

**PLANNING COMMISSION
AGENDA
March 19, 2013 - 3:00 PM
Council Chambers - Rouss City Hall**

1. POINTS OF ORDER

- A. Roll Call
- B. Approval of Minutes – February 19, 2013 regular meeting
- C. Correspondence
- D. Citizen Comments
- E. Report of Frederick Co Planning Commission Liaison

2. PUBLIC HEARINGS

- A. **CU-13-60** Request of Deuk Yeon for a conditional use permit for a neighborhood convenience establishment at 501 North Loudoun Street (*Map Number 153-01-D-9*) zoned Limited High Density Residential (HR-1) District with Historic Winchester (HW) District overlay. (**Mr. Grisdale**)- **WITHDRAWN**
- B. **CU-13-85** Request of Glaize Properties for a conditional use permit for conversion of ground floor nonresidential use to residential use at 110 East Fairfax Lane (*Map Number 173-01-S-1*) zoned Central Business (B-1) District with Historic Winchester (HW) District overlay. (**Mr. Youmans**)

3. NEW BUSINESS

- A. **TA-13-138** Review/Initiation of AN ORDINANCE TO AMEND AND REENACT ARTICLES 18, 21, AND 23 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO SIGNS, VIOLATION AND PENALTY, AND FEES (**Mr. Grisdale**)
- B. **TA-13-146** Review/Initiation of AN ORDINANCE TO AMEND AND RE-ENACT ARTICLES 1, 8, 9, 10, AND 13 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO RESTAURANTS AND ENTERTAINMENT ESTABLISHMENTS (**Mr. Grisdale**)
- C. Administrative Approval(s):
 - 1) **SP-13-137** 25 E Boscawen St Design Concepts Graichen Building

4. ADJOURN

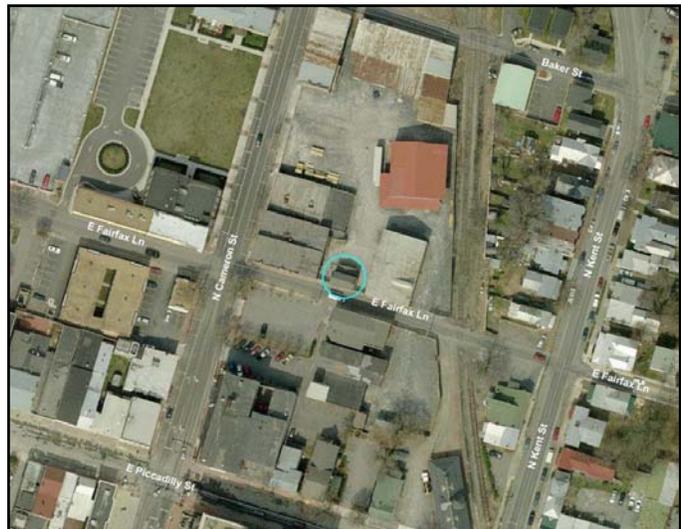
CU-13-85 Request of Glaise Properties for a conditional use permit for conversion of ground floor nonresidential use to residential use at 110 East Fairfax Lane (*Map Number 173-01-S-1*) zoned Central Business (B-1) District with Historic Winchester (HW) District overlay.

REQUEST DESCRIPTION

The request is for Conditional Use Permit (CUP) approval under Section 9-2-16 of the Zoning Ordinance pertaining to conversion of nonresidential ground floor area to residential use. The entire two-story structure is proposed for conversion from a former lumber company shipping office to a single-family residence and includes a ground floor bedroom toward the front.

AREA DESCRIPTION

The property and all adjoining properties along both sides of E. Fairfax Lane are zoned B-1 with Historic Winchester (HW) overlay District. Land on the opposite (east) side of the CSX railroad is zoned Residential-Business (RB-1) with Historic Winchester (HW) overlay District. The subject stretch of E. Fairfax Lane has structures associated with the former lumber company use which has ceased. The structures immediately to the west and north are undergoing conversion to mixed use including residential on the upper levels. The site falls within the 100% parking exempt district.



STAFF COMMENTS

The CUP request for conversion of the former ground-floor office space to residential use is outlined in a letter to the City dated January 31, 2013 from Mr. Phillip Glaise and Mr. Richard Helm, both managing partners of Glaise Properties. This request applies to the existing brick structure at 110 E. Fairfax Lane. The structure has an exterior appearance that resembles a single-family dwelling. The door and window openings are typical of a dwelling rather than a commercial storefront. The building currently has a doorway directly oriented to E. Fairfax Lane and there is very little distance between the front of the structure and the public street. One of the two proposed bedrooms is proposed on the ground floor out towards the street.



Staff would suggest that the applicant reconsider having a bedroom this ground floor bedroom out so close to the public street and sidewalk and instead just have the one larger single bedroom upstairs. The Planning Director has determined that this segment of E. Fairfax Lane does not represent a major commercial street and would suggest that City Council could find the ground-floor residence to be as suitable as nonresidential reuse.

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.

