

**PLANNING COMMISSION
WORK SESSION AGENDA
August 12, 2014 - 3:00 PM
Fourth Floor Exhibit Hall
Rouss City Hall**

1. Review agenda for August 19, 2014, regular meeting
2. Committee reports
3. Status of projects pending Council approval
4. Announcements

**PLANNING COMMISSION
AGENDA
August 19, 2014 - 3:00 PM
Council Chambers - Rouss City Hall**

1. POINTS OF ORDER

- A. Roll Call
- B. Approval of Minutes – July 15, 2014
- C. Correspondence
- D. Citizen Comments
- E. Report of Frederick Co Planning Commission Liaison

2. PUBLIC HEARINGS – New Business

- A. **CU-14-331** Request of Joshua Schakola on behalf of Verizon Wireless for a conditional use permit for rooftop telecommunications facilities at 103 East Piccadilly Street (*Map Number 173-01-P-6*) zoned Central Business (B-1) District with Historic Winchester (HW) District overlay. **(Mr. Youmans)**
- B. **CU-14-388** Request of Gillian Greenfield for a conditional use permit for conversion of ground floor nonresidential use to residential use at 110 South Indian Alley (*Map Number 193-01-D-15*) zoned Central Business (B-1) District with Historic Winchester (HW) District overlay. **(Mr. Youmans) - WITHDRAWN**
- C. **CU-14-415** Request of Dale A. Massey dba Piccadilly's Public House and Restaurant for a conditional use permit for entertainment establishment use at 121-125 East Piccadilly Street (*Map Number 173-01-P-8*) zoned Central Business (B-1) District with Historic Winchester (HW) District overlay. **(Mr. Grisdale)**
- D. **CU-14-432** Request of Lynn Miller on behalf of the City Of Winchester for a conditional use permit for a telecommunications tower at 231 East Piccadilly Street (*Map Number 173-01-Q-1*) zoned Central Business (B-1) District. **(Mr. Grisdale)**
- E. **TA-14-354** AN ORDINANCE TO AMEND SECTION 16.1 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO ALLOWABLE BUILDING HEIGHT IN THE EDUCATION, INSTITUTION AND PUBLIC USE (EIP) DISTRICT. **(Mr. Grisdale)**

3. PUBLIC HEARINGS – Continued

- A. **CU-14-349** Request of John and Christine Flood for a conditional use permit for conversion of ground floor nonresidential use to residential use at 10 East Clifford Street (*Map Number 193-01-L-15*) zoned Central Business (B-1) District with Historic Winchester (HW) District overlay. **(Mr. Grisdale)**

4. NEW BUSINESS

- A. **SV-14-433** AN ORDINANCE TO VACATE APPROXIMATELY 4,500 SQUARE FEET OF PUBLIC RIGHT OF WAY AT THE SOUTH END OF ROBERTS STREET AND CONVEY IT TO THE OWNER OF 1818 ROBERTS STREET TO ASSEMBLE IN WITH THAT LOT. **(Mr. Youmans)**

- B. **TA - 14-477** - RESOLUTION INITIATING TA-14-477, AN ORDINANCE TO AMEND AND REENACT ARTICLES 1, 18, AND 19 PERTAINING TO DEFINITIONS OF GROUP HOME; PROVISIONS FOR TEMPORARY HEALTH CARE STRUCTURES; PERMITTING, NOTIFICATION REQUIREMENTS, AND APPEAL PROCEDURES FOR FAMILY DAY HOMES; AND SITE PLAN EXPIRATION TIMELINES. **(Mr. Grisdale)**

5. OLD BUSINESS

- A. **CU-14-166** Request of Oakcrest Properties for a conditional use permit for a two family dwelling at 314 South Kent Street (*Map Number 193-01-T-3*) zoned Limited High Density Residential (HR-1) District with Historic Winchester (HW) District overlay. **(Mr. Youmans)**

6. OTHER BUSINESS

- A. **Administrative Approval(s)**
- B. **Minor Subdivision Report**

7. ADJOURN

PLANNING COMMISSION MINUTES

The Winchester Planning Commission held its regular meeting on Tuesday, July 15, 2014, at 3:00 p.m. in Council Chambers, Rouss City Hall, 15 N. Cameron Street, Winchester, Virginia.

CALL TO ORDER: Vice Chairman Slaughter called the meeting to order at 3:00 p.m.

PRESENT: Vice Chairman Slaughter, Commissioner Shickle, Commissioner Loring, Commissioner McKannan, Commissioner Beatley

ABSENT: Chairman Wiley, Commissioner Smith

EX-OFFICIO: Interim City Manager Gerhart

FREDERICK CO. LIAISON: Commissioner Kenney

STAFF: Timothy Youmans, William Moore, Catherine Clayton

VISITORS: Terry McDonald, Ty Lawson, Bill Prokopchak, John Flood

APPROVAL OF MINUTES:

Vice Chairman Slaughter called for additions or corrections to the minutes of June 17, 2014. Hearing none, he called for a motion. Commissioner Shickle moved to approve as submitted. Commissioner Loring seconded the motion. Voice vote was taken and the motion passed 5-0.

CORRESPONDENCE:

Mr. Youmans advised that Commission members have received a revised staff report for item 2C relating to RZ-14-351 which also includes the updated, oversized exhibit.

CITIZEN COMMENTS:

None.

REPORT OF THE FREDERICK COUNTY PLANNING COMMISSION LIAISON:

Commissioner Kenney said that the Frederick County Planning Commission did not have a meeting on July 2nd but that at the June 18th meeting they had a few public hearings and some Ordinance amendments.

PUBLIC HEARINGS – New Business:

CU-14-349 Request of John and Christine Flood for a conditional use permit for conversion of ground floor nonresidential use to residential use at 10 East Clifford Street (*Map Number 193-01-L-15*) zoned Central Business (B-1) District with Historic Winchester (HW) District overlay. **(Mr. Grisdale)**

In Mr. Grisdale's absence, Mr. Moore presented the staff report stating that the request is to convert a structure consisting of two (2) units containing both residential and commercial uses to a single family dwelling. The applicant intends to convert the property at 10 East Clifford Street back to single family residential use and make it their primary residence. Since this property has a nonresidential use on part of the first floor, a conditional use permit is required for the conversion back to residential use. He said that the applicant may or may not request that the application be tabled but staff wanted to present the

case and hold the public hearing because there have been some adjacent property owners express interest in the request. He added that the property is located within "Parking District A" in the downtown which provides for 100% relief of off-street parking requirements. At present, there are no parking spaces provided on the subject property and that with the conversion away from commercial office use and reduction in residential units from two (2) to one (1), there will likely be a decrease in parking and vehicular traffic. The subject property does have the appearance of a residential building and it is located on a street that consists mostly of residential uses. He concluded by stating that staff does not anticipate any negative impacts based upon the proposal as submitted and that he is available for questions.

Vice Chairman Slaughter called for questions from the Commission.

Commissioner Loring asked when the Commission will know whether the applicant intends to table the request. Mr. Moore stated that Mr. Flood is in the audience and that he will address the Commission during the Public Hearing.

Vice Chairman Slaughter Opened the Public Hearing

John Flood, applicant, approached and requested to have the request tabled as the office space he intended to move to is no longer available and he will need additional time to find an appropriate space.

Vice Chairman Slaughter called for questions from the Commission.

Commissioner Shickle asked if the Commission is to go forward, what time frame is there for the applicant to meet the conversion. Mr. Moore stated that a conditional use permit, unless otherwise stipulated in the approval, is valid for one (1) year as of the date of Council's action.

Vice Chairman Slaughter Advised that the Public Hearing will Remain Open

Vice Chairman Slaughter then called for a motion.

Commissioner Shickle moved to table CU-14-349 until the August 12, 2014, meeting with the Public Hearing remaining open. Commissioner Loring seconded the motion. Voice vote was taken and the motion passed 5-0.

RZ-14-350 AN ORDINANCE TO REVISE THE PROFFERS AND DEVELOPMENT PLAN ASSOCIATED WITH 1.295 ACRES OF LAND AT 1720 VALLEY AVENUE (*Map Number 231-04-K-8A*) CONDITIONALLY ZONED HIGHWAY COMMERCIAL (B-2) DISTRICT WITH PLANNED UNIT DEVELOPMENT (PUD) AND CORRIDOR ENHANCEMENT (CE) DISTRICT OVERLAY. **(Mr. Moore)**

Mr. Moore presented the staff report stating that this is a request to amend the proffers and development plan that were approved by Council in October 2013 when Planned Unit Development (PUD) overlay was established on the former Coca-Cola property. The original approval included two (2) options: Option A with 5,678sf of commercial space and 18 apartments; or, Option B with 8,049sf of commercial space and 16 apartments. The request is to add a third option for 5,678sf of commercial space with 23 apartments. The site layout plan with associated landscaping, buffering, parking, etc., remains unchanged with the additional proposed option, as do most of the previously approved proffers, including a maximum of two bedrooms in any apartment. The applicant is requesting a third

option, Option C. Option C would provide for fewer two bedroom units than Options A or B while providing for additional one bedroom and studio units. The primary area of difference in the floor plans for Option C is within the 1974 addition which is the northern part of the building. Both Options A and B include eight (8) two-bedroom units, all of which are two-story units. Option C would provide for thirteen units in this area: two (2) would remain as two-bedroom, two-story units. The remaining eleven (11) would consist of one (1) two-bedroom unit and ten (10) one-bedroom units, all of which would be single floor units.

Mr. Moore said that the site development plan, buffering, and open space would remain unchanged. Also, in terms of the density, the requested 23 units is the maximum number that can be achieved on this size property. PUD allows for consideration of up to 18 units per acre and with just slightly under 1.3 acres, this would be the maximum achievable density on the property. Numerous other criteria were evaluated during the original rezoning request that has to do with Comprehensive Plan consistency, the site development and buffering, open space, and design quality. The proffers and the development plan that went along with those remain unchanged so really the Commission is only looking at the proposed increase in number of residential units and the adjustment of the proffers to match that. He concluded by stating that he is available to answer any questions.

Vice Chairman Slaughter called for questions from the Commission.

Commissioner Loring asked about additional parking along Roberts Street and the curbing that is going to be added. He asked if there will be a sidewalk installed along Roberts Street because it is difficult to determine this from the site plan. Mr. Moore responded if the right-of-way width were there, ideally a sidewalk would be good but there is a transition in grade from Roberts Street up to the actual site itself so space-wise with the width of the right-of-way, there would not be space to provide both, the sidewalk and the parking spaces. Mr. Youmans said that staff will look into it with the site plan to see if there is a way to put a sidewalk in. Commissioner Loring said that ideally there should be a sidewalk especially if this is parking for the apartments there.

Vice Chairman Slaughter said that he wanted to confirm that it meets all of the parking requirements and the green-space requirements.

Vice Chairman Slaughter Opened the Public Hearing.

Terry McDonald, representative for the applicant, approached and said that Option C is the most desirable for this project and requested that the Commission look favorably on the request.

Commissioner McKannan asked, if the Commission approves Option C, what time frame is the applicant looking at to make a choice as to the Option and forward the development plan. Mr. McDonald said that he is 95% certain that they would choose Option C. He concluded by stating that he is available for questions and thanked the Commission for their time.

Bill Prokopchak, 1714 Lewis Street, stated that the property does need to be developed because it is beginning to deteriorate but he asked the Commissioners to be cautious about the number of apartments that they allow so that there will be sufficient parking on the property so as not to cause problems on the streets. He thanked the Commission for their time.

Vice Chairman Slaughter Closed the Public Hearing

Vice Chairman Slaughter then asked Mr. Moore to review the parking as proposed. Mr. Moore said that the applicant had originally obtained a variance for the actual number of off-street parking spaces but it was conditioned upon this development plan having the applicant making improvements in the public right-of-way to provide on-street parking spaces which are the ones that are shown. They do not necessarily meet the regulation as it reads in the Ordinance for off-street parking but with the addition of the on-street parking spaces that they are going to construct, there is sufficient parking by Ordinance standards to meet their needs. Vice Chairman Slaughter then asked if all of the parking would be completed prior to the development being completed. Mr. Moore said that a detailed site plan would have to be complete before any work can be started or completed.

Commissioner Loring then said that by looking at the site plan, it appears that there will be about 47 on site and another 10 on Roberts Street. Commissioner Shickle said that she counts 45 on-site and another 14 on Roberts Street. Commissioner Shickle said that with the majority of the units being one-bedroom units, this reduces the potential of over-parking. Mr. Moore said that the requirement is one space per unit regardless if they are one-bedroom or two-bedroom units.

Vice Chairman Slaughter called for further discussion or questions. Hearing none, he called for a motion.

Commissioner McKannan moved to forward RZ-14-350 to City Council recommending approval subject to the proffers in the revised Proffer Statement dated May 30, 2014, because the proposed revision continues to support mixed use and the expansion of housing serving targeted populations as called out in the Comprehensive Plan. The recommendation is based upon adherence with the Development Plan titled Conceptual Site Layout Plan, Rezoning Exhibit 'A' dated May 30, 2014.

