

**PLANNING COMMISSION
AGENDA
July 15, 2014 - 3:00 PM
Council Chambers - Rouss City Hall**

1. POINTS OF ORDER

- A. Roll Call
- B. Approval of Minutes – June 17, 2014 regular meeting
- C. Correspondence
- D. Citizen Comments
- E. Report of Frederick Co Planning Commission Liaison

2. PUBLIC HEARINGS – New Business

- 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)**

- B. **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)**

- C. **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 LAND AT 418 MERRIMANS LANE (*Map Number 169-01-3*) FROM LR DISTRICT TO EIP DISTRICT AND B-2 DISTRICT **(Mr. Youmans)**

3. PUBLIC HEARING – Continued

- 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. Moore)**

4. NEW BUSINESS

- A. Administrative Approval(s) **(Mr. Moore)**:
 - 1) Minor subdivisions (June 2014)
 - (a) **MS-14-318** 1804-1850, 1811 Roberts St boundary line adjustment

5. ADJOURN

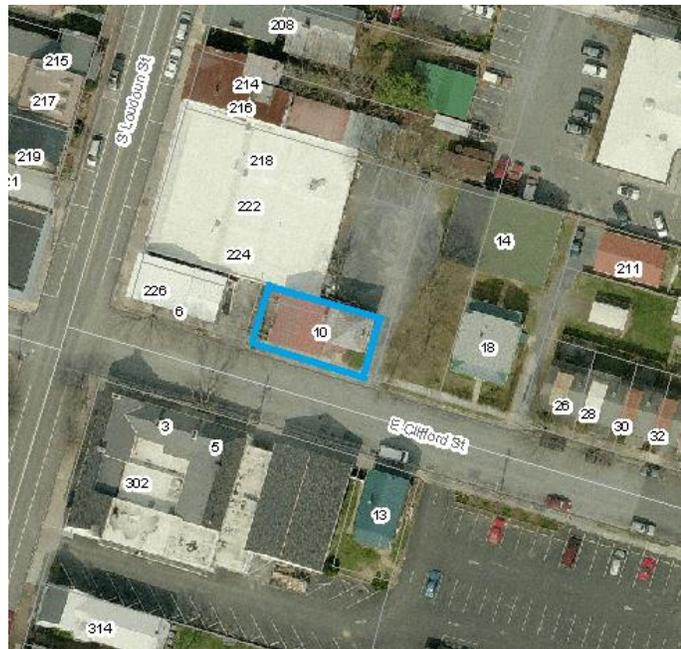
CU-14-349 Request of John and Christine Flood for a conditional use permit for conversion of ground floor nonresidential use to residential use at 10 East Clifford Street (*Map Number 193-01-L-15*) zoned Central Business (B-1) District with Historic Winchester (HW) District Overlay.

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.

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

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

REQUEST DESCRIPTION

The request is 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 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.

AREA DESCRIPTION

The site has its main frontage of about 220 feet along Valley Ave, but it actually fronts on three public streets. It adjoins Burton Avenue for 193 feet to the north, a poorly defined public street within a 40-foot right of way between the Coca-Cola property and the adjoining paint store/apartment building to the north. The site also extends 237 feet along Roberts Street to the east.

The adjoining vacant property to the south at 1726 Valley Ave is zoned B-2 with Corridor Enhancement (CE) District overlay. A used car lot is situated further to the south at the corner of Valley Ave and Bellview Ave.



All of the other land bordering the tract to the south is zoned Medium Density Residential (MR). Use of the 5 MR lots is single-family detached. Land across Roberts St to the east is zoned High Density Residential (HR) and contains apartment use and single-family use. Land to the north across Burton Ave is zoned B-2 (CE) and contains mixed use consistent with what is proposed for the subject property. Land across Valley Ave to the west is zoned MR and contains single-family homes and a couple of apartments.

STAFF COMMENTS

Mr. J.A. Scallan, managing member of the applicant (1720 Valley Avenue LLC) outlines the request in a letter dated May 30, 2014. The additional 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 (the northern part of the building). Both Options A and B include eight two-bedroom units in this area, all of which are two-story units.

Option C would provide for thirteen units in this area: two would remain as two-bedroom, two-story units. The remaining eleven would consist of one two-bedroom unit and ten one-bedroom units, all of which would be single floor units.

Numerous criteria were evaluated in the previous rezoning to apply PUD overlay to the property, including consistency with the Comprehensive Plan, site development and buffering, open space, utility infrastructure, and design quality. These remain largely unchanged with the additional proposed development option. The related objectives in the Comprehensive Plan are still applicable: Citywide Design Objective #1- Employ New Urbanism Principles in new development and redevelopment; Citywide Design Objective #2- Protect significant public and private architectural and historic resources in the City; and, Citywide Housing Objective #6- Promote decent affordable housing, particularly to serve targeted populations such as young professionals and retirees.