Two favorable motions are offered for consideration:

The first option would support the request with the first floor front bedroom and reads:

MOVE, that the Planning Commission forward **CU-13-85** to City Council recommending approval per Sections 9-2-16 of the Zoning Ordinance because the proposal, **as submitted**, will not adversely affect the health, safety or welfare of persons residing or working in the neighborhood nor be detrimental to public welfare or injurious to property or improvements in the neighborhood. The approval is based upon City Council finding that the proposed ground-floor residential unit is as suitable or preferable to other permitted uses on the ground floor and is subject to the following:

1. Conformity with the floor plans depicting a two-bedroom dwelling with no more than one bedroom on the ground floor.

--- or ---

The second option would support the request without the first floor front bedroom and reads:

MOVE, that the Planning Commission forward **CU-13-85** to City Council recommending approval per Sections 9-2-16 of the Zoning Ordinance because the proposal, **as modified to eliminate the ground floor bedroom oriented toward the street**, 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 unit is as suitable or preferable to other permitted uses on the ground floor and is subject to the following:

1. Modifying the floor plans to depict a one-bedroom dwelling with one bedroom on the upper floor only.

GLAIZE PROPERTIES

PO BOX 2077

WINCHESTER, VA 22604

January 31, 2013

City of Winchester
Planning Commission
15 North Cameron Street
Winchester, Va. 22601

Planning Commission Members:

Glaize Properties is in the process of redeveloping the former Glaize Lumber Company property at the corner of North Cameron Street and Fairfax Lane. Included in this redevelopment is the former shipping office located at 110 Fairfax Lane.

This request is to allow the ground floor conversion of the shipping office to residential use. The shipping office is a small building, measuring less than 680 square feet on the first floor, which would be difficult to market as commercial space. It is not on a major commercial street. The exterior appearance resembles a residential dwelling with no commercial windows.

The site plan for the redevelopment calls for a courtyard which would visually connect this building with the residential units on the second floor of the Cameron Street buildings adjoining this property to the West.

This property is part of the OLD TOWN/NORTH CENTRAL GEOGRAPHIC PLANNING AREA. The Comprehensive Plan suggests that efforts be taken to promote residential or mixed use in this area. The conversion of this small building to residential in conjunction with the redevelopment of the retail and residential use of the adjoining Cameron Street property would be compatible with the mixed use of residential and retail envisioned by the Comprehensive Plan.

Thank you for your consideration of this request.


Phillip Glaize, Managing Partner


Richard Helm, Managing Partner

TA-13-138 AN ORDINANCE TO AMEND AND REENACT ARTICLES 18, 21, AND 23 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO SIGNS, VIOLATION AND PENALTY, AND FEES

REQUEST DESCRIPTION

This publicly sponsored text amendment is to serve as a refinement of the existing temporary sign ordinances, and provide clearer standards pertaining to size, number, and duration of display for such temporary signs. Additionally, the amendment will provide for a temporary sign permit requirements for some commercial signage as well as shorten the appeal period for sign violations.

STAFF COMMENTS

Presently, the Zoning Ordinance is vague when setting standards for temporary signs throughout the City. Many classifications of signs do not have a maximum size, limit for the number or time duration limitation. This proposed amendment seeks to provide clearer standards for temporary signs, while still allowing flexibility for individuals, groups, and businesses to conduct outside advertising on site.

The major changes include:

- Establishing maximum size, setback requirements, duration limitations, height and allowable number of sign standards for several classifications of signs.
- Creating and modifying definitions of several types of signs to make the Zoning Ordinance easier to interpret for citizens and business owners.
- Creation of a requirement for a temporary sign permit for several classifications of temporary commercial signs.
- Shortening the appeal period for temporary sign violations from 30 days to 10 days.
- Clarify standards for electronic message board signs, specifically as to the frequency of message changes.

As the Zoning Ordinance is currently constituted, enforcement of temporary signs is time and labor intensive. Absent a temporary sign permit requirement, there is no staff check or review on proposed temporary signage or trigger to initiate conversations between a business owner and staff to discuss regulations. When staff does identify a sign violation, the current appeal period of thirty (30) days results in a significant lag between notice of violation and resolution; with a shortened appeal period of ten (10) days, staff can more quickly initiate other enforcement measures such as civil penalties or court action, if needed. The changes proposed within the amendment will allow for expedited enforcement of such violations.

As part of City Council's Strategic Plan, the "Vision 2028" includes the establishment of Winchester as "a Beautiful, Historic City and a Hometown for Families." Having clear sign standards is important for the creation of a beautiful City, by creating harmonious neighborhoods and proportional sign standards.

Lastly, the proposed amendment will benefit businesses by continuing to allow for a variety of options and flexibility for conducting as needed temporary advertisements, thus resulting in a growing economy.

RECOMMENDATION

A favorable motion could read as follows:

MOVE, that the Planning Commission initiate TA-13-138 because it represents good planning practice by providing for reasonable standards for temporary signs while allowing flexibility for citizens and businesses to conduct temporary advertisements and announcements.

**RESOLUTION INITIATING AN ORDINANCE TO AMEND AND REENACT ARTICLES 18, 21,
AND 23 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO SIGNS,
VIOLATION AND PENALTY, AND FEES.**

TA-13-138

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

WHEREAS, the Zoning Ordinance sign provisions have been established in order to ensure that signs are appropriate to the land, building, or use to which they are appurtenant and are adequate, but not excessive, for their intended purpose; and,

WHEREAS, the proposed Ordinance amendments will provide clearer established parameters for the size, location, and length of display for temporary signs; and,

WHEREAS, in order to facilitate a dynamic and thriving community, uniform sign standards will allow for flexible opportunities for businesses, individuals, and other entities to communicate with the community.

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

**AN ORDINANCE TO AMEND AND REENACT ARTICLES 18, 21, AND 23 OF THE
WINCHESTER ZONING ORDINANCE PERTAINING TO SIGNS, VIOLATION AND
PENALTY, AND FEES.**

TA-13-138

DRAFT 1 – 3/8/13

*Ed. Note: The following text represents excerpts 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.*

WINCHESTER ZONING ORDINANCE

ARTICLE 18

SECTION 18-8. SIGNS.

- 18-8-1 INTENT. The intent of this Article is to establish limitations on signs in order to **ensure** ~~insure~~ that they are appropriate to the land, building, or use to which they are appurtenant and are adequate, but not excessive, for their intended purpose. Any widespread display of outdoor advertising is considered inappropriate to the character and sound development of the City, and it is intended by this Article that the streets and highways in the City shall not be made available for such display.
- 18-8-2 PERMIT REQUIRED. A sign permit shall be required before a sign is erected, altered, or relocated, except as otherwise provided herein.
- 18-8-2.1 Applications . Each application for such permit shall be accompanied by plans showing the area of the sign; the size, character, and design proposed; the method of illumination, method of fastening such sign; the name and address of the sign owner and of the sign erector. Fees for sign permits shall be in accordance with the schedule of fees for building permits as adopted by the City Council. A sign permit shall become null and void if the work for which the permit was issued has not been completed with a period of six (6) months after the date of issuance of the permit.
- 18-8-2.2 Permit Exceptions . A permit shall not be required for the following; but such signs shall be subject to any and all applicable provisions of this Ordinance:
- a. Any sign four (4) square feet or less in area.
 - b. Repainting without changing wording, composition, or color, or minor nonstructural repairs.
 - c. Changing the wording or face of a sign that was erected in accordance with the provisions of this Article.
 - d. Temporary signs and signs painted on or hung behind windows as permitted in all districts under Section 18-8-12, **except as provided in this Ordinance.** (10/09/01, Case No. TA-01-05)

- e. Signs indicating the location of a community garden or market garden, provided that such signs shall not exceed four (4) square feet in area and shall not exceed six (6) feet in height. Such signs may include information, identification, and sponsorship reference. (10/12/10, Case TA-10-418, Ord. No. 2010-51)

18-8-2.3 **All signs, temporary or permanent, shall be setback from the property line by a minimum of five (5) feet, except within the B-1 and RB-1 districts or unless otherwise provided within this Ordinance.**

18-8-2.4 **Unless otherwise provided within this Ordinance, all signs must receive approval in the form of a certificate of appropriateness prior to installation, if the property upon which the sign is placed is located in either a Corridor Enhancement (CE) or Historic Winchester (HW) overlay zoning district.**

18-8-11 SIGNS PERMITTED IN THE HW DISTRICT. No ~~permanent~~ sign shall be erected or altered in the Historic Winchester District until a Certificate of Appropriateness has been issued by the **Zoning Administrator or** Board of Architectural Review. These signs are subject to the provision of Article 14 and design guidelines as may be adopted by the Board of Architectural Review. Signage shall not be internally illuminated (9/11/01, Case TA-01-02, Ord. No. 029-2001; 3/8/05, TA-04-08, Ord. No. 007-2005)

18-8-12 SIGNS PERMITTED IN ALL DISTRICTS. The following signs shall be permitted in all districts. Unless otherwise indicated, Temporary Signs and signs painted on or hung behind windows shall not require a sign permit. The area of any sign shall not be included in computing the aggregate sign areas specified for individual districts. (9/11/01, Case TA-01-02, Ord. No. 029-2001)

18-8-12.1 Temporary Signs, which shall be non-illuminated, and are limited to the following types:

18-8-12.2 **The following temporary signs may be installed by-right without a temporary sign permit, fee or certificate of appropriateness, provided the sign is installed in accordance with the size, location, and duration standards outlined in this section. No setback from property lines shall be required for any signs permitted in this section:**

- a. Construction Signs, ~~which identify the architects, engineers, contractors and other individuals or firms involved with the construction.~~ **one sign per individual or firm involved with construction is permitted, and each sign shall not exceed four (4) square feet in area for a single family residential project and eight (8) square feet for any other project, and shall be removed immediately following the completion of the project.**