Commissioner Beatley seconded the motion. Voice vote was taken and the motion passed 5-0.

RZ-14-351 AN ORDINANCE TO CONDITIONALLY REZONE 33.40 ACRES OF LAND AT 200 MERRIMANS LANE (*Map Number 149-01-7-A*) FROM CONDITIONAL RESIDENTIAL BUSINESS (RB-1) DISTRICT WITH CORRIDOR ENHANCEMENT (CE) DISTRICT OVERLAY, CONDITIONAL MEDIUM DENSITY RESIDENTIAL (MR) DISTRICT AND LOW DENSITY RESIDENTIAL (LR) DISTRICT TO EDUCATION, INSTITUTION AND PUBLIC USE (EIP) DISTRICT, HIGHWAY COMMERCIAL (B-2) DISTRICT, HIGH DENSITY RESIDENTIAL (HR) DISTRICT AND LR DISTRICT; AND TO CONDITIONALLY REZONE 3.37 ACRES OF LANE AT 418 MERRIMANS LANE (*Map Number 169-01-3*) FROM LR DISTRICT TO EIP DISTRICT AND B-2 DISTRICT. **(Mr. Youmans)**

Mr. Youmans presented the revised staff report of July 15, 2014. He said that the title has not changed but the application has been amended to no longer request the High Density Residential in Land Bay 'C' area. This title will change before it goes to City Council so that it no longer makes reference to that request. There was a revised development plan submitted yesterday which requests to remove proffers. There are two (2) sites that are subject to this rezoning, the larger one is the Ridgewood Orchard Limited Partnership property that extends from the intersection of Merrimans Lane past the built four (4) lane divided portion of Meadow Branch Avenue beside the CVS up through the site in between the Sacred Heart property and the DBL Holdings property. The latest revised version of the rezoning dated July 11, 2014, and received by the City on July 14, 2014, no longer requests HR zoning on the area identified as Land Bay 'C' on the Generalized Development Plan, and instead simply removes the previously established proffers for the MR and RB-1 zoned portions of this area lying to the east of Meadow Branch Avenue. For now, the zoning district map will still show a small area of RB-1 zoning adjoining the Sacred Heart property.

A 2014 revision to the Comprehensive Plan was adopted by City Council on July 8, 2014. It calls for facilitating the establishment of a new elementary school along the west side of Meadow Branch Avenue Extended and envisions a variety of housing types in the central and southern portions of the Ridgewood Orchard site and planned commercial uses in the northern portions. It specifically suggests that MR zoning would be appropriate for the area known as Land Bay 'C' unless a PUD calling for age-restricted housing is included as part of the rezoning request, in which case, high density zoning may be appropriate. The 2005 rezoning request for the Smith property established a mix of zoning designations on the 36-acre parcel to the west of the Sacred Heart property. All but two (2) acres adjacent to Merrimans Lane was rezoned from LR to more intensive zoning. The conditional rezoning request includes a proffer Generalized Development Plan (GDP) originally dated June 4, 2014, and most recently revised on July 11, 2014, MR zoning without the 2005 proffers is now requested. This predominantly MR district includes a conspicuous "tail" of RB-1 zoned land situated between the Sacred Heart property and the proposed Meadow Branch Avenue right-of-way boundary. The Proffer Statement dated June 2, 2014, and revised June 4, 2014, included proffers organized under six (6) headings but the latest revised Proffer Statement dated July 11, 2014, includes proffers organized under five (5) headings. The revised Proffer C now calls for the removal of the previously adopted 2005 rezoning proffers associated with the MR and RB-1 zoning that is, for now, being retained in Land Bay 'C'.

Mr. Youmans added that the elimination of the proposed HR zoning for Land Bay 'C' makes the latest revised version of the request generally consistent with the recent amendment to the Comprehensive Plan that was unanimously adopted by City Council on July 8, 2014. Staff does not particularly favor retaining the tail of RB-1 zoning down between the proposed roadway and the adjoining Sacred Heart property, it is understood that a further rezoning of this area and the remaining MR land in Land Bay 'C' will be forthcoming once a known Planned Unit Development (PUD) proposal for age-restricted housing with a proffered site layout for a specific use is proposed. The proposed B-2 and EIP zoning requests seem consistent with the vision expressed in the 2014 amendment to the Comprehensive Plan. The Green Circle Trail, while not depicted on the GDP, is part of the Comprehensive Agreement between the City and the School developer, and thus is consistent with the approved recommendation in the 2014 Comprehensive Plan exhibit for the subject area.

Mr. Youmans stated for clarification that there will be a public open house where Mr. Eisenach, Public Services Director, will be addressing the issue of two (2) lane striping versus four (4) lane striping within the existing Meadow Branch North area. He concluded by stating that staff has included an amended motion for consideration by the Commission and that he is available for questions.

Vice Chairman Slaughter called for questions from the Commission.

Commissioner McKannan asked about the Corridor Enhancement overlay, specifically, if the Commission kept the CE overlay intact, what are the advantages on the property as it exists now? In other words, what is the likelihood of someone coming in and building a structure on that property if the CE overlay is kept intact? Mr. Youmans stated that the larger portion is more likely the area where a large footprint building would go which could not be built by-right because of the square footage limitations that Council imposed with the Corridor Enhancement overlay district for Amherst Street. A lot of that was deliberated by Council just before the 2005 rezoning with the CVS. It was determined by Council that they did not want buildings that would over-power the entryway in to the historic district. Having said that though, there are many institutional uses there including Sacred Heart, the churches in the area and of course, the hospital. They would need to get a conditional use permit in addition to a site plan. These processes could overlap so it would be perhaps another month of review. Commissioner

McKannan then asked how many lots are in that general area to which Mr. Youmans advised that it is one single lot. Commissioner McKannan then said that it could be subdivided at a later time to which Mr. Youmans replied that is correct.

Commissioner Loring asked what, if any, feedback staff has received from the applicant as it relates to the change in the CE overlay. Mr. Youmans said that he sent it to the applicant shortly after providing it to the Commission and just before the meeting started, one of the representatives had some questions about it but they both acknowledged earlier that they may address it with comments.

Commissioner Shickle said that she is unclear as it relates to the allowable uses in the proffer statement and the School Board's ideas about potential uses. She questioned whether or not it included the School Board's opinion. Mr. Youmans said that it includes some but not all and that it would be best addressed by the applicant or representatives from the School Board. He also said that he thinks the School Board would like to further limit the uses on the B-2 portion of the Ridgewood Orchard site. The key there is when an applicant proffers something it is supposed to be directly related to an impact that might arise and so there is a lot of gray area there in terms of which uses directly impact the adjoining, existing uses. In this case, it is somewhat unusual because you have the school that is not yet an existing use or an existing zoning designation so there are two (2) zoning proposals coming forward as a single application but the beneficiaries of those two (2) portions of the site should negotiate with one another. Commissioner Shickle said that in some ways it is better that the Commission does not have that information. Mr. Youmans said that from a staff perspective, we are saying that it is a good proposal but that perhaps it could be better in terms of further minimizing the potential impacts on the basis of residential and proposed school use but staff does not feel as though it is necessary to secure a favorable recommendation.

Vice Chairman Slaughter asked about the MR, specifically if the Commission takes it through the rezoning now and the applicant chooses not to take it through HR and PUD and leaves it at MR and develops it as MR, is staff comfortable with the proffers being removed and if it were to be developed as MR, is staff comfortable with the proffers currently being proposed. Mr. Youmans said that he believes so because it is probably unlikely that someone will make use of that property for single family detached residences that are on 8,000sf lots.

Vice Chairman Slaughter Opened the Public Hearing

Ty Lawson, representative for the applicant, said that the one issue that came to them recently is the Corridor Enhancement overlay. It is not proper to say that there is no overlay because they have intentionally retained all aspects of that, in particular, the design portions and have taken out the actual square footage in terms of building size. He added that the design standards are critical because they want them to be attractive and to have varied roof pitches. The bottom line is that we are not finding 8,000sf users, they are bigger than that. We are trying to create something that will facilitate attractive uses that are not already restricted. He said that since the Comprehensive Plan was adopted last Tuesday, they are trying to put together, as quickly and accurately as possible, a PUD application for the part that is being left as MR. Lastly, he said that they did make some revisions to the uses as requested and suggested by the School Board. We are working on that further still and although we will continue to talk with them about it, some of the concerns they raised are about potential uses that could be applied for under a future conditional use process. If some future applicant wants to raise a conditional use permit for something on one of those land areas, that is a great opportunity for those folks to raise the issue and discuss the impacts and decide whether it is allowable or not. It gives us pause to agree to cut off things forever for this project but we are willing to look in to it further and to talk with the School

Board further to satisfy everyone. He concluded by saying that he would be happy to answer any questions.

Vice Chairman Slaughter called for questions from the Commission.

Commissioner Loring asked if the School Board agrees with the current update. Mr. Lawson said that this information went to them last Tuesday or Wednesday and the applicant did make the revisions in response to their comments but that we are still moving along to address any outstanding issues.

Vice Chairman Slaughter said that their only objection to including the very western portion in the CE overlay is the inconvenience of going through a potential conditional use application for a larger building. Mr. Lawson said that as they wrote it, they have put in all of those standards except that which relates to building size. It is a severe handicap and it is not desirable to limit the size of a building. Mr. Lawson added that he is not sure why the City would decide upon the 8,000sf limit.

Ed Smith, Winchester School Board representative, asked that there be a list of exclusions and we are working with the land owner on it. We do not foresee any issue with the exclusions with the exception of one (1), and that is gun sales and services. The idea of sales and services of guns so close to a school is very unsettling, the proximity, accessibility, and the potential situations that they can create and for that reason, the School Board would ask the Commission and Council to consider this exception. Even an ancillary service such as a sporting goods store for such should be included in this exception. That is the School Board's biggest concern. Vice Chairman Slaughter asked if gun sales are permitted in the B-2 District. Mr. Youmans said that if it is a use otherwise associated with a retail store, the Zoning does not distinguish although there may be separate permits and licensing required but he does not believe that there is anything in the Zoning Ordinance that distinguishes between retail and direct sales. Vice Chairman Slaughter said that there would be no possible way to exclude that then. Mr. Youmans said that if there are shooting ranges and things as such, there are restrictive uses. Vice Chairman Slaughter said that if the applicant were to proffer that, they would have to proffer a much larger group of businesses. Mr. Youmans said no because they can structure their proffer the way they want but the key is that it has to be a voluntary proffer from the applicant and not a forced proffer from a neighboring property.

Commissioner Loring asked Mr. Smith about the other seven (7) issues and whether they are okay and that the only one that is really outstanding is the gun shops and services. Mr. Lawson said that they will have to look hard at that because it is a component of a multitude of schools and we are willing to have dialogue with our neighbors on how to proceed to discuss the impacts that come with it but we do not want to unwittingly agree to it and then find out later that we have some really desirable uses and then have someone tell them that they cannot come in that area. At this time, we are not willing to voluntarily proffer no gun sales and repairs but we are willing to continue to talk with the School Board. Vice Chairman Slaughter asked if the applicant could submit additional proffers to which Mr. Youmans said that they can submit revised proffers right up until the time that Council hears the application.

Vice Chairman Slaughter asked if there are any other questions, comments or discussion.

Vice Chairman Slaughter Closed the Public Hearing

Vice Chairman Slaughter called for discussion from the Commission.

Commissioner Beatley said that in the proffer they are excluding the building size but if the Commission would forward a motion to include the CE overlay, which has the building size restriction, which would take precedence? Mr. Youmans said that the area where the CE is removed, Proffer A would take precedence. For the area, if any, that you recommend keeping the CE overlay, then it would be the CE District overlay.

Commissioner Loring asked if the Commission moved to forward, could the applicant and the School Board continue to discuss the issue to which Vice Chairman Slaughter responded yes they can but Council can decide whether or not to allow the rezoning.

Vice Chairman Slaughter said that generally it makes sense and that he is supportive of what is seen here. He understands the proffers but his concern is if another developer would come in and buy portions. He would be more in favor to include the small portion of CE District overlay.

Commissioner Shickle said that she has a hard time making a recommendation but that she, like Commissioner McKannan, is not in favor of extending the CE District overlay any further than it has to be.

Vice Chairman Slaughter called for further discussion. Hearing none, he called for a motion. Commissioner Shickle moved to forward RZ-14-351 to City Council recommending approval as depicted on an exhibit entitled "Rezoning Exhibit RZ-14-351, Prepared by Winchester Planning Department, July 14, 2014" because the proposed B-2, EIP, RB-1 and MR zoning supports public school construction, supports economic development, and is generally consistent with the amended Comprehensive Plan. The recommendation is subject to adherence with the latest Generalized Development Plan titled 'Ridgewood Orchard and DBL Holdings' dated July 11, 2014, and the submitted proffers dated June 2, 2014, and last revised July 11, 2014.

Commissioner Loring seconded the motion. Roll call vote was taken and the motion passed 5-0.