As previously noted, the site development plan, buffering, and open space remain unchanged. Sanitary sewer issues in a nearby area that were raised by neighbors during the previous rezoning request were investigated and found to be related to a separate sewer main than the one serving the subject property. Design quality is ensured through proffered elevations and floor plans and situation within the Corridor Enhancement overlay District. Additionally, the owner is seeking tax credits for Historic Preservation and continues to proffer conformance to the Secretary of Interior's Standards for Rehabilitation.

Council also approved a waiver of the 5-acre minimum per Section 13-1-4.1 of the Zoning Ordinance to allow a 1.295 acre PUD because the applicant demonstrated that strict adherence would produce unnecessary hardship that would preclude development that is more compatible with the Comprehensive Plan than that which could be permitted without the PUD zoning.

The key consideration for the Commission and Council is the request to allow for the increased density under Option C. PUD overlay allows for consideration of up to 18 dwelling units per acre. At 1.295 acres, the previous approval for a maximum of 18 units under Option A translated to 13.9 units per acre. Option C for 23 units would maximize the density allowable for consideration (at 17.75 units per acre). As previously noted, this Option would provide for fewer two-bedroom units and additional one-bedroom/studio units.

RECOMMENDATION

A favorable motion could read

MOVE the Commission 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.

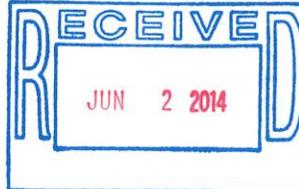
-OR-

An unfavorable motion should state reasons for recommending disapproval.

1720 Valley Avenue LLC
2200 Wisconsin Avenue NW, Suite 100
Washington DC 20007

May 30, 2014

Mr. Timothy Youmans
Planning Director
Rouss City Hall
15 North Cameron Street
Winchester VA 22601



Dear Mr. Youmans,

Please allow this letter to serve as a request to the City Council to allow Revisions to a previously approved Rezoning (Winchester Case # RZ-13-292, B-2 with Planned Unit Development overlay and Corridor Enhancement overlay) for 1720 Valley Avenue in the City of Winchester. 1720 Valley Avenue LLC is the owner of the land and buildings that housed the former Coca Cola Bottling Works at that location.

The previously approved rezoning for the site provided for a residential/retail mix with two different optional plans of development;

Option A

5,678 sf commercial space
18 du residential (13 two bedroom, 2 one bedroom with den, and 3 one bedroom)

Option B

8,049 sf commercial space
16 du residential (12 two bedroom, 2 one bedroom with den, and 2 one bedroom)

Our PUD Revision request is to add an Option C development plan as follows:

Option C

5,678 sf commercial space
23 du residential (10 two bedroom and 13 one bedroom/studio)

Option C does not require any change to the existing footprint of the building and the total amount of area in the development is not increased. Option C merely provides for different dwelling unit mix with more one bedroom/studio units in lieu of two bedroom units.

The previously approved plan included significant site improvement providing 45 on-site parking spaces and 14 street parking spaces (for a total parking count of 59 spaces) and extensive landscaping as part of the improved site plan. There are no changes to the previously approved site improvements with this Revision.

To accomplish this mix of units we respectfully request approval of our Revision to the previously approved Planned Unit Development overlay for the site to add the Option C development option with a maximum of 23 dwelling units which is in conformance with the allowable PUD density of 18 dwelling units per acre.

In line with the comprehensive plan for the City of Winchester this development will “respect the significant historic identity” of the building by maintaining the historically significant façade as a commercial space. Additionally this project will contribute to the comprehensive plan goal of making Winchester a “Community of Choice” by providing a unique residential experience that could appeal to a wide variety of potential renters.

Please feel free to contact our team should you have any further questions.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Mr. J. A. Scallan', with a long horizontal flourish extending to the right.

Mr. J. A. Scallan

info@scallanproperties.com

(202) 544-6500 (ext. 701)

The Bottling Works
RZ-13-292
PLANNED DEVELOPMENT REVISION
(Conditions for this rezoning revision request)

Tax Map Number: 231-04-K-8A

Owner: 1720 Valley Avenue LLC



Dated: May 30, 2014

Property Information:

The undersigned applicant hereby proffers that in the event the Council of the City of Winchester approves the Planned Development Revision for the previously approved Planned Development Zoning (Case RZ-13-292) of 1.295 acres of land including existing buildings at 1720 valley Avenue from B-2 (Highway Commercial) to B-2 with a Planned Unit Development (PUD) overlay then the development and adaptive reuse of the existing buildings will be completed in conformity with the terms and conditions as set forth below, except to the extent that such terms and conditions may be subsequently revised by the applicant due to constraints and requirements of the Virginia Department of Historic Resources or the United States Department of the Interior. In the event that the Planned Development Revision is not granted these proffers shall be deemed withdrawn. These proffers shall be binding on the applicant and their legal successor and assigns.