- b. Real Estate Signs, advertising the sale, rental, or lease of the premises, or part of the premises on which the signs are displayed. **Signs shall not exceed four (4) square feet in area and shall be removed immediately after sale, lease or rental. One sign per street frontage is permitted. On properties larger than two (2) acres, each sign may be a maximum of twelve (12) square feet.**
- c. Political Campaign Signs, announcing the candidates seeking public political office and other data pertinent thereto. These signs shall be confined within private property and removed within fourteen (14) days after the event for which they were made.
- d. Street Banners, advertising a public entertainment or event, if specifically approved by the City Council and only for locations designated by the City Council, during and for fourteen (14) days before and after the event for which they were made.
- e. Signs advertising only the name, time and place of any bona fide fair, carnival, festival, bazaar, horse show, or similar event, when conducted by a public agency or for the benefit of any civic, fraternal, religious, or charitable cause: provided that all such signs shall be removed within five (5) days after the last day of the event to which they pertain.
- ~~f. Grand opening signs shall be permitted in B-1, B-2, M-1, M-2, CM-1 and PC districts, provided that such sign or signs shall not be displayed more than ten (10) days.~~
- ~~g. Signs advertising special sales shall be permitted in B-1, B-2, M-1, M-2, CM-1, and PC districts, provided that such sign or signs shall not be displayed more than ten (10) days.~~
- ~~h. Portable price or advertising signs shall be permitted in the B-1, B-2, CM-1, M-1, and M-2 districts, not exceeding an area of twenty (20) square feet, and limited to one (1) for each street the property fronts upon. Such signs shall not project beyond the property line. Signs located in the Historic District shall not be required to be approved by the Board of Architectural Review. Such signs, that are larger than four (4) square feet and have changeable message panels, shall not be displayed more than fourteen (14) days. A sign permit shall be required before such signs with changeable message panels are placed on a property. Once such sign permit has been approved, a second permit may be issued for an additional fourteen (14) days. Thirty (30) days following the termination of a second permit, subsequent permit(s) for such signs may be issued, in accordance with the above time limits. The provisions of this Section shall apply to all such signs effective July 1, 1988. (3/8/88, TA-87-10, Ord. No. 015-88)~~
- i. **f.** Signs advertising storage of materials and supplies or display of merchandise for sale or rent shall be permitted but shall not be visible from off-site (10/17/95, Case TA-95-04, Ord. No. 053-95)

- g. Signs advertising an on-site yard sale. One such sign may be placed upon the property for which the yard sale is taking place and may be up to a maximum of four (4) square feet. Such signs may be placed on site three (3) days before the sale, and must be removed upon completion of the sale.**

18-8-12.3 **The following temporary signs shall require approval of a temporary sign permit and payment of applicable fee per Section 23-8 of this Ordinance prior to placement on a property:**

- a. Signs advertising grand openings, special sales or similar promotional events, shall be permitted in RB-1, B-1, B-2, M-1, M-2, CM-1, and PC districts, provided that such sign is on display for no more than ten (10) days per month. One sign may be permitted per business or tenant, and each sign shall not exceed sixteen (16) square feet in area. Such signs shall not have a height greater than four (4) feet unless affixed to a permanent building or freestanding sign structure. A temporary sign permit shall be required.**
- b. Temporary business identification signs during review and approval of a permanent building mounted or freestanding sign. A maximum of one (1) sign is permitted per business. The sign shall not exceed sixteen (16) square feet in area, and may be permitted to be on display for a maximum of forty-five (45) days. The maximum height for such signs shall be four (4) feet, unless the sign is attached to a building or freestanding sign pole.**
- c. Portable price or advertising signs shall be permitted in the RB-1, B-1, B-2, CM-1, M-1, and M-2 districts, not exceeding an area of sixteen (16) square feet, four (4) feet in height, and limited to one (1) for each street the property fronts upon. In commercial centers and similar properties with multiple tenants, one sign per tenant may be permitted in lieu of the frontage allotment provided above. Such signs shall be permitted to be on display a maximum of thirty (30) days, except for signs permitted in the Primary and Secondary Downtown Assessment Districts permitted under Section 18-7.**
- d. Temporary event signs, provided that no more than two (2) such signs are on display, with each sign being no larger than twelve (12) square feet and having a height of no more than four (4) feet. Such signs shall be on display for no longer than the approved temporary event.**

18-8-12.2 **18-8-12.4** **Permanent Signs.**

- a. Directional Signs, as defined, provided each sign does not exceed ten (10) square feet in area nor four (4) feet in height. No more than ~~that~~ than two (2) signs shall be permitted within one hundred (100) feet of each other within the limits of the development except signs required by a public authority for recognized traffic management needs. For commercial centers greater than fifty thousand square feet in floor area and Higher Education (HE-1) District**

uses, additional directional freestanding signs not exceeding thirty (30) square feet in area and six (6) feet in height shall be permitted within off-street parking areas when such signs provide directional assistance for multiple destinations. For Medical Center (MC) District uses, additional directional freestanding signs not exceeding seventy two (72) square feet in area and ten (10) feet in height shall be permitted within off-street parking areas when such signs provide directional assistance for multiple destinations. A sign permit shall be required. Such additional signs shall be limited to a single unifying logo representative of the development and text on a solid color background and shall be oriented so as to limit primary viewing to persons already on site and not to persons traveling on public and/or private streets provided in lieu of public streets. (1/9/97, Case TA-97-11, Ord. No. 034-097; 6/9/98, TA-98-02, Ord. No 016-98; 9-9-08 Case TA-08-06, Ord. No. 2008-39)

- b. Wall or freestanding signs, not exceeding a total of fifty (50) square feet in area nor eight (8) feet in height and not internally illuminated, for the identification of a subdivision or Planned Development or one freestanding sign not exceeding fifty (50) square feet in area nor eight (8) feet in height and not internally illuminated for the identification of an apartment complex containing at least 50 apartment units and covering at least three (3) acres of ground, if located at an entrance to said subdivision, Planned Development or apartment complex. If a said apartment complex fronts upon more than one public street, then one additional freestanding identification sign not exceeding twenty-five (25) square feet in area shall be allowed at a separate entrance. (3/11/97, Case TA-96-08, Ord. No. 007-97; 9/11/01, Case No. TA-01-02, Ord. No. 029-2001)
- c. Names of buildings, dates of erection, monumental citations, commemorative tablets, and the like when carved into stone, concrete, or similar material or made of bronze, aluminum, or other permanent type construction and made an integral part of the structure.
- d. Institutional signs setting forth the name or any simple announcement for any public, charitable, educational, or religious institute, located entirely within the premises of that institution. Freestanding signs shall not exceed twenty-five (25) square feet in area.
- e. Signs painted on or hung behind windows.
- f. Menu boards shall be permitted in the B-1, B-2, CM-1, M-1, and PC districts for drive-through establishments provided such signs shall be designed and oriented so as to limit primary viewing to persons using drive through facilities and menus shall be displayed only on the drive through standing space side. (3/8/94, Case TA-93-09, Ord. No. 005-94)
- g. Community Signs, after a finding that such signs are consistent with the provisions of Sections 18-2-1.1a and b of this Ordinance. The intent of this section is to permit a limited number of signs at the entryways to the community where multiple noncommercial messages are presented in a planned, orderly manner. Such signs shall not exceed 15 feet in height nor 150 square feet in sign area. No signs permitted under this section shall be

more than 1,500 feet from the nearest exit ramp and no two signs shall be within 500 feet of each other. A sign permit shall be required. (10/8/96, Case TA-96-06, Ord. No. 026-96)

- 18-8-13 SIGNS PROHIBITED IN ALL DISTRICTS. The following types of signs are prohibited in all districts:
- 18-8-13.1 Any sign that obscures a sign display by a public authority for the purpose of giving traffic instructions or directions or other public information.
- 18-8-13.2 Any sign within the triangular area at the street corner of a corner lot described in Section 18-12 of this Ordinance.
- 18-8-13.3 Any sign that consists of strings of light bulbs.
- 18-8-13.4 Any sign, other than pennants or banners, of which all or any part is in motion by any means, including fluttering, rotating, or other moving signs set in motion by movement of the atmosphere. This shall not apply to the hand of a clock or a weather vane.
- 18-8-13.5 Any sign, except official notices and advertisements, which is nailed, tacked, posted, or in any other manner attached to any utility pole or structure for supporting wire, cable, or pipe, or to any tree on any street or sidewalk or to public property of any description.
- 18-8-13.6 Outdoor advertising signs.
- 18-8-13.7 Moored balloons, inflatable signs, or other floating signs that are tethered to the ground.
- 18-8-13.8 Any sign with a minimum clearance of less than eight (8) feet above a walkway or sidewalk or less than fifteen (15) feet above a driveway or alley. (7/10/90, Case TA-90-04, Ord. No. 026-90)
- 18-8-14 ILLUMINATION.
- 18-8-14.1 The light from any illuminated sign shall not cause direct glare into or upon any building or property owner other than the building or property to which the sign may be related.
- 18-8-14.2 No sign shall display flashing or intermittent lights, or other lights of changing degrees of intensity, brightness or color, except a sign indicating time or temperature, with changes alternating on not less than five (5) second cycle when such time or temperature sign does not constitute a public hazard, in the judgment of the Zoning Administrator.
- 18-8-14.3 Neither the direct nor reflected light from primary light sources shall create a traffic hazard to operators of motor vehicles on public thoroughfares.
- 18-8-14.4 Signs for developments in the Highway Commercial, B-2 District that include multifamily units, per Section 8-2-20, shall not utilize any internal illumination. External illumination, if any, shall be provided in a down-cast manner or shielded to prevent direct lighting of windows in multifamily units. (9/13/05, Case TA-05-02, Ord. No. 025-2005)

18-8-14.4 Electronic Message Board Signs shall not change message with a greater frequency than once every sixty (60) seconds in order to prevent traffic hazards to operators of motor vehicles on public thoroughfares, with exception of time or temperature changes per Section 18-8-14.2.

18-8-18 DEFINITIONS.

- 18-8-18.1 Area of Sign. The entire area within a circle, triangle, parallelogram, or trapezoids including the extreme limits of writing, reproduction, emblem, or any figure of similar character, together with any frame or other material or color forming an integral part of the display or used to differentiate the sign from the background against which it is placed, excluding the necessary supports or uprights on which such sign is placed. On double-faced signs, only one (1) display face shall be measured in computing total sign area where sign faces are parallel and are at no point more than two (2) feet from one another.
- 18-8-18.2 Maintenance. The replacing or repairing of a part or portion of a sign made unusable by ordinary wear, tear, or damage beyond the control of the owner or the reprinting of existing copy without changing the wording.
- 18-8-18.3 Outdoor Advertising Sign. A freestanding or building mounted sign bearing a message which is not appurtenant to the use of the property where the sign is located, and which does not identify the place of business where the sign is located as the purveyor of merchandise or services upon the sign, except signs permitted off-premises for Commercial Centers, as defined and except for directional signs per Section 18-8-18.11. Such signs may also be referred to as billboards or poster panels. (1/9/97, Case TA-97-11, Ord. No. 034-097)
- 18-8-18.4 Projecting Signs. A sign attached to and perpendicular to the building wall.
- 18-8-18.5 Sign. Any structure, display device, or representation which is designed or used to advertise or call attention to any thing, person, business, activity, or place and painted, printed, constructed, and displayed in any manner whatsoever out of doors for recognized advertising purposes. However, this shall not include any official court or public notices nor the flag, emblem, or insignia of a government, school, or religious group when displayed for official purposes.
- 18-8-18.6 Temporary Sign. A banner, pennant, poster, or advertising display constructed of cloth, plastic sheet, cardboard, wallboard, or other like materials, intended to be displayed for a limited period of time, and not permanently attached to a building or the ground.
- 18-8-18.7 Wall Sign. A sign affixed directly to or painted on or otherwise inscribed on an exterior wall or parapet and confined within the limits thereof of any building and which projects from that surface less than twelve (12) inches at all points.
- 18-8-18.8 Roof Line. Either the edge of the roof or the top of the parapet, whichever forms the top line of the building silhouette. Where a building has several roof levels, this roof or parapet shall be the one belonging to that portion of the building on which the sign is located. (3/8/94, Case TA-93-09, Ord. No. 005-94)
- 18-8-18.9 Roof Sign. A sign erected on the roof of a building. Roof signs shall not project above the roof line. (3/8/94, Case TA-93-09, Ord. No. 005-94)

- 18-8-18.10 Community Sign. A sign identifying the community and/or recognized historic and/or cultural resources therein provided such signs are situated within or visible from major tourism corridors directly connecting from limited access highways. Signs may include uniformly sized and shaped emblems, logos, insignias or simple nameplates of any civic, fraternal, charitable or religious organization based in the community. (10/8/96, Case TA-96-06, Ord. No. 026-96)
- 18-8-18.11 Directional Sign. A wall or freestanding sign in or primarily oriented toward a parking lot to identify entrances, exits, and divisions of the lot into sections, and to control vehicular and pedestrian traffic in the lot. In cases where a property owner agrees to close an existing driveway connecting directly to a street to permit shared access per Section 18-6-3.6 of this Ordinance or where an off-premises entrance from the public street in lieu of a direct connection is recommended by a public authority, one (1) off- premises directional sign bearing the name or simple logo of the commercial activity shall be permitted at the connection to the street. (1/9/97, Case TA-97-11, Ord. No. 034-097)
- 18-8-18.12 Inflation Sign. A sign capable of being expanded by air or other gas and used on a temporary or permanent basis to advertise a product or event.**
- 18-8-18.13 Monument Sign. A freestanding sign permanently installed on the property. The base of a monument sign is as wide as or wider than the main sign face. A monument sign is built on-grade in such a manner that the sign and the structure are an integral part of one another.**
- 18-8-18.14 Electronic message board sign. A sign displaying characters or images that move or change, caused by any method other than physically removing and replacing the sign or its components. This includes a display that incorporates technology to allow the sign face to change the image, such as any display that incorporates LED lights manipulated through digital input, "digital ink" or any other method or technology that allows the sign face to present a series of images or displays.**
- 18-8-18.15 Construction Sign. A sign depicting the name or logo of a contractor, engineer, architect, or other individual or business that is involved with a construction, renovation, or demolition project.**
- 18-8-18.16 Real Estate Sign. A sign advertising the sale, lease, or rent of the property upon which the sign is located.**
- 18-8-18.17 Portable Price or Advertising Sign. A sign that is not permanently affixed to the ground, building or a structure, designed to be on display for a limited period of time. Such signs include sandwich board signs, moveable chalkboard signs,**

portable flag signs and other signs of a similar nature. These signs shall not include any signs provided under Section 18-8-12.2.

18-8-18.18 Yard Sale Sign. A sign advertising a yard sale, garage sale, estate auction, or similar private sale of personal property and located upon the property where such sale is occurring.

18-8-18.19 Temporary Event Sign. A temporary sign advertising a temporary sales event, such as Christmas trees, fireworks, or similar sales event placed upon the property where such event is occurring.

SECTION 18-19. HOME OCCUPATIONS. (10/11/83, Case 83-06, Ord. No. 034-83)

18-19-5 A yard sale shall be considered a permitted home occupation, subject to the following:

18-19-5.2 Each yard sale may be held a maximum of two consecutive days, and only during the hours of 8:00 a.m. to 6:00 p.m. ~~One two (2) square foot on-premises sign advertising the yard sale may be displayed during the hours of 8:00 a.m. to 6:00 p.m. on the day(s) of the sale.~~ (3/8/94, Case TA-94-01, Ord. No. 006-94)

ARTICLE 21

VIOLATION AND PENALTY

21-2-2 The appeal period for violations of this Ordinance pertaining to the following uses shall be ten (10) days, pursuant to §15.2-2286:

- a. Any violation of Section 18-6-10.1, pertaining to inoperable vehicles.**
- b. Any violation of Sections 18-8-12.1 through 18-8-12.3, pertaining to temporary signs.**
- c. Any violation of Sections 18-9-5 through 18-9-5.4, pertaining to yard sales.**
- d. Any violation of Section 18-12, pertaining to visual obstructions.**
- e. Any violation of Section 18-13, pertaining to drainage.**
- f. Any violation of Section 18-15, pertaining to right-of-way encroachments.**
- g. Any violation of Section 18-17, pertaining to mobile storage units and temporary events.**

ARTICLE 23

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

23-8-12	Portable and temporary sign or sign when no building permit is required (12/13/94, Case TA-94-10, Ord. No. 029-94) (10/8/02, Case TA-02-07, Ord. No. 024-2002)	\$40
---------	---	------

Temporary Signs Revisions

Type of Sign	Current Max. Size	Proposed Max. Size	Max. Display Period	Number of Signs	Setback	Permit Required	Height	Special
Construction Signs	None	4 SF (residential) / 8 SF (non-residential)	Completion of Project	1 per Contractor	None	No	None	
Real Estate Signs	None	4 SF (less than 2 acres) / 12 SF (greater than 2 acres)	Completion of Sale	1 per frontage	None	No	None	
Political Campaign Signs	None	None	Removed NLT 14 days after event	None	None	No	None	
Street Banners	None	None	14 days before/after event	None	N/A	Yes, City Council	None	
Civic/Fraternal/Charitable Event Sign	None	None	Removed NLT 5 days after event	None	None	No	None	
Signs advertising storage of materials	None	None	None	None	None	No	None	Not visible from off-site
Yard Sale Sign	2 SF	4 SF	3 days prior, removed upon completion	One	None	No	None	
Grand opening/special/promotional sale	None	16 SF	10 days	1 per business/tenant	5 feet	Yes	4 feet	
Temporary business identification	None	16 SF	45 days	1 per business/tenant	5 feet	Yes	4 feet*	Unless attached to building
Portable Price/Advertising Sign	16 SF	16 SF	30 days (except for Downtown Assess. Districts)	1 per street frontage*	5 feet	Yes	4 feet	For commercial centers, 1 sign/tenant in lieu of frontage is authorized
Temporary Event Signs	N/A	12 SF	Duration of Event	2 per event	5 feet	Yes	4 feet	

TA-13-146 AN ORDINANCE TO AMEND AND RE-ENACT ARTICLES 1, 8, 9, 10, AND 13 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO RESTAURANTS AND ENTERTAINMENT ESTABLISHMENTS

REQUEST DESCRIPTION

This publicly sponsored text amendment is to clarify the Zoning Ordinance and make a distinction between restaurants and entertainment establishments.

STAFF COMMENTS

Currently, the Zoning Ordinance allows for restaurants that evolve into establishments where some form of entertainment, live or otherwise, takes place after 10:00 p.m. by allowing for a conditional use permit within certain zoning districts in the form of *Nightclubs*.

City Council, as part of their Downtown Strategic Plan, has called for revisiting the *Nightclub* regulations and as part of the Strategic Plan has called for creation of a “Vibrant Downtown” and “Growing Economy.” This text amendment serves as a response to City Council’s desire to modify the existing regulations, by eliminating the definitions of *Dance Hall* and *Nightclub* and the creation of a new use *Entertainment Establishment*.

These proposed changes will create a distinction between a restaurant that is continuously used as a restaurant, and allowing for background music or entertainment that is clearly subordinate to the restaurant use. However, for uses where a business or restaurant evolves at some point of their operations away from predominantly food service to an entertainment use, then the *Entertainment Establishment* classification will apply.

In situations where *Entertainment Establishments* are proposed within 200 feet of a residentially zoned parcel, staff recommends that the conditional use permit process apply, so that the Planning Commission and City Council can review the situational conditions with the request and ensure that any potential negative impacts on the vicinity are negated.

For the *Entertainment Establishments* that are located in areas by-right and without the CUP review process, there are still numerous enforcement tools available to address potential concerns. For example if there are noise issues, the City noise ordinance enforced by the Police can address the concerns; if there are alcohol violations, they can be remedied through Virginia ABC; and tax issues can be handled by enforcement mechanisms with the Commissioner of Revenue and City Treasurer’s office.