PUBLIC HEARING – Continued:

CU-14-166 Request of Oakcrest Properties for a conditional use permit for a two family dwelling at 314 South Kent Street (*Map Number 193-01-T-3*) zoned Limited High Density Residential (HR-1) District with Historic Winchester (HW) District overlay. **(Mr. Moore)**

Mr. Moore stated that he heard from the applicant who advised that they are going to proceed with a request for a variance for off-street parking to the Board of Zoning Appeals because they were unable to secure the easement to provide access to the rear parking spaces that would otherwise be required for the required off-street parking. This item will have to remain tabled until such time as the BZA application comes in and is acted upon. If the Commission is so inclined to keep it tabled, which staff would suggest, you have two (2) options, one (1) is to continue the public hearing until such time as it comes back to the Commission or two (2) you can close the public hearing as it has been open for several months and there will be a public hearing associated with the BZA request so there will be another opportunity for public input.

Commissioner Loring asked if the applicant would come back with a new site plan because the current one has two (2) parking spaces in the back. Mr. Moore said that there is some discussion going on as to

whether or not they received a recorded easement so there may be a right to traverse that travel lane but they are not going to force that issue. It is likely that they will continue to show those two (2) parking spaces in the rear but that will be worked out.

Vice Chairman Slaughter called for a motion.

Commissioner Loring moved to table CU-14-166 until the applicant has secured approval from the Board of Zoning Appeals. Commissioner Beatley seconded the motion. Voice vote was taken and the motion passed 5-0.

NEW BUSINESS:

Administrative Approval(s) **(Mr. Moore)**

- 1) Minor subdivisions (June 2014)
 - a. **MS-14-318** 1804-1850, 1811 Roberts Street Boundary line adjustment

Vice Chairman Slaughter stated that this was just for the information of the Commission.

ANNOUNCEMENTS:

Vice Chairman Slaughter announced that this marks Mr. Moore's last meeting with the Commission. On behalf of Chairman Wiley and all of the Commission members, he thanked Mr. Moore for his years of service and wished him well in his endeavors. He then made a presentation of a plaque from the Planning Commission to show their appreciation to Mr. Moore. Mr. Moore in turn thanked the Planning Commission members and said that he has great respect for all of the members and their dedication as well. Mr. Youmans also thanked Mr. Moore for his service and dedication and said that he has been such a valuable asset to the department.

ADJOURN:

With no further business before the Commission, the meeting adjourned at 4:30 p.m.

CU-14-331 Request of Joshua Schakola on behalf of Verizon Wireless for a conditional use permit for rooftop telecommunications facilities at 103 East Piccadilly Street (*Map Number 173-01-P-6*) zoned Central Business (B-1) District with Historic Winchester (HW) District overlay.

REQUEST DESCRIPTION

The applicant is proposing to add 12 new frame-mounted Verizon Wireless antennas and a new 12' by 16' equipment platform with new equipment on the rooftop of the George Washington Hotel at 103 East Piccadilly Street. The plans also call for the removal of abandoned Nextel facilities consisting of one antenna skid supporting 4 antennas, one skid containing 2 antennas and a cable tray as depicted on the submitted plans. A new backup emergency generator is noted to be placed a ground level, but the location is not depicted on the submitted plans.

AREA DESCRIPTION

The subject parcel is located on the southeast corner of the intersection of East Piccadilly and North Cameron Streets. The parcel is zoned Central Business (B-1) District with Historic Winchester (HW) District overlay. The surrounding properties are similarly zoned. The vicinity is composed of a mixture of commercial and residential uses.



STAFF COMMENTS

The applicant intends to install twelve (12) antennas to the rooftop of the building located at 103 East Piccadilly Street as part of Verizon's efforts to meet demand for streaming and data usage. The applicant states in his Statement of Compliance letter that the upgrades will allow Verizon to provide seamless wireless data services and help to maintain acceptable transmission speeds. The antennas will range from 6' - 8' tall and range from 6" -14.6" wide with a depth ranging from 4" to 8". Two arrays of antennas will be situated near the southwest corner of the roof- one array facing south and one facing west. A third array will be situated near the center of the north elevation facing northeast.

There will also be equipment cabinets placed on a new steel platform also located on the rooftop. A backup emergency generator proposed to be placed at ground level is not depicted on the submitted plans. The applicant should depict this equipment on the plan and indicate how it will be screen from view from the adjoining public parking garage to the south.

Previous conditional use permits were granted in 1997, 1999, 2006, and 2013 for collocation of telecommunications facilities on this property. The most recent request, CU-13-176 was for the installation of 5 replacement antennas for AT&T.

The applicant sought and received a certificate of appropriateness by the Board of Architectural Review (BAR-14-216) during their April 17, 2014 meeting.

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.

A favorable motion could read:

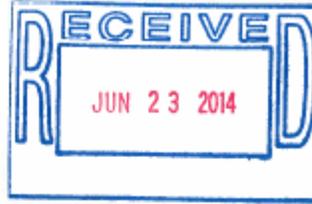
MOVE the Commission forward **CU-14-331** to Council recommending approval because the use, as proposed, should not adversely affect the health, safety, or welfare of residents and workers in the neighborhood nor be injurious to adjacent properties or improvements in the neighborhood. The recommended approval is subject to the following conditions:

1. Depict the ground-level backup generator location and necessary screening;
2. Submit an as-built emissions certification after the facility is in operation;
3. Removal of the Nextel equipment as noted on the submitted plans;
4. The applicant, tower owner, or property owner shall remove equipment within ninety (90) days once the equipment is no longer in active use; and,
5. Submit a bond guaranteeing removal of facilities should the use cease.

VERIZON WIRELESS
Piccadilly

Statement of Compliance

Verizon Wireless at 103 E. Piccadilly Street
Winchester, VA 22601



(Proposal is for colocation to the George Washington Hotel Rooftop)

Description of Proposed Use.

The Applicant is submitting this application co-locate its antennas on the rooftop of the Hotel. The twelve (12) proposed antennas will be frame mounted on roof. The supporting (12x16) equipment platform with overhead canopy will be placed on the roof as well. The emergency backup generator will be placed at ground level.

The proposed telecommunications installation is a vital part of Verizon Wireless' area wide wireless communications network. As part of that network, Verizon Wireless requires a wireless communications facility in order to provide seamless coverage in City of Winchester area next to offices, businesses as well as those travelling through the city.

The proposed installation is required in response to an increasing demand for streaming and data usage. Without the proposed collocation, customers will be unable to access or maintain a transmission speed of information and will not be able to obtain dependable service for voice communications.

The proposed communications facility is a passive facility and will not have employees or personnel, hours of operation or impacts on traffic around the facility. The communications facility will not create any noise, dust, fumes or vibrations. The wireless facility will continue to be unmanned with one (1) or two (2) monthly maintenance visits. The proposed use shall not be hazardous or conflict with existing and anticipated traffic in the surrounding neighborhood.

Requirement for Proposed Use

Telecommunication carriers must locate antenna sites according to a network design within relatively limited geographic parameters in order to provide uninterrupted coverage. The demand for wireless Internet access and the use of "Smart Phones" has exponentially increased the demand. In order to meet demand, Verizon seeks to make the most efficient use of each facility. By collocating antennas on a rooftop with existing telecommunications facilities, Verizon makes better use of the space while avoiding the need to erect a new antenna support structure or install antennas on another structure.

VERIZON WIRELESS
Piccadilly

The proposed heights of the replacement antennas are at a sufficient height so as to permit radio signals to clear any obstructions while simultaneously providing coverage to the intended service area.

This site offers both an excellent land-use and visual solution to Verizon Wireless' coverage objective within the narrow placement parameters of this particular search area.

Conformance with the General Provisions of the Conditional Use Permit

A Conditional Use Permit is hereby requested as the intended collocation complies with the following regulations set forth in Section 18-2.

18-2-1 Conditional Use Permit

18-2-1.1

Conditional use permits may be granted by the City Council for any of the uses for which a permit is required by the provisions of this Ordinance. In granting any such use permit, the City Council may impose any such conditions in connection therewith as will assure that it will conform with the requirements contained herein and will continue to do so, and may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be complied with. A conditional use permit shall not be issued unless the City Council shall find that:

- a. The proposal as submitted or as modified will not affect adversely the health, safety, or welfare of persons residing or working in the neighborhood of the proposed use; and will not be detrimental to public welfare or injurious to the property or improvements in the neighborhood. Among matters to be considered in this connection are traffic congestion, noise, lights, dust, odor, fumes, and vibration, with due regard for timing of operation, screening and other matters which might be regulated to mitigate adverse impact.
- b. The proposal as submitted or modified will conform to the Comprehensive Plan, or to specific elements of such plan, and the official policies adopted in relation thereto, including the purposes and the expressed intent of this Ordinance.

COMPLIANCE: Radio Frequencies do not affect the health safety or welfare of persons residing or working in the neighborhood per the FCC regulations. This will be a passive facility, unmanned with only one (1) or two (2) monthly maintenance visits and shall not be create any noise, dust, fumes or vibrations.

18-2-1.2

Proposals for transmitting and receiving facilities and towers for cellular communications systems and similar communications systems shall demonstrate the following: (2/14/96, Case TA-95-07, Ord. No. 002-96; 8/13/13, Case TA-13-198, Ord. No. 2013-21)

VERIZON WIRELESS
Piccadilly

- All possible means for sharing space on existing towers or on existing buildings or other structures have been exhausted and no alternative other than constructing a new tower exists, and if a new tower is proposed, the applicant as executed a Letter of Intent to share space on their tower and negotiate in good faith with other interested parties.;
- The height of any tower is not more than the minimum to accomplish required coverage and any new tower is separated from property lines in a residential district by not less than the height of the tower. In no case shall any tower exceed 75 feet in height in a LR, MR, HR, HR-1, RO-1, RB-1 or HS Districts, nor 100 feet in the B-1, B-2, CM-1, PC, MC or HE-1 Districts, nor 200 feet in the M-1 or M-2 Districts;
- The tower construction is of a design which minimizes the visual impact and the tower and other facilities have been camouflaged and/or screened from adjacent properties and rights of way to the maximum extent practicable. To this end, the proposal must provide for retention of existing stands of trees and the installation of screening where existing trees do not mitigate the visual impact of the facility. Such screening must, at a minimum, meet the requirements of Section 19-5-6.4d of this Ordinance. The Planning Commission may recommend and the City Council may require additional trees and screening when the minimum provisions do not mitigate adverse visual impacts of the facility;
- The electromagnetic fields do not exceed the radio frequency emission standards established by the American National Standards Institute or standard issued by the Federal Government subsequent to the adoption of this Ordinance.

COMPLIANCE: The proposed installation will be on a building rooftop shared by other wireless telecommunications carriers thereby eliminating the need to locate on other structures which do not support existing telecommunications facilities or the need to erect a new tower. The design has been presented and approved by the City Of Winchester Board of Architectural Review case BAR-14-216 on April 17, 2014.

18-2-3 Procedures

18-2-3.1

The procedures governing this application for and the granting of conditional use permit where required by this Ordinance shall be as follows: (10/11/83, Case 83-06, Ord. No. 034-83)

18-2-3.2

The applicant, who shall be a record owner, or contract owner with written approval of the owner, of the land involved (if a contract owner, copy of said contract shall be filled with and made a part of application), shall make application for the use permit to the Administrator on the form provided for that purpose, giving all information required by such form, including such other information which the Administrator may deem necessary for an intelligent consideration of the project for which a permit is desired. The application shall be accompanied by the fee as per Section 23-8, evidence of delinquent tax payment per Section 23-9, and disclosure of real party interest per Section 23-10 for this Ordinance and

VERIZON WIRELESS
Piccadilly

ten (10) copies of the following: (10/13/92, Case TA-92-02, Ord. No. 016-92; 8/16/02, Case TA-02-04, Ord. No. 014-2002)

COMPLIANCE: The applicable applications have been signed by the property owner who is planning on engaging in a leased space to Verizon Wireless for the use of co-location telecommunications equipment.

18-2-3.3

A site plan in accordance with Article 19 of this Ordinance.

COMPLIANCE: The site plans have been submitted with the Conditional Use Application.

18-2-3.4

The front, side, and rear elevations and floor plans of the proposed buildings.

COMPLIANCE: No new building is proposed, Verizon Wireless intends to utilize existing building for its telecommunications equipment.

18-2-3.5

Public Notice and Hearing. The Administrator shall submit the conditional use permit application and copies of the site plan to the Commission, which shall make a recommendation to the City Council with shall approve, approve with conditions, or deny the application. No such use permits shall be considered by the Commission or the Council except after notice and hearing as per Section 23-7-1 of this Ordinance. Written notice shall be provided per Section 23-7-2 of this Ordinance for both the Commission and City Council hearings. (2/9/88, Case TA-87-14, Ord. No. 009-88; 10/13/92, Case TA-92-02, Ord. No. 016-92)

COMPLIANCE: Upon acceptance of the application, the applicant will conform to the guidelines for notification of any such hearings held by the Commission and City Council.

18-2-3.6

Notification Signs. For the hearing by both the Commission and City Council, the applicant shall place notification signage as per Section 23-7-3 of this Ordinance. (2/9/88, Case TA-87-14, Ord. No. 009-88; 10/13/92, Case TA-92-02, Ord. No. 016-92)

COMPLIANCE: Upon notice of scheduled hearing, applicant shall comply with proper posting of notification signs.

CU-14-415 Request of Dale A. Massey dba Piccadilly's Public House and Restaurant for a conditional use permit for entertainment establishment use at 121-125 East Piccadilly Street (*Map Number 173-01-P-8*) zoned Central Business (B-1) District with Historic Winchester (HW) District overlay.

REQUEST DESCRIPTION

This request is for a conditional use permit for an entertainment establishment at 121-125 East Piccadilly Street, currently occupied by Piccadilly's Public House and Restaurant. The business has previously been operating with a conditional use permit for a nightclub in addition to the restaurant use.

AREA DESCRIPTION

The property is located entirely within the Central Business (B-1) district with Historic Winchester (HW) district overlay. The immediately surrounding properties on all sides are similarly zoned B-1.

STAFF COMMENTS

Following notification that their conditional use permit expiration date was coming soon, the applicant submitted a new CUP application for an *Entertainment Establishment*.

At City Council's meeting on October 22, 2013, a text amendment to the Zoning Ordinance was adopted that changed the provisions of regulating Nightclubs and Entertainment Establishments. In several commercial districts, buildings and related parking facilities that are located at least 200 feet away from residentially zoned parcels allow for Entertainment Establishments by-right; and such uses that are located closer than 200 feet from residentially zoned parcels must obtain a conditional use permit (CUP).



Several minimal standards were included within the adopted text amendment which includes the following:

Section 18-24 Entertainment Establishments

All entertainment establishments must meet the following minimum standards. Failure to maintain compliance shall result in the operation being declared in violation of the Zoning Ordinance. If an establishment desires to deviate from any of these standards, a conditional use permit shall be required.

- 18-24-1 General Standards
- 18-24-1.1 All exterior doors and windows must remain closed during operating hours.
- 18-24-1.2 No more than three criminal police calls, as determined by the Chief of Police, may be attributable to the establishment within a thirty day continuous period; after which private security shall be required in a manner approved by the Chief of Police.
- 18-24-1.3 Hours of operation on Sundays through Thursdays shall not occur outside of 8:00 a.m. to 11:00 p.m. and Fridays and Saturdays shall not occur outside of 8:00 a.m. until 2:00 a.m. the following day.
- 18-24-1.4 The business shall comply with applicable noise and maximum sound level regulations per Chapter 17 of Winchester City Code, as amended.

This property is located at least 200-feet away from the closest residentially zoned property (approximately 270 feet) on East Fairfax Lane, and therefore any entertainment that occurs internal to the building is permitted by right as long as it operates in conformance with the General Standards outlined in Section 18-24. However, the Zoning Ordinance requires that any regular entertainment that will be conducted outdoors to obtain a conditional use permit through City Council.

The applicant states that the restaurant is open at 11:30a for lunch, 7 days a week and closes by midnight Sunday through Thursday and before 2:00a Thursday through Saturday. Typically the business has live music outside, weather permitting, on Friday and Saturday evenings, typically ending before midnight.

RECOMMENDATION

Staff recommends approval of this request. A potential favorable motion could read:

MOVE the Commission forward **CU-14-415** to Council recommending approval because the use, as proposed, should not adversely affect the health, safety, or welfare of residents and workers in the neighborhood nor be injurious to adjacent properties or improvements in the neighborhood. The recommended approval is subject to the following conditions:

1. No more than three criminal police calls, as determined by the Chief of Police, may be attributable to the establishment within a thirty day continuous period; after which private security shall be required in a manner approved by the Chief of Police.
2. Hours of operation on Sundays through Thursdays shall not occur outside of 8:00 a.m. to 12:00 1.m. the following day, and Fridays and Saturdays shall not occur outside of 8:00 a.m. until 2:00 a.m. the following day.
3. The business shall comply with applicable noise and maximum sound level regulations per Chapter 17 of Winchester City Code, as amended.

OR

An unfavorable recommendation from the Planning Commission to City Council should cite the reasons why the proposal as submitted or modified could negatively impact the health, safety or welfare of

those residing or working in the area and/or why it would be detrimental to public welfare or damaging to property or improvements in the neighborhood.

Piccadilly's
PUBLIC HOUSE
AND
RESTAURANT

125 East Piccadilly Street • Winchester, VA 22601 • (540) 535-1899 • (540) 535-1882 Fax

June 17, 2014

City of Winchester

RE: Conditional Use Permit

Piccadilly's Public House & Restaurant



Dear City Council:

Piccadilly's Public House & Restaurant is requesting a Conditional Use Permit for live entertainment on the outside deck and patio area.

This area of the restaurant is open at 11:30 for lunch, 7 days a week and closes by midnight Sunday through Thursday and before 2:00 AM on Thursday through Saturday. We currently have live music outside, weather permitting, on Friday and Saturday evenings, ending before midnight.

During the winter months the live music is moved inside to the pub area or the banquet room.

Occasionally there are special shows scheduled on Sundays. This summer there are 3 special shows – one in May, one in July and one in September.

Live bands are scheduled on weekends only.

Thank you for your consideration on this matter. I welcome any questions or comments.

Sincerely,

Dale Massey

540-481-6118 cell

540-535-1899 ext.102 office

Planning Commission
August 19, 2014

CU-14-432 Request of Lynn Miller on behalf of the City of Winchester for a conditional use permit for a telecommunications tower at 231 East Piccadilly Street (*Map Number 173-01-Q-1*) zoned Central Business (B-1) District.

REQUEST DESCRIPTION

This request is a proposal for a new communications tower adjacent to the Timbrook Public Safety Center at 231 East Piccadilly Street. The proposed 150-foot monopole tower will replace an existing 85-foot lattice tower on site.

AREA DESCRIPTION

The subject property is located on the southwest corner of the intersection of East Piccadilly Street and North East Lane and is zoned Central Business (B-1) district with no overlays. The immediately surrounding properties to the north, west and south are similarly zoned; however, most of the properties to the west are within the Historic Winchester (HW) district overlay. Properties to the northeast are zoned Limited High Density Residential (HR-1) and properties to the east and southeast are zoned Educational Institutional and Public (EIP) district.



STAFF COMMENTS

The present request is a follow up to the conditional use permit that was submitted and reviewed by Planning Commission and City Council during 2013 as part of the public safety radio communications system upgrade. The City is presently embarking on replacement of the current communications system, which is antiquated, inadequate and non-compliant with FCC regulations. During the previous CUP proposal, a single 250-foot tower was being considered at a city-owned property on 700 Jefferson Street adjacent to the existing elevated water tank. Following Planning Commission and Council review and receiving public input, Council directed staff to evaluate alternative sites for the system.

The current proposal is modified from the previous single site design, with the current proposal involving a dual-site design consisting of a 150-foot monopole tower at the Timbrook Public Safety Center site at 231 East Piccadilly Street, and utilization of the existing infrastructure/elevated water tank on the 700 Jefferson Street site.

Prior to the application for the current CUP, the public safety communications project team evaluated alternate sites that would support a single site design. As noted in the applicant's detailed letter, one

site was on East Lane and would involve a 350-foot lattice tower. The second consideration was the Winchester Medical Center site, which yielded a requirement of a 450-foot tower to achieve the required coverage requirements. Neither of these options was determined to be feasible as the ability to obtain a favorable ruling from the FAA or the FCC was doubtful. After these studies and considerations, the proposal was made for the current proposal.

The existing proposal of 150-feet was determined to be the minimal height necessary following propagation studies to analyze future signal performance. This design was identified as the most effective from an operational perspective; it would combine the utilization of existing and new resources, create economies of scale, reduce the impact of FAA regulations, address the concerns of citizens and have a minimum impact of the area.

As noted above, this tower would be part of a two-site design with this proposal being key to the design and operation of the system. The second component which is not part of this request is the replacement of existing radio aerials on the elevated water tank at 700 Jefferson Street with new and updated equipment.

Prior to the consideration of this CUP proposal, the City of Winchester made a variance request with the Board of Zoning appeals to allow for the proposed height which exceeds that which is typically permitted within the B-1 district. The normal permitted height is 100-feet within the district, and the Board found that a demonstrable hardship existed in this instance and granted the variance. With this variance approval in hand, the CUP request is now able to move forward for review.

RECOMMENDATION

Staff recommends approval of this proposal, a possible motion could read:

MOVE the Commission forward **CU-14-432** to Council recommending approval because the use, as proposed, should not adversely affect the health, safety, or welfare of residents and workers in the neighborhood nor be injurious to adjacent properties or improvements in the neighborhood. The recommended approval is subject to the following conditions:

1. Obtaining all required state and federal approvals and the tower design being in conformance with any additional requirements as may be required by such agencies.
2. Submit an as-built emissions certification after the facility is in operation;
3. The applicant, tower owner, or property owner shall remove equipment within ninety (90) days once the equipment is no longer in active use;

- OR -

An unfavorable recommendation from the Planning Commission to City Council should cite the reasons why the proposal as submitted or modified could negatively impact the health, safety or welfare of those residing or working in the area and/or why it would be detrimental to public welfare or damaging to property or improvements in the neighborhood.



Timbrook Public Safety Center
231 East Piccadilly Street
Winchester, VA 22601

Telephone: (540) 545-4721
FAX: (540) 542-1314
Website: www.winchesterva.gov

July 2, 2014

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



Re: Emergency Communications Project – Communications Tower
231 E. Piccadilly Street, Timbrook Public Safety Center

Dear Mr. Youmans,

The City of Winchester is in the process of replacing the Public Safety Radio Communications System. The existing system is subject to failure, antiquated, inadequate, non-compliant with FCC regulations, undependable in some cases beyond repair. The infrastructure of the proposed system includes several components one of which is a 150' radio communications tower to be located as indicated above. The City embarked on the replacement of the Emergency Communications System in 2005 authorizing an evaluation of the current system followed by a detailed study in 2007 as performed by L. R. Kimball & Associates. The findings of the original study identified the current system was beyond useful life, did not provide adequate radio coverage for public safety, had limited redundancy, did not provide interoperability and was a system of stove pipes rather than a communications system.

The 2007 study determined the most suitable radio communications for the City, provided a conceptual design and took into consideration the most cost effective design. Following much discussion and research it was determined that a Project 25, digital, trunked system operating in the 800 MHz frequency spectrum to be the best option. While engaged in the design phase of the study it was determined that regulations of the Federal Communications Commission pertaining to the VHF frequency spectrum which the City utilized was subject to Narrowbanding regulations having a compliance date of January 1, 2013. This regulatory issue further influenced the decision to convert to the 800 MHz spectrum.

L. R. Kimball & Assoc. presented several design options from which a Request for Proposal (RFP) was crafted. The design utilized an industry standard of 95% coverage, 95% of the time utilizing a portable radio with a 20dB signal loss in building. The selected vendor offered a solution utilizing a single tower site. The determined site was to be located at 700 Jefferson Street and would involve a 250' lattice tower and associated ground support equipment creating a project cost of \$3.5 million. The single site was preferred as it complied with specified

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

performance standards, contained long term maintenance expense and was the most cost effective solution relating to initial build out. Implementation of the Jefferson Street site was initiated through an application for a Conditional Use Permit through Zoning & Planning, licensing through the Federal Communications Commission (FCC) and the submittal of an application to the Federal Aviation Administration (FAA) to permit erection of a 250' lattice tower on the site. The FAA originally provided a favorable recommendation pertaining to the erection of the tower with provisions it would to be illuminated and painted aviation orange and white. The Planning Commission reluctantly provided a favorable recommendation relating to the erection of the tower although several citizens spoke in opposition to the tower. When the Planning Commission's recommendation was presented to City Council several citizens addressed Council opposing the erection of the tower. Council considered the comments received by the citizens and requested alternate sites for the tower be examined. Alternate sites were examined and a determination made that to meet the performance standards two locations would support the single site design. One site was on East Lane and would involve a 350' lattice tower while the second site would be on the Winchester Medical Center Campus and involve a 450' tower. Neither of these sites was determined to be feasible as the ability to obtain a favorable ruling from either the FAA or the FCC was doubtful. While the alternate sites were being examined the FAA implemented new regulations addressing the Minimum Descent Altitude (MDA) for aircraft circling in a holding pattern to land at the Winchester Regional Airport. It was determined by the FAA that the Jefferson Street tower would protrude into the MDA by 20' thus the favorable ruling previously issued by the FAA was retracted. This action resolved the issue concerning the Conditional Use Permit and the application for the 250' tower was rescinded.

The action of the FAA negated six and a half years of intense work and design and placed the project back on the drawing board. As the performance standards for operations remained a vital factor the next consideration was to examine available alternatives. Consideration was given to leasing space on existing tower sites and sharing space with entities such as cell carriers. This was examined and a determination made that compliance with the performance standards could not be obtained by a single site and based on the location and elevation of the existing towers it would most likely take multiple sites each creating a significant initial investment and long term maintenance cost.

Propagation studies were performed utilizing the existing elevated water tank located at the Jefferson Street site and the replacement of the existing 85' lattice tower located at the Timbrook Public Safety Center with a 150' monopole. The propagation studies identified performance standards could be met utilizing this configuration. This design was determined as the most effective from an operational perspective, it would combine the utilization of existing and new resources, create economy of scale, reduce the impact of FAA regulations, address the concerns of citizens and have a minimum impact of the area as this is an upgraded replacement rather than an addition.

The original single site design was budgeted at \$3.5 million, the two site design as proposed has been budgeted at \$5.4 million creating a substantially greater financial impact hardship on already stressed finances. Should the request to permit the 150' tower at the Timbrook Public Safety Center not be granted the design will require further modifications and the need for

additional sites and towers will be necessary creating yet a greater financial hardship from the construction through the 20-25 year anticipated project life span. In addition to the financial impact associated with the implementation of the project non-compliance with FCC regulations may result in issuance of violations resulting in fines up to \$10,000 per day per frequency, a revocation of existing communications licenses and an order to take immediate corrective action. This will create yet another financial hardship on the citizens. Additionally and maybe most importantly is the hardship experienced on a daily basis by Public Safety personnel as they perform services within the community without the benefit of dependable communications. This places the personal in jeopardy and reduces their effectiveness within the community creating a hazardous environment for not only the responders but for the overall community.

On behalf of the City of Winchester I respectfully request the Planning Commission consider the request to erect a 150' monopole tower structure at the rear of the Timbrook Public Safety Center located at 231 E. Piccadilly Street.

Respectfully,



Craig Gerhart, Interim City Manager/Director of Emergency Management

GEO-TECHNOLOGY ASSOCIATES, INC.

GEOTECHNICAL AND ENVIRONMENTAL CONSULTANTS

A Practicing ASFE Member Firm



June 25, 2014

City of Winchester Planning and Zoning Department
Rouss City Hall
15 North Cameron Street – Suite 318
Winchester, VA 22601

Re: Notice of Cell Tower Construction for Evaluation of Historic Sites
Timbrook Public Safety Center
Winchester, Virginia

Dear Sir or Madam:

City of Winchester is proposing to replace an existing lattice tower with a 140-foot tall monopole telecommunications tower, with the overall height of 150-feet including upper attachments. The site is located at the Timbrook Public Safety Center at 231 East Piccadilly Street, Winchester, Virginia 22601. Pursuant to the Nationwide Programmatic Agreement for Review of Effects on Historic Properties for Certain Undertakings Approved by the Federal Communications Commission, on behalf of the City of Winchester, Geo-Technology Associates, Inc. (GTA) is providing written notification of this proposal by the City of Winchester to construct the above referenced telecommunications tower.

The subject site currently consists of an existing lattice tower compound, which City of Winchester proposes to decommission to construct a fenced telecommunications compound containing the proposed monopole cell tower and associated telecommunications equipment. Total area disturbed will be approximately 600 square feet. A *Site Location Map* showing the approximate location of the proposed development and the *Site Exhibit* is attached.

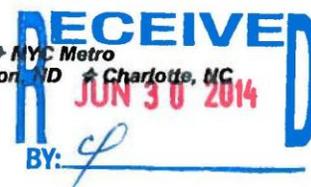
The antenna installation is subject to review under Section 106 of the National Historic Preservation Act, 16 U.S.C. § 470f ("Section 106"). In accordance with Section 106 and the Nationwide Programmatic Agreement referenced above, City of Winchester invites your comments on the effects of the proposed tower on historic properties in the vicinity that are listed or eligible for listing in the National Register of Historic Places. A copy of the Section 106 Submittal can be provided upon request. *The Section 106 review is a separate process from any city or county approval required for this project.*

Please let us know if you need anything additional to make your review convenient. Comments may be sent within 30 days to Geo-Technology Associates, Inc., ATTN: Ms. Kirti

43760 Trade Center Place, Suite 110, Sterling, VA 20166 (703) 478-0055 Fax: (703) 478-0137

◆ Abingdon, MD ◆ Laurel, MD ◆ Frederick, MD ◆ Waldorf, MD ◆ Sterling, VA ◆ Somerset, NJ ◆ NYC Metro
◆ New Castle, DE ◆ Georgetown, DE ◆ York, PA ◆ Quakertown, PA ◆ Towanda, PA ◆ Malvern, OH ◆ Williston, ND ◆ Charlotte, NC

Visit us on the web at www.gtaeng.com

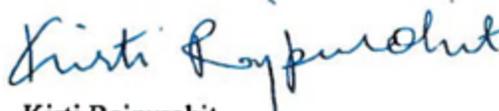


City of Winchester Planning and Zoning Department
Notice of Cell Tower Construction –Timbrook Public Safety Center Cell Site
June 25, 2014
Page 2 of 2

Rajpurohit, 43760 Trade Center Place, Suite 110, Sterling, Virginia 20166 or submitted by telephone to Ms. Kirti Rajpurohit at (703) 478-0055. Any comments received from interested parties will be forwarded to the Virginia Department of Historic Resources for its consideration in reviewing this project.

If you have any questions please do not hesitate to contact us at (703) 478-0055.

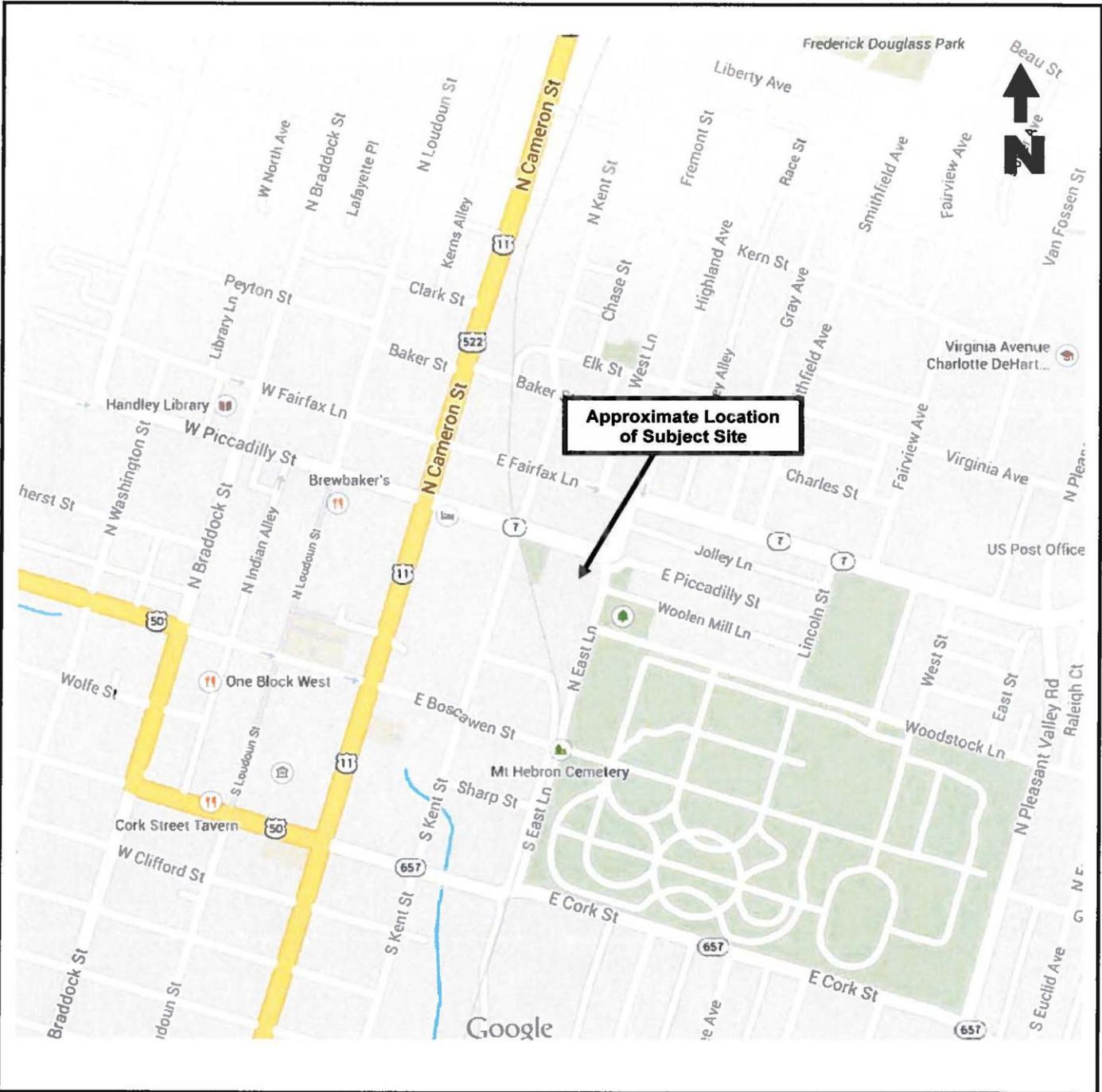
Sincerely,
GEO-TECHNOLOGY ASSOCIATES, INC.



Kirti Rajpurohit
Environmental/NEPA Specialist

GTA Project # 140941

Attachment: *Site Location Map*
Site Exhibit



	<p>GEO-TECHNOLOGY ASSOCIATES, INC. <i>Geotechnical and Environmental Consultants</i></p> <p>43760 Trade Center Place, Suite 110 Sterling, Virginia 20166 (703) 478-0055 Fax (703) 478-0137</p>		<p align="center">Figure 1 Site Location Map</p> <p align="center">Timbrook Safety Center Winchester, Virginia</p>		
<p>SCALE</p> <p align="center">As Shown</p>	<p>DATE</p>	<p>SOURCE</p> <p align="center">Google Maps</p>	<p>REVIEWED BY</p> <p align="center">GTA</p>	<p>GTA PROJECT NO.</p> <p align="center">140941</p>	

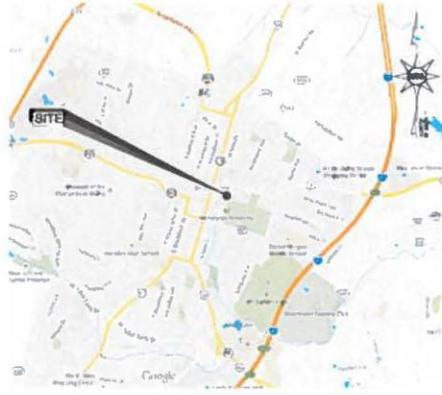
BZA VARIANCE

TELECOMMUNICATIONS TOWER

CITY OF WINCHESTER, VIRGINIA

SITE NOTES

1. APPLICANT: MORRIS & RITCHIE ASSOCIATES
43760 TRADE CENTER PLACE, SUITE 110
STERLING, VIRGINIA 20166
A. THE JOB LOCATION: TEL. ROOM 410-010
2. PROPERTY OWNER: CITY OF WINCHESTER, VIRGINIA
15 NORTH CAMERON STREET
WINCHESTER, VIRGINIA 22601
3. SITE DATA: 2000 SQ. FT. PARCEL # 15-01-01-001
PARDER RD. 150.00 SQ. FT. AREA
REAR ALLEY, 1500 ALLEYS
ADDRESS: 20 EAST PICCADILLY STREET
WINCHESTER, VIRGINIA 22601
EXISTING USE: TELECOMMUNICATIONS
4. ZONING: R-1
5. HORIZONTAL AND VERTICAL CONTROL: HORIZONTAL CONTROL IS BASED ON A 40% LOT COVER BY COVERED AREA. VERTICAL CONTROL IS BASED ON THE 1996 ZONING ORDINANCE. ALL HEIGHTS ARE SUBJECT TO THE CITY OF WINCHESTER, VIRGINIA ZONING ORDINANCE. ALL HEIGHTS ARE SUBJECT TO THE CITY OF WINCHESTER, VIRGINIA ZONING ORDINANCE.
6. THE PROPOSED FACILITY SHALL COMPLY WITH THE 1996 ZONING ORDINANCE. THE PROPOSED FACILITY SHALL COMPLY WITH THE 1996 ZONING ORDINANCE.
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8. THE APPLICANT SHALL PROVIDE A LETTER FROM A REGISTERED ENGINEER THAT THE PROPOSED FACILITY SHALL COMPLY WITH THE 1996 ZONING ORDINANCE. THE APPLICANT SHALL PROVIDE A LETTER FROM A REGISTERED ENGINEER THAT THE PROPOSED FACILITY SHALL COMPLY WITH THE 1996 ZONING ORDINANCE.
9. NO UTILITIES OR SANITARY UTILITIES ARE RELEASED FROM THE OPERATION OF THIS FACILITY.
10. BOUNDARY SURVEY HAS BEEN REVIEWED AND FOUND TO BE ACCURATE. BOUNDARY SURVEY HAS BEEN REVIEWED AND FOUND TO BE ACCURATE.
11. THIS PLAN PREPARED PURSUANT TO THE ORDINANCE OF A TITLE REPORT. PLAN IS SUBJECT TO BOUNDARY AND RESTRICTIONS OF RECORD.
12. STRUCTURAL ANALYSIS/DESIGN TO BE PERFORMED BY OTHER AT CLIENT'S RISK. OTHER ORDERS SHALL BE OBTAINED FROM THE CITY OF WINCHESTER, VIRGINIA.