Improvements

1. The property will be developed and landscaped substantially in conformance with the Development Plan dated May 30, 2014, Option A and Option B Building Plans dated August 2, 2013 and Option C Building Plans and Elevations dated May 30, 2014. The site will be improved to include parking, storm water management and green space landscaping maintained by a landscape contractor. The drawings depict the style and character of the interior spaces.
2. The facades of the existing buildings will be developed substantially in conformance with the submitted Elevations, dated May 30, 2014, that depict the style and character of the design. The development will preserve the historic facades of the original 1940s Coke building while adding fenestration and other surface treatments to the more recent facades to improve their character. These improvements will make the newer facades more compatible with the historic Coke building and the new interior uses. The improvements on the facades include but may not be limited to stucco, glass entry systems, metallic panels, entry canopies and appropriate lighting.
3. The materials and methods used in the adaptive reuse of the existing building will conform to the rigorous standards and practices as described in the United States Secretary of the Interior's Rehabilitation Standards for Historic Buildings.

4. The maximum number of residential units shall be limited to 23. The units will be a mix of studio, 1 bedroom and 2 bedroom units. There will be no 3 bedroom units.
5. The maximum amount of rentable commercial/retail space will be 8,049 Sq. Ft.
6. The residential apartments will be constructed to a high standard of finish and designed to express the industrial style of the building. The units will be loft like spaces with high open ceiling spaces, exposed steel framing, exposed concrete floors and industrial stairs.
7. The interior of the commercial/retail space will meet the standards of the Virginia Department of Historic Resources and the US Department of the Interior to qualify for their Historic Preservation Certification program and will reflect the industrial character of the building.
8. The residential and commercial/retail space will be operated under a set of rules and regulations developed by the Owner to ensure a safe, high quality environment for all tenants. These rules and regulations may be amended by the Owner from time to time at its sole discretion.
9. The construction phase of the project will commence within 24 months of the Planned Development Revision approval. The construction of the project is estimated to require 12 months.

These proffers are offered in conjunction with the Development Plan, dated May 30, 2014, Option A and Option B Building Plans dated August 2, 2013 and Option C Building Plans and Elevations dated May 30, 2014. If the Planned Development Revision is approved by the City Council a full set of construction plans will be developed from these design documents and submitted for review and approval by the appropriate departments of the City of Winchester. If the plans are approved by the reviewing City departments these proffered conditions will apply to the rezoned land and existing buildings and be binding upon the applicant, their successors and assigns.

Applicant:



1720 Valley Avenue LLC

By Mr. J. A. Scallan

Managing Member

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 LAND AT 418 MERRIMANS LANE (*Map Number 169-01-3*) FROM LR DISTRICT TO EIP DISTRICT AND B-2 DISTRICT.

REQUEST DESCRIPTION

On May 10, 2005, City Council approved a proffered rezoning for parcels owned by the Smith Estate near the intersection of Merrimans Lane and Amherst Street (prior to the realignment of Merrimans Lane into the short segment of Meadow Branch Ave built in conjunction with the CVS Pharmacy). Ridgewood Orchard (the current owners of the undeveloped Smith Estate land) and DBL Holdings (owners of a landlocked parcel adjoining the Ridgewood Orchard land) seek rezoning of their lots. The request entails amending the approved Smith Estate proffers to relocate the Meadow Branch Avenue right-of-way and revise the underlying zoning to support school use, highway commercial uses, and a different form of residential use than anticipated with the 2005 rezoning. The DBL Holdings property would be rezoned from conventional LR zoning to EIP for school use in addition to a small strip along the northern boundary being rezoned to B-2 with proffers. A small portion of the Ridgewood Orchard property fronting along the east side of Merrimans Lane would be left LR as a single-family residential buffer to any new commercial use.

The original version of this rezoning request submitted on June 2, 2014 would rezone the Ridgewood Orchard land to B-2, HR and EIP, with conditions. The B-2 area would extend between a proposed EIP District in the center area of the tract and the existing B-2 District boundary aligning with the rear of the CVS and the intersection of Merrimans at Meadow Branch Avenue. Uses on the B-2 land would be generally restricted to those allowed under the current zoning for the same area (i.e. the CVS site). The applicant's originally submitted proffers would have excluded uses believed to be inappropriate for this area. Uses on the proposed High Density (HR) area east of Meadow Branch Avenue would be anything as allowed in the HR District as spelled out in Section 5 of the Zoning Ordinance. This includes multifamily and townhouse use by right as well as nursing homes with approval of a CUP. The originally proposed HR zoning would permit up to 13.2 dwelling units per acre by right. The EIP District, proposed along the west side of Meadow Branch Avenue, would be established for public school use.

The latest revised version of the rezoning request 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.

The rezoning also removes all of the subject acreage from the existing Amherst Street Corridor Overlay (CE) District. In the applicant's cover memo dated June 2, 2014 (Revised June 4, 2014), it is stated, that "it is the opinion of the owners that while the design standards provided in the CE Overlay section of the ordinance are effective when dealing with the smaller B-2/RO-1 properties bordering Amherst Street,

the building size requirements and administration of the reviews and approvals would make development of the proposed larger commercially zoned parcels more cumbersome. Therefore, we would propose that Corridor Enhancement Overlay be removed from the subject parcels, but the corridor overlay design standards have been imposed on the areas zoned B-2.”

AREA DESCRