents the incremental fiscal impact of the new hospital facility in the Town of Luray/Page County only and does not include any facilities being refinanced, or the impact of any other existing Valley Health System facilities.

SUMMARY OF PUBLIC HEARING

A public hearing was held by the Economic Development Authority of the City of Winchester, Virginia (the "Authority") at 8:00 a.m. on November 5, 2013 regarding the approval of the issuance by the Authority of two series of its revenue bonds (the "Series 2013A Bonds" and the "Series 2013B Bonds" and, together, the "Bonds"), in an aggregate principal amount not exceeding \$115,000,000. The Series 2013A Bonds will be issued for the purpose of making a loan to Page Memorial Hospital ("Page"), a Virginia nonstock corporation, (a) to pay, or reimburse Page for paying, the cost of the construction and equipping of a new hospital facility to replace Page's current hospital facility and to consist of 68,000 square feet of space on two floors above ground and one floor below ground and to house 25 acute care beds and (b) to pay certain expenses incurred in connection with the authorization, issuance and sale of the Series 2013A Bonds. The Series 2013B Bonds will be issued for the purpose of making a loan to Winchester Medical Center, a Virginia nonstock corporation, (a) to refund the outstanding Industrial Development Authority of Clarke County, Virginia Hospital Facility Revenue Bonds (Winchester Medical Center, Inc.), Series 2000, issued in the original aggregate principal amount of \$70,000,000, and (b) to pay certain expenses incurred in connection with the authorization, issuance and sale of the Series 2013B Bonds.

The Notice of Public Hearing was published on October 22, 2013 and October 29, 2013 in The Winchester Star and the Daily News - Record.

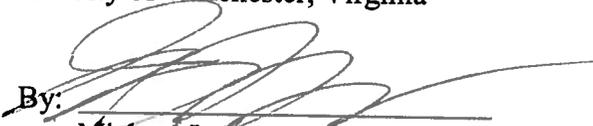
A description of the facilities to be financed or refinanced with the proceeds of the Bonds, and the location and purpose of each such facility, are more particularly set forth in the Notice of Public Hearing attached hereto.

The public hearing was held in the Council Chambers of the Common Council of the City of Winchester, Virginia at Rouss City Hall, 15 North Cameron Street. The hearing was open to the public, and persons interested in the issuance of the Bonds were given the opportunity to present their views.

Craig Lewis, Senior Vice President and Chief Financial Officer of Valley Health System, was present in order to respond to any inquiries by the Authority. No member of the public spoke either for or against the issuance of the Bonds by the Authority.

After such public hearing, the Authority adopted a resolution recommending the approval of the issuance of the Bonds by the Common Council of the City of Winchester, Virginia, the Board of Supervisors of Page County, Virginia and the Town Council of the Town of Luray, Virginia.

Economic Development Authority of
the City of Winchester, Virginia

By: 

Michael L. Bryan, Secretary

**NOTICE OF PUBLIC HEARING BY THE
ECONOMIC DEVELOPMENT AUTHORITY
OF THE CITY OF WINCHESTER, VIRGINIA
REGARDING THE FINANCING AND
REFINANCING OF CERTAIN MEDICAL
FACILITIES WITH THE PROCEEDS
OF THE ISSUANCE OF TAX-EXEMPT BONDS**

NOTICE IS HEREBY GIVEN to all interested persons that the Economic Development Authority of the City of Winchester, Virginia (the "Authority") is considering the approval of the issuance by the Authority of two series of its revenue bonds (the "Series 2013A Bonds" and the "Series 2013B Bonds" and, together, the "Bonds"), in an aggregate principal amount not exceeding \$115,000,000. The Series 2013A Bonds will be issued for the purpose of making a loan to Page Memorial Hospital ("Page"), a Virginia nonstock corporation, (a) to pay, or reimburse Page for paying, the cost of the construction and equipping of a new hospital facility to replace Page's current hospital facility and to consist of 68,000 square feet of space on two floors above ground and one floor below ground and to house 25 acute care beds (the "Page Replacement Hospital") and (b) to pay certain expenses incurred in connection with the authorization, issuance and sale of the Series 2013A Bonds. The Series 2013B Bonds will be issued for the purpose of making a loan to Winchester Medical Center ("Winchester"), a Virginia nonstock corporation, (a) to refund the outstanding Industrial Development Authority of Clarke County, Virginia Hospital Facility Revenue Bonds (Winchester Medical Center, Inc.), Series 2000, issued in the original aggregate principal amount of \$70,000,000 (the "Series 2000 Bonds"), and (b) to pay certain expenses incurred in connection with the authorization, issuance and sale of the Series 2013B Bonds.

The Series 2000 Bonds were issued for the purpose of providing funds, together with other available funds, (a) to pay, or reimburse Winchester for paying, the costs of (i) the replacement and expansion of the emergency room at the general acute care hospital and regional referral center known as Winchester Medical Center (the "Medical Center"), (ii) the renovation, expansion and equipping of the Medical Center over a period of three years to accommodate increased growth needs, including the renovation of space for food service, the relocation and expansion of space for medical outpatient services, the relocation and expansion of space for morning admissions of patients, the renovation and expansion of operating rooms, the expansion of space for child care, the expansion of space for the imaging center, the acquisition and installation of additional magnetic resonance imaging equipment, the installation of a new telephone system, the installation of a temperature control system as part of the energy management program, the expansion of space for cardiac catheterization services and the holding area for such services, the renovation and relocation of space for outpatient physical therapy and occupational therapy, and other general renovations of the Medical Center and acquisition of general equipment for use at the Medical Center, (iii) the renovation of Winchester's central plant facilities (the "Central Plant Renovations"), and (iv) the construction of a new interchange on Route 37 (the "Interchange") to provide additional access to the Medical Center and relieve traffic congestion at its Amherst Street entrances, and (b) to pay certain costs of issuance, including certain fees for a liquidity facility and a premium for a municipal bond insurance policy, of the Series 2000 Bonds.

All references in the foregoing to square acreage, footage, beds, units and similar quantitative measurements are approximations.

The Page Replacement Hospital will be located at 200 Memorial Drive, Luray, Virginia 22835. The Page Replacement Hospital will be owned and operated by Page, whose sole corporate member is Valley Health System ("Valley Health System"), a Virginia nonstock corporation.

The Medical Center (other than the Central Plant Renovations and the Interchange) is located on a 162-acre campus bounded on the south by Amherst Street, on the west by Route 37, on the north approximately by Pond View Drive and a line extending from the end of Pond View Drive west to Route 37, and approximately on the east by Linden Drive and Whitacre Street, with addresses currently ranging from 1830 to 1890 Amherst Street and from 190 to 400 Campus Blvd., Winchester, Virginia 22604. The Interchange is located primarily in Frederick County, Virginia with a minor portion located in the City of Winchester, Virginia, specifically at an interchange onto Route 37 from the Medical Center between the Route 50 interchange and the Route 522 interchange. The Central Plant Renovations are located at 333 West Cork Street, Winchester, Virginia 22601.

The Medical Center and the Central Plant Renovations are owned and operated by Winchester, whose sole corporate member is Valley Health System. The Interchange is owned and maintained by the Commonwealth of Virginia.

Please take notice that the Authority will hold a public hearing in the Council Chambers of the Common Council of the City of