VICINITY MAP
SCALE: 1" = 200'

GENERAL NOTES

1. CONTRACTOR SHALL NOTIFY THE CITY OF WINCHESTER, VIRGINIA PRIOR TO COMMENCEMENT OF CONSTRUCTION. CONTRACTOR SHALL NOTIFY THE CITY OF WINCHESTER, VIRGINIA PRIOR TO COMMENCEMENT OF CONSTRUCTION.
2. ALL UTILITIES SHALL BE LOCATED AND DELETED IN ACCORDANCE WITH THE CITY OF WINCHESTER, VIRGINIA ZONING ORDINANCE. ALL UTILITIES SHALL BE LOCATED AND DELETED IN ACCORDANCE WITH THE CITY OF WINCHESTER, VIRGINIA ZONING ORDINANCE.
3. ANY PERMITS NECESSARY MUST BE OBTAINED PRIOR TO THE COMMENCEMENT OF CONSTRUCTION. ANY PERMITS NECESSARY MUST BE OBTAINED PRIOR TO THE COMMENCEMENT OF CONSTRUCTION.
4. CONTRACTOR SHALL MAINTAIN ACCESS TO ALL ADJACENT PROPERTIES AT ALL TIMES. CONTRACTOR SHALL MAINTAIN ACCESS TO ALL ADJACENT PROPERTIES AT ALL TIMES.
5. THESE PLANS ARE NOT FOR RECONSTRUCTION OF EXISTING FACILITY.
6. EXISTING PAVEMENT AND OTHER SURFACES DISTURBED BY CONSTRUCTION SHALL BE REPAIRED TO ORIGINAL OR BETTER CONDITION BY THE CONTRACTOR.

OWNER
CITY OF WINCHESTER
15 NORTH CAMERON STREET
WINCHESTER, VIRGINIA 22601
CONTACT: LYNN MILLER
PHONE # (540) 545-4721

ENGINEER
MORRIS & RITCHIE ASSOCIATES
43760 TRADE CENTER PLACE, SUITE 110
STERLING, VIRGINIA 20166
CONTACT: JOHN W. ERICKSON
PHONE # (703) 674-0161

TOWER CONSULTANT
TELTRONIC, INC.
4220 SHANNON DRIVE
BALTIMORE, MARYLAND 21213
CONTACT: MARK SCHROEDER
PHONE # (301) 343-0781

APPLICANT
CITY OF WINCHESTER
231 EAST PICCADILLY STREET
WINCHESTER, VIRGINIA 22601
CONTACT: LYNN MILLER
PHONE # (540) 545-4721



SHEET INDEX

1. COVER SHEET
2. SITE PLAN
3. SITE DETAILS
4. LAYOUT PLAN
5. ADJOINING OWNER PLAN

LEGEND

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CITY OF WINCHESTER
DIRECTOR OF PLANNING

APPROVED: _____ DATE: _____

REVISIONS

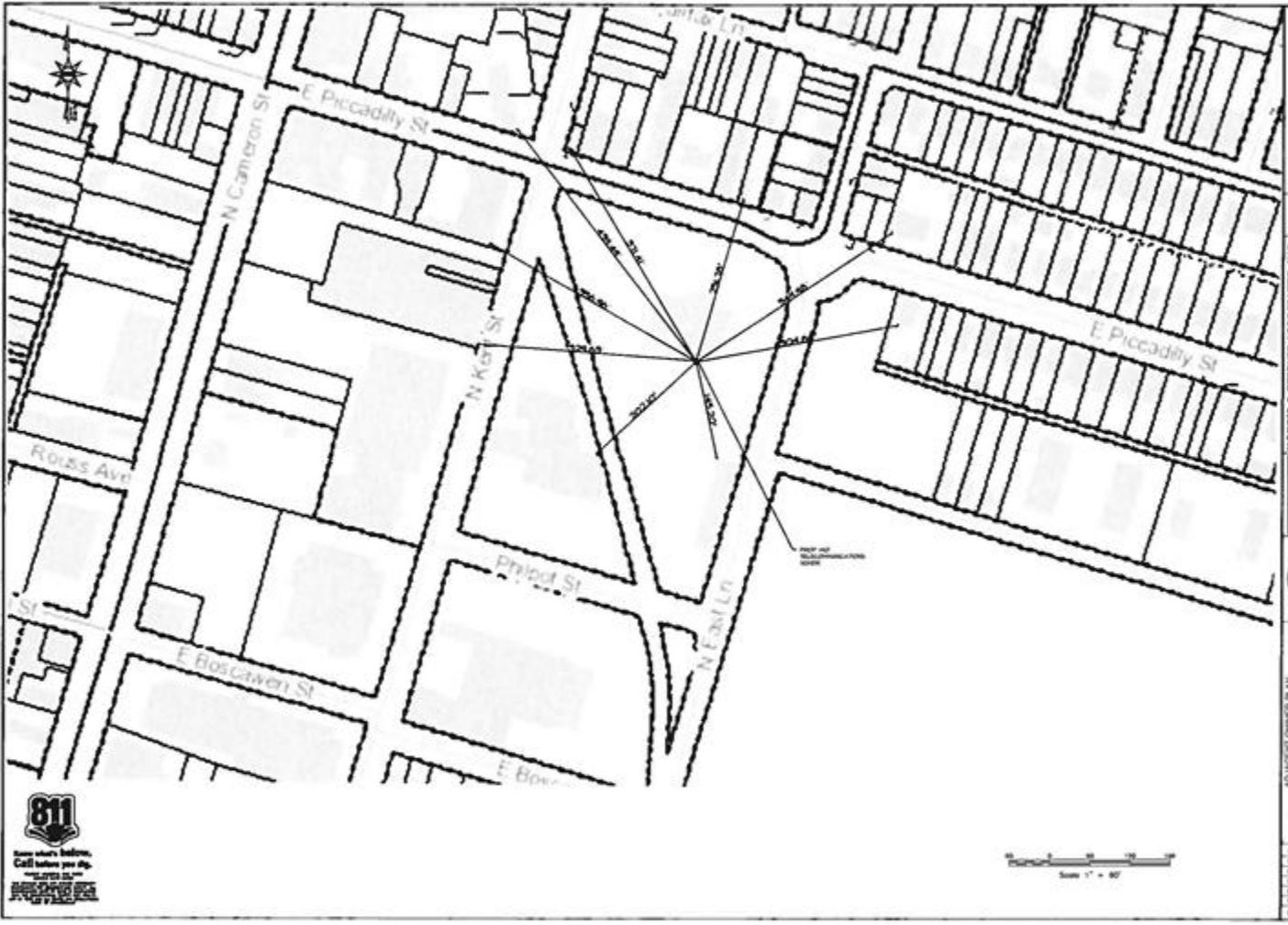
NO.	DATE	DESCRIPTION

MORRIS & RITCHIE ASSOCIATES, INC.
ENGINEERS
43760 TRADE CENTER PLACE
STERLING, VIRGINIA 20166
PHONE: (703) 674-0161
FAX: (703) 674-0162
WWW.MORRISRITCHIE.COM

MIRA
MIRACORP, INC.
10000 WOODBURN AVENUE
DUBLIN, OHIO 43017
PHONE: (614) 891-1100
WWW.MIRACORP.COM

CITY OF WINCHESTER
SPECIAL USE PERMIT
TELECOMMUNICATIONS TOWER
EAST PICCADILLY STREET
TRADING CENTER
WINCHESTER, VIRGINIA 22601

DATE: 08/11/2008
DRAWN BY: JLM
CHECKED BY: JLM
DESIGNED BY: JLM
APPROVED BY: JLM
DATE: 08/11/2008
SHEET 1 OF 5



MORRIS & MITCHELL ASSOCIATES, INC. 1000 N. W. 10th St., Suite 100 Ft. Lauderdale, FL 33304 Phone: 954.575.1111 Fax: 954.575.1112 www.morrisandmitchell.com	
MRA 	
ADJACENT OWNERS PLAN SPECIAL USE PERMIT CITY OF MIAMI EAST PICCADILLY STREET PARKWAY SAFETY CENTER 1000 N. W. 10th St., Suite 100 Ft. Lauderdale, FL 33304	
SHEET NO. 1 DATE: 10/20/2010	PROJECT NO. 10-000000

Planning Commission
August 19, 2014

TA-14-354 – AN ORDINANCE TO AMEND SECTION 16.1 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO ALLOWABLE BUILDING HEIGHT IN EDUCATION, INSTITUTION AND PUBLIC USE (EIP) DISTRICT.

REQUEST DESCRIPTION

This is a privately sponsored text amendment to amend the allowable height provisions within the EIP district to allow for increased building height provided that additional setback is provided. The request provides language that is identical to height provisions for public or semipublic buildings such as a school or church in the LR, MR, HR, HR-1, and RO-1 districts.

Similar to the allowable height provisions in the LR, MR, HR, HR-1 and RO-1 districts, this provision mitigates potential impacts from increased building height by requiring structures taller than 35 feet, but no more than 45 feet, to have increased setback of at least one foot per additional foot in building height.

RECOMMENDATION

Staff recommends approval. A potential motion could read:

MOVE that the Planning commission forwards **TA-14-354** with a favorable recommendation because the amendment, as proposed, presents good planning practice by providing for additional building height for public and semipublic buildings with an increased setback.

AN ORDINANCE AMENDING SECTION 16.1 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO ALLOWABLE BUILDING HEIGHT IN EDUCATION, INSTITUTION AND PUBLIC USE (EIP) DISTRICT.

TA-14-354

Draft 1 – 6/2/2014

Ed. Note: The following text represents an excerpt of Article 16.1 of the Zoning Ordinance that is subject to change. Words with strikethrough are proposed for repeal. Words that are boldfaced and underlined are proposed for enactment. Existing ordinance language that is not included here is not implied to be repealed simply due to the fact that it is omitted from this excerpted text.

SECTION 16.1-7. HEIGHT REGULATIONS

16.1-7-1 Buildings may be erected up to thirty-five (35) feet from grade except that:

16.1-7-2 Church spires, belfries, cupolas, chimneys, flues, flag poles, television antennas, radio aerials, and equipment penthouses are exempt.

16.1-7-3 **A public or semipublic building such as a school or church may be erected up to forty-five (45) feet provided that each side yard is fifteen (15) feet plus one (1) foot for each additional foot of building height over thirty-five (35) feet.**

June 2, 2014

Mr. Aaron Gridale
Director of Zoning & Inspections
City of Winchester
15 N. Cameron Street
Winchester, VA 22601

**RE: PROPOSED ORDINANCE AMENDMENT –
ALLOWABLE BUILDING HEIGHT WITHIN THE EIP DISTRICT**

Dear Aaron,

Please find attached the following submission materials as required for a zoning text amendment application:

- Signed application
- Proposed Zoning Text Amendment for allowable height within the EIP (Education, Institution and Public Use) District
- Application fee in the amount of \$600

The proposed modification to the zoning ordinance would allow for up to 45 ft. maximum building height within the EIP zoning district, the same as allowed in residential district for school or public use buildings.

If you have any questions please feel free to contact me at 667-2139.

Sincerely,

PENNONI ASSOCIATES INC.



Ronald A. Mislowsky, PE

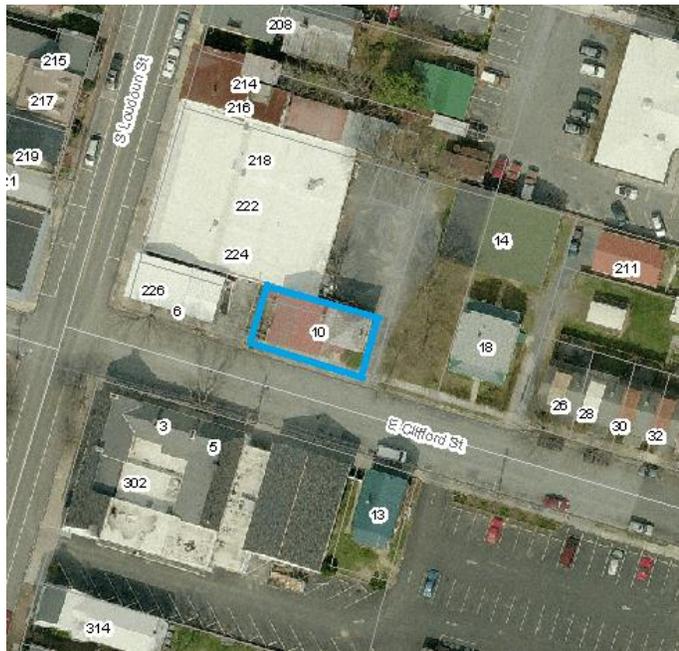
CU-14-349 Request of John and Christine Flood for a conditional use permit for conversion of ground floor nonresidential use to residential use at 10 East Clifford Street (*Map Number 193-01-L-15*) zoned Central Business (B-1) District with Historic Winchester (HW) District Overlay.

REQUEST DESCRIPTION

The applicant is requesting to convert a structure consisting of two units containing both residential and commercial uses to a single family dwelling. One side of the structure is presently an apartment on both the ground floor and the second floor, and the second unit is commercial on the ground floor and residential apartment use on the second floor. ***This item was tabled at the July 15th public hearing, with public hearing kept open.***

AREA DESCRIPTION

The property is located within the Central Business (B-1) district with Historic Winchester (HW) district overlay. The immediately adjoining properties on all sides are similarly zoned B-1 with HW overlay. Properties further to the east and south are zoned Residential Business (RB-1) with HW overlay. The neighborhood consists of a variety of uses including townhouses, single family dwellings, professional offices, and a restaurant.



STAFF COMMENTS

The applicants intend to convert the property at 10 East Clifford Street back to single family residential use and make it their primary residence. Since this property has a nonresidential use on part of the first floor, a conditional use permit is required for the conversion back to residential use.

The structure was originally designed as a single family dwelling, constructed in approximately 1910 according to the most recent historic property survey. In the 1970s/1980s the property was converted from this single family use to two residential units. After this division of the building into two units, the ground floor of 10 E. Clifford was converted to office use, while keeping a residential use on the upper floor. The second unit at 12 E Clifford Street was kept in residential use as a two story apartment. The property owner intends to open up the divisions between the two units and convert the property back to one residential unit (single family dwelling).

The property is located within "Parking District A" in the downtown which provides for 100% relief of off-street parking requirements. Presently, there are not any parking spaces provided on the subject

parcel. With the conversion away from commercial office use and reduction in residential units from two to one, there will likely be a decrease in parking and vehicular traffic associated with the property.

From the outside the structure provides the appearance of a residential building, and the property is on a street that consists of mostly residential uses on the north side. The opposite side of the street contains offices and a parking lot of Yount, Hyde & Barbour. Staff does not anticipate any negative impacts based upon the proposal as submitted.

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.

Staff recommends the following favorable motion:

MOVE that the Commission forward **CU-14-349** to City Council recommending approval per Section 9-2-16 of the Zoning Ordinance to convert nonresidential ground floor use to residential ground floor use, as submitted, as the proposal 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 approval is based upon City Council finding that the proposed ground-floor residential use is as suitable or preferable to other permitted uses on the ground floor and is subject to conformity with the submitted floor plans.

John & Christine Flood
10 E Clifford St
Winchester, VA 22601

May 30, 2014

City Of Winchester
Planning & Zoning
15 North Cameron St
Winchester, VA 22601
Attn. Timothy Youmans



Mr. Youmans,

This letter is being submitted at your request and in conjunction with our Conditional Use Application concerning the rezoning of 10 E Clifford St from B-1 (business) back to a residential zoning which the property had a number of years ago.

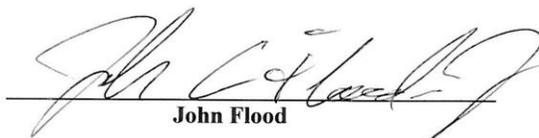
My wife, Christine Flood, and I purchased the property at 10 and 12 E Clifford St in December of 2005 titling it in the name of Medallion Holdings, LLC. We are the only two members of Medallion Holdings.

Our intention at that time was to continue the building's use in the same fashion it had been for a number of years. The first floor of 10 E Clifford St housed offices and we likewise located our insurance agency, Signature Associates, there. The second floor had been and continues to be left in its original format from the time when it was a residence. Both the first and second floors of 12 E Clifford St had been an apartment rented out to others and we retained that usage.

For many years the entirety of the building at 10 and 12 E Clifford St was a single family home. From research I have done, I have discovered that one of the residents, from many years ago, was a relative of the famous local novelist, Willa Cather. At some point in time – likely the 1970's or 1980's – the home was segmented into the two sides I have previously described. One doorway on each floor was closed off to accomplish this.

It is our desire to return this property to its former single family home arrangement and make it our primary residence. There will not be impact of any consequence to surrounding property owners. The number of vehicles needing to park on the street will actually decrease with this change of use resulting in a bit of relief in the availability of parking. As I am sure you are aware, this general downtown area is a healthy mix of businesses and residences with the “cross” streets (i.e. - Clifford, Cecil, Leicester) often largely residential. It is our intention to make improvements to the property over time and continue the trend of revitalization in Old Town Winchester.

Thank you for your consideration of this matter,


John Flood

Planning Commission
August 19, 2014

SV-14-433 AN ORDINANCE TO VACATE APPROXIMATELY 4,500 SQUARE FEET OF PUBLIC RIGHT OF WAY AT THE SOUTH END OF ROBERTS STREET AND CONVEY IT TO THE OWNER OF 1818 ROBERTS STREET TO ASSEMBLE IN WITH THAT LOT.

REQUEST DESCRIPTION

This resubmitted request of Mr. Richard W. Pifer (as 1818 Roberts L.C.) would eliminate the southernmost segment of Roberts Street as a public street where the applicant owns land abutting the right of way on all three sides. The physical travelway would remain to serve the adjoining private property.

COMMENTS FROM THE PLANNING DEPARTMENT

This request had been approved by City Council on August 12, 2003, but the applicant failed to follow through on the Minor Subdivision to effectuate the conveyance within the one-year timeframe spelled out in State Code. The applicant then refilled the request and it was approved by City Council on September 11, 2012. Again, the applicant failed to follow through on the Minor Subdivision to effectuate the conveyance within the one-year timeframe spelled out in State Code. The applicant would now like to proceed with the conveyance.



The applicant owns all of the private property served by this dead-ended section of Roberts Street and there is no public purpose in retaining public ownership of this right-of-way and the roadway improvements within the right of way. The applicant had previously secured a rezoning of the property fronting along the east side of the subject section of Roberts Street and a site plan for a commercial development with right-in/right-out access from/to westbound W. Jubal Early Drive is awaiting approval. The vacation should be conditioned upon the applicant assembling the vacated right-of-way in with the adjacent private property.

Back in 2003, City Council established a sale price of \$2.50 per square foot subject to the applicant establishing all necessary easements. This figure was reapproved with the 2012 action. City Council should confirm whether or not the same sale price will be set for this 2014 ordinance.

RECOMMENDATION

A favorable motion could read:

MOVE, that the Planning Commission forward **SV-14-433** to City Council recommending approval because there is no long-term need for the public right-of-way. The approval is subject to establishing necessary easements and subject to approval and recordation of a Minor Subdivision assembling the vacated right-of-way in with the adjoining property.

AN ORDINANCE TO VACATE APPROXIMATELY 4,500 SQUARE FEET OF PUBLIC RIGHT OF WAY AT THE SOUTH END OF ROBERTS STREET AND CONVEY IT TO THE OWNER OF 1818 ROBERTS STREET TO ASSEMBLE IN WITH THAT LOT.

SV-14-433

WHEREAS, the Common Council has received a request of Mr. Richard W. Pifer on behalf of 1818 Roberts L.C., owner of certain parcels of real estate known as 1818 and 1818½ Roberts Street, to vacate and convey to him excess public right of way of approximately 4,500 square feet comprising the southernmost segment of Robert Street adjoining his property, said right of way depicted on an undated exhibit entitled “Location Map~ Roberts Street Vacation”; and,

WHEREAS, the City is empowered to vacate rights of way in the City and convey them to certain individuals as a condition of vacation pursuant to and in conformance with the provisions of Virginia Code Section §15.2-2006 and §15.2-2008 *et. seq.*, respectively, as amended; and,

WHEREAS, the Planning Commission of the City of Winchester has reviewed the aforesaid request and, at its meeting of August 19, 2014, recommended approval of this action; 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, and viewers were appointed to report on the inconvenience, if any, of said vacation, all as required by and provided for under the Code of Virginia, 1950, as amended; and,

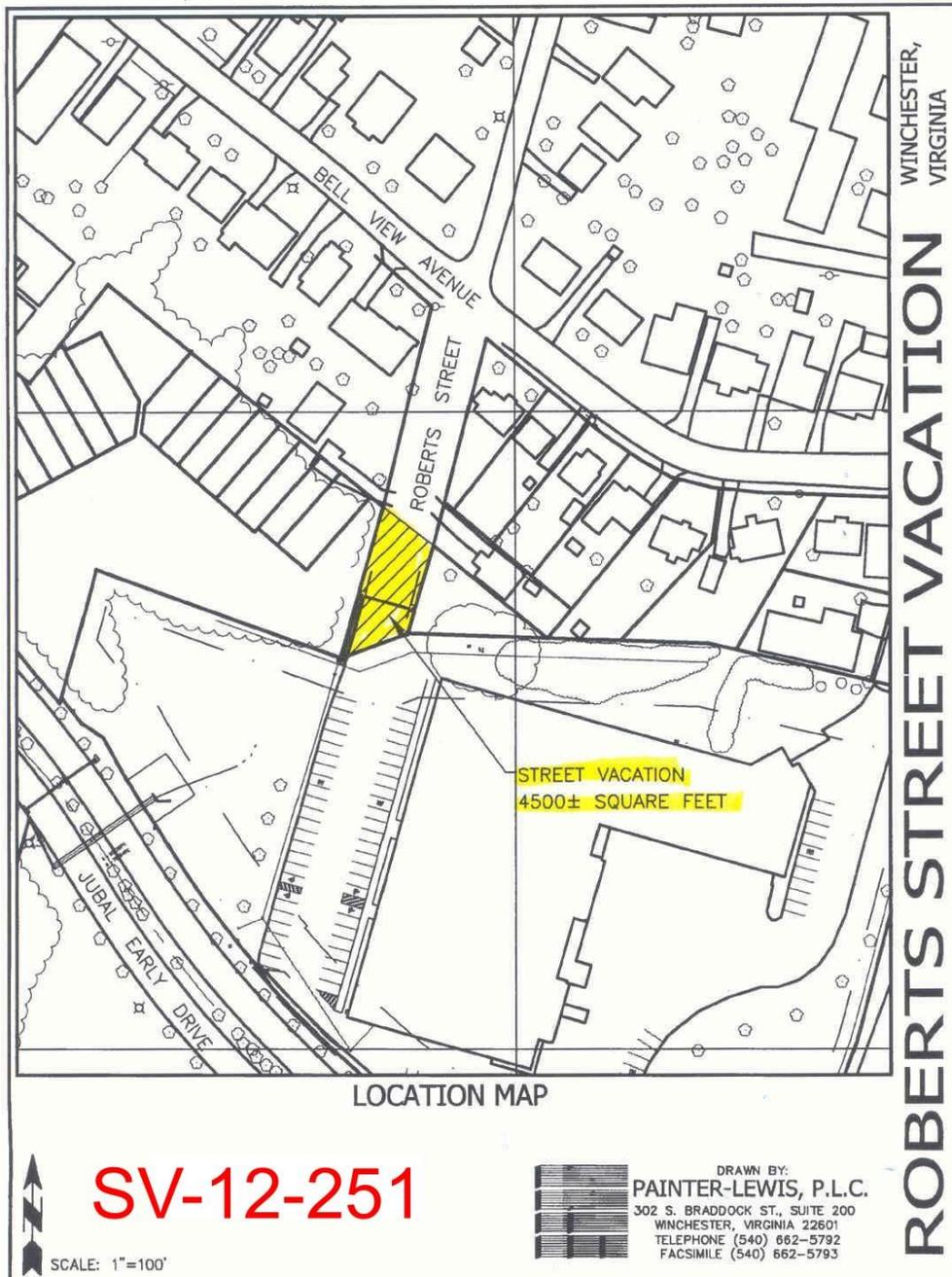
WHEREAS, the viewers have prepared a report in writing, said report concluding that an inconvenience would not result from discontinuing the right of way so long as the necessary easements are established; and,

WHEREAS, the applicant is the only property owner immediately adjacent to the public right of way proposed to be vacated and conveyed; and,

WHEREAS, the Common Council has agreed to convey approximately 4,500 square feet of vacated right of way to the applicant for Two Dollars and Fifty Cents (\$2.50) per square foot subject to the applicant establishing all necessary easements to the City of Winchester to be depicted upon a survey plat.

NOW, THEREFORE, BE IT ORDAINED by the Common Council of the City of Winchester, Virginia, that approximately 4,500 square feet of public right of way comprising the southernmost segment of Robert Street, said right of way depicted on an undated exhibit entitled “Location Map~ Roberts Street Vacation” be vacated and conveyed to 1818 Roberts L.C. subject to the applicant establishing necessary easements to the City of Winchester.