RECOMMENDATION

A favorable motion could read as follows:

MOVE, that the Planning Commission initiate TA-13-146 because it represents good planning practice by providing for reasonable standards for temporary signs while allowing flexibility for citizens and businesses to conduct temporary advertisements and announcements.

**RESOLUTION INITIATING AN ORDINANCE TO AMEND AND RE-ENACT ARTICLES 1, 8,
9, 10, AND 13 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO
RESTAURANTS AND ENTERTAINMENT ESTABLISHMENTS**

TA-13-146

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

WHEREAS, in the Winchester Strategic Plan, a vibrant downtown and growing economy were called out as part of the long term vision for the City of Winchester; and,

WHEREAS; the Zoning Ordinance currently provides for restaurants, nightclubs, and dance halls; and,

WHEREAS, the proposed Zoning Ordinance amendment will modify the use classifications of restaurant and create a new classification of "Entertainment Establishment"; and,

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission hereby initiates the following text amendment represents good planning practices by providing an opportunity for a vibrant downtown as well as allowing for reasonable review of entertainment uses in close proximity to residential zones:

AN ORDINANCE TO AMEND AND RE-ENACT ARTICLES 1, 8, 9, 10, AND 13 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO RESTAURANTS AND ENTERTAINMENT ESTABLISHMENTS

TA-13-146

Draft 1 – March 12, 2013

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

ARTICLE 1

DEFINITIONS

SECTION 1-2. DEFINITIONS.

- 1-2-28.1 ~~————~~ DANCE HALL: A public establishment that, on a regular basis and for an admission fee, provides music and space for dancing. (9/12/89, Case TA-89-02, Ord. No. 023-89)
- 1-2-68.1 ~~————~~ NIGHT CLUB: An establishment that provides live amplified music, Karaoke, DJs, and/or dancing between the hours of 10 p.m. and 6 a.m. (11/13/01, Case TA-01-06, Ord. No. 035-2001) **Repealed.**
- 1-2-79 RESTAURANT: Any building in which, for compensation, food or beverages are dispensed for consumption on or off the premises. **Any place of business wherein foods or beverages are provided for consumption as the primary use. The term restaurant includes, without limitation; lunchrooms, cafeterias, coffee shops, cafes, taverns, delicatessens, dinner theaters, pubs, soda fountains, and dining accommodations of public or private clubs. This definition excludes: bakeries; bed-and-breakfast facilities; grocery and convenience retail stores; catering businesses (where food is prepared for consumption at another site); snack bars and refreshment stands at public recreation facilities; concession stands at athletic activities, or any facility exempt from state licensure requirements pursuant to Code of Virginia § 35.1-25. Entertainment and music for restaurant patrons which is clearly incidental and accessory to the restaurant’s primary function as defined herein is permitted.**
- 1-2-79.1 ESTABLISHMENT, ENTERTAINMENT: A venue where entertainment, live or otherwise, predominates over food service, becoming the principal use for the business’ operations, with or without dancing, and typically involving a cover or other charge for admission and event advertising.**

ARTICLE 8

HIGHWAY COMMERCIAL DISTRICT - B-2

SECTION 8-1. USE REGULATIONS.

8-1-52 **Entertainment Establishments, located at least 200 feet from a residentially zoned property, as measured from the structure containing the establishment to the residential zone property line.**

SECTION 8-2. USES REQUIRING A CONDITIONAL USE PERMIT

8-2-4 **Entertainment Establishments, located less than 200 feet from a residentially zoned property, as measured from the structure containing the establishment to the residential zone property line.**

ARTICLE 9

CENTRAL BUSINESS DISTRICT - B-1

SECTION 9-1. USE REGULATIONS.

9-1-45 **Entertainment Establishments, located at least 200 feet from a residentially zoned property, as measured from the structure containing the establishment to the residential zone property line.**

SECTION 9-2. USES REQUIRING A CONDITIONAL USE PERMIT

9-2-8 **Entertainment Establishments, located less than 200 feet from a residentially zoned property, as measured from the structure containing the establishment to the residential zone property line.**

ARTICLE 10

COMMERCIAL INDUSTRIAL DISTRICT - CM-1

SECTION 10-1. USE REGULATIONS.

10-1-43 **Entertainment Establishments, located at least 200 feet from a residentially zoned property, as measured from the structure containing the establishment to the residential zone property line.**

SECTION 10-2. USES REQUIRING A CONDITIONAL USE PERMIT.

10-2-3 **Entertainment Establishments, located less than 200 feet from a residentially zoned property, as measured from the structure containing the establishment to the residential zone property line.**

ARTICLE 13

PLANNED DEVELOPMENT

SECTION 13-2. PLANNED COMMERCIAL DISTRICT – PC

13-2-3.16 **Entertainment Establishments, located at least 200 feet from a residentially zoned property, as measured from the structure containing the establishment to the residential zone property line.**

SECTION 13-2-4 USES PERMITTED WITH A CONDITIONAL USE PERMIT.

13-2-4.5 **Entertainment Establishments, located less than 200 feet from a residentially zoned property, as measured from the structure containing the establishment to the residential zone property line.**