BE IT FURTHER ORDAINED that this ordinance shall not take effect until such time as the purchaser has secured City approval of an approved Minor Subdivision plat depicting the easements and the required assemblage of the vacated area in with those certain adjoining parcels of real estate owned by the applicant, with the sale price for the 4,500 square-foot more or less area being Two Dollars and Fifty Cents (\$2.50) per square foot. The City Attorney is directed to prepare a deed for this conveyance and the City Manager is directed and authorized to execute all documents and take all actions necessary to carry out this Ordinance.



Resubmitted as Exhibit for: **SV - 14 - 433**

RESOLUTION INITIATING TA-14-477 AN ORDINANCE TO AMEND AND REENACT ARTICLES 1, 18, AND 19
PERTAINING TO DEFINITIONS OF GROUP HOME; PROVISIONS FOR TEMPORARY HEALTH CARE
STRUCTURES; PERMITTING, NOTIFICATION REQUIREMENTS, AND APPEAL PROCEDURES FOR FAMILY
DAY HOMES; AND SITE PLAN EXPIRATION TIMELINES

TA - 14-477

WHEREAS, during recent General Assembly sessions several modifications have occurred to enabling legislation pertaining to Zoning Ordinances; and,

WHEREAS, the Code of Virginia establishes a specific definition for Group Homes; and,

WHEREAS, the Code of Virginia establishes a requirements for local governments to include provisions pertaining to temporary health care structures; and,

WHEREAS, the Code of Virginia establishes public notification requirements prior to the approval of a family day home; and,

WHEREAS, the Code of Virginia establishes mandatory time frames for how long an approved site plan is valid; and,

WHEREAS, it is the interest of the City to incorporate such requirements from the Code of Virginia into its Zoning Ordinance; and,

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission hereby initiates the following text amendment:

AN ORDINANCE TO AMEND AND REENACT ARTICLES 1, 18, AND 19 PERTAINING TO DEFINITIONS OF GROUP HOME; PROVISIONS FOR TEMPORARY HEALTH CARE STRUCTURES; PERMITTING, NOTIFICATION REQUIREMENTS, AND APPEAL PROCEDURES FOR FAMILY DAY HOMES; AND SITE PLAN EXPIRATION TIMELINES

14-477

Draft 1 – 7/29/14

Ed. Note: The following text represents an excerpt of Articles 1, 18, and 19 of the Zoning Ordinance 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.

ARTICLE 1

DEFINITIONS

1-2-46 GROUP HOME: As defined within §15.2-2291, Code of Virginia (as amended), a residential facility for which the Department of Mental Health, Mental Retardation, and Substance Abuse services of the Commonwealth is the licensing authority; and, in which no more than eight (8) mentally ill, mentally retarded or developmentally disabled persons reside, with one or more resident ~~counselors~~ or other **nonresident** staff persons, as residential occupancy by a single family. Mental illness and developmental disability shall not include current illegal use of or addiction to a controlled substance as defined within §54.1-3401, Code of Virginia (as amended).

ARTICLE 18

GENERAL PROVISIONS

SECTION 18-10. ACCESSORY USES AND STRUCTURES.

18-10-10 Temporary Family Health Care Structures

A. For the purposes of this Section:

1. "Caregiver" means an adult who provides care for a mentally or physically impaired person within the Commonwealth. A caregiver shall be either related by blood, marriage, or adoption to or the legally appointed guardian of the mentally or physically impaired person for whom he is caring.
2. "Mentally or physically impaired person" means a person who is a resident of Virginia and who requires assistance with two or more activities of daily living, as defined in § 63.2-2200, Code of Virginia, as certified in a writing provided by a physician licensed by the Commonwealth.
3. "Temporary family health care structure" means a transportable residential structure, providing an environment facilitating a caregiver's provision of care for a mentally or physically impaired person, that (i) is primarily assembled at a location other than its site of installation; (ii) is limited to one occupant who shall be the mentally or physically impaired person or, in the case of a married couple, two occupants, one of whom is a mentally or physically impaired person, and the other requires assistance with one or more activities of daily living as defined in § 63.2-2200, Code of Virginia, as certified in writing by a physician licensed in the

Commonwealth; (iii) has no more than 300 gross square feet; and (iv) complies with applicable provisions of the Industrialized Building Safety Law and the Uniform Statewide Building Code. Placing the temporary family health care structure on a permanent foundation shall not be required or permitted.

- B. Temporary family health care structures shall be permitted as an accessory use in LR, MR, HR, HR-1, RB-1, RO-1, B-1, and PUD districts as a permitted accessory use to an existing single family residential use. Such structures shall be (i) for use by a caregiver in providing care for a mentally or physically impaired person and (ii) on property owned or occupied by the caregiver as his residence.
- C. Only one family health care structure shall be allowed on a lot or parcel of land.
- D. Any person proposing to install a temporary family health care structure shall first obtain a permit from the Administrator.
- E. The Administrator may require that the applicant provide evidence of compliance with this section on an annual basis as long as the temporary family health care structure remains on the property. Such evidence may involve the inspection by the Administrator of the temporary family health care structure at reasonable times convenient to the caregiver, not limited to any annual compliance confirmation.
- F. Any temporary family health care structure installed pursuant to this Section may be required to connect to any water, sewer, and electric utilities that are serving the primary residence on the property and shall comply with all applicable requirements of the Virginia Department of Health.
- G. No signage advertising or otherwise promoting the existence of the structure shall be permitted either on the exterior of the temporary family health care structure or elsewhere on the property.
- H. Any temporary family health care structure installed pursuant to this Section shall be removed within 60 days of the date on which the temporary family health care structure was last occupied by a mentally or physically impaired person receiving services or in need of the assistance provided for in this section.
- I. The Administrator may revoke the permit granted pursuant to subsection D if the permit holder violates any provision of this section. Additionally, the Administrator may seek injunctive relief or other appropriate actions or

proceedings in the circuit court of that locality to ensure compliance with this section.

J. Any proposed temporary health care structure must meet the same location, setback, lot coverage requirements and limitations set forth in this Article for other accessory structures.

SECTION 18-19. HOME OCCUPATIONS.

18-19-3 The operation of a family day home **may occur as an accessory and subordinate use to a residence provided the following:** for not more than five (5) children shall be considered as residential occupancy by a single family; and, therefore does not require a Certificate of Home Occupation. Family day homes serving six through twelve children, exclusive of the provider's own children and any children who reside in the home, shall obtain a Certificate of Home Occupation and shall be licensed by the Virginia Department of Social Services. However, no family day home shall care for more than four children under the age of two, including the provider's own children and any children who reside in the home, unless the family day home is licensed or voluntarily registered. A family day home where the children in care are all grandchildren of the provider shall not be required to be licensed or obligated to obtain a Certificate of Home Occupation.

A. A family day home for not more than five (5) children shall be considered as residential occupancy by a single family; and, therefore does not require a Certificate of Home Occupation.

B. A family day home serving six through twelve children, exclusive of the provider's own children and any children who reside in the home, shall obtain a Certificate of Home Occupation and shall be licensed by the Virginia Department of Social Services, provided the following:

1. Prior to the issuance of a Certificate of Home Occupation for a family day home serving six through twelve children, the applicant shall send a notice developed by the Administrator to each adjacent property owner by registered or certified mail, and shall provide proof to the Administrator of the completion of such mailings.

2. If the Administrator receives no written objection from a person so notified within thirty (30) days of the date of sending the letter and determines that the family day home otherwise complies with the provisions of this Ordinance, the Administrator may issue the permit sought.

3. Any applicant denied a permit through this administrative process may request that the application be considered by City Council after a hearing following public notice per Section 23-7-1 of this Ordinance.

4. Upon such hearing, City Council may, in its discretion, approve the permit, subject to such conditions as agreed upon by the applicant and the locality, or deny the permit.

C. No family day home shall care for more than four children under the age of two, including the provider's own children and any children who reside in the home, unless the family day home is licensed or voluntarily registered.

D. A family day home where the children in care are all grandchildren of the provider shall not be required to be licensed or obligated to obtain a Certificate of Home Occupation.

ARTICLE 19

SITE PLAN REQUIREMENTS

SECTION 19-7. SITE PLAN TERMINATION OR EXTENSION.

19-7-1 An approved site plan shall expire and become null and void if no building permit has been obtained for the site in ~~twelve (12) months~~ **five (5) years** after the final approval **unless otherwise provided for in the Code of Virginia.**

CU-14-166 Request of Oakcrest Properties for a conditional use permit for a two family dwelling at 314 South Kent Street (*Map Number 193-01-T-3*) zoned Limited High Density Residential (HR-1) District with Historic Winchester (HW) District overlay.

REQUEST DESCRIPTION

The request is reapproval of an expired conditional use permit for a two-family dwelling on the subject property.

AREA DESCRIPTION

The subject property is located on the east side of South Kent Street, north of the intersection of East Cecil Street. The property is zoned HR-1 with HW overlay, with similarly zoned parcels surrounding it. Surrounding uses include residential dwellings, including single-family and a number of nonconforming two-family dwellings.



STAFF COMMENTS

The applicant originally applied for a conditional use permit (CUP) for a two-family dwelling to replace a vacant, deteriorated single family dwelling located on the subject property in 2009. That application was recommended for approval by the Planning Commission and subsequently approved by City Council on April 13, 2010. The existing structure was subsequently demolished; however, the applicant did not proceed with construction of the two-family dwelling. The CUP expired because the use did not commence within one year of approval.

The design elements of the proposal, including elevations, floor plans (depicting two-bedroom units) and site plan (including two off-street parking spaces) remain unchanged from the original proposal. The applicant previously applied for and received administrative modifications of two dimensional standards: lot width (37.83', where 40' is otherwise required) and side yard (5.83', where 6' is otherwise required). These modifications remain in place. The Board of Architectural Review previously granted a Certificate of Appropriateness (COA) for the design of the new structure, however, that Certificate expired one year from its issuance. The applicant will need to reapply for a COA.

The original approval included 3 conditions as follows:

- 1) Approval of necessary modifications or variances for lot width and side yard deficiencies;
- 2) The owner providing an easement at no cost, if deemed necessary and upon request by the City, across a portion of the rear of the property to facilitate the future alignment of the Green Circle Trail. This condition shall be voided if the alignment of the trail terminates to the south of the property; and,
- 3) Staff review and approval of the related site plan.

Conditions 1 & 2 are no longer necessary. As noted above, the necessary modifications for lot width and side yard were approved and remain valid. The alignment of the Green Circle Trail phase in this area has since been finalized and terminates south of the subject property, so an easement is no longer necessary.

The site plan depicts the provision of two required off-street parking spaces accessed from an unrecorded ingress/egress toward the rear of the property. The plan calls for gravel surfacing of the spaces. Staff requests input from the Commission as to whether a waiver of surfacing and curbing requirements (as depicted) for the spaces and travelway is supported. The Commission also indicated a desire to include a walkway connecting from the front of the property to the rear unit access. The applicant is agreeable to this and staff would look for this to be included in the related site plan.

A question arose in the April Planning Commission work session as to whether access could be guaranteed if the ingress/egress is unrecorded. The applicant has been consulting with an attorney, doing further property research, and, most recently, been in negotiations with an adjoining owner to obtain a recorded easement. **The Commission tabled the application at its April 15 and May 20 meetings at the applicant's request. The applicant advised on June 3 that the negotiations are underway but not yet finalized. He is requesting that the application again be tabled for an additional month to allow time to resolve the matter.**

RECOMMENDATION:

A motion to table could read

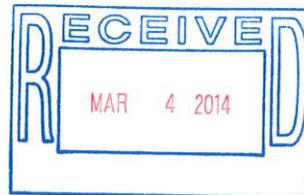
MOVE that the Planning Commission table **CU-14-166** until its July 15, 2014 meeting at the applicant's request.



February 28, 2014

RE: Conditional Use Permit Application for:
Two Family Dwelling at 314 S. Kent St.

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



Dear Tim,

I have enclosed a Conditional Use Application for the construction of a NEW Two Family Dwelling on the above referenced property. I am also including a copy of the Site Plan for this. As you are aware, the previous single family was demoed and we are requesting the approval of an over/under duplex in its place. We have applied previously for the CUP for this and it was approved. Due to the nature of the economic downturn, we had to place this project on hold until now. Since we did not renew the approved CUP, we are going through the process again. I would like to note that it is not uncommon in this section of the City (which existed prior to the Zoning Ordinance) for duplex units to be adjacent to single family residences. However, we have gone through measures to ensure the architectural and ascetical appearance from the street maintains that of a single family dwelling.

We will also be reapplying to the BAR for their approval of this structure since it is located within the Historic District. Since the CUP process does take an extended amount of time, we will be doing the BAR submittal process in conjunction with the CUP process.

If you have any further questions or need any additional information, please contact me.

Sincerely,

Eric Lowman
Director of Purchasing and Estimating
OakCrest Builders, Inc.

Address | Phone
126 North Kent Street | 540.722.4100
Winchester, VA 22601 | www.oakcrestcompanies.com
Website

CU-14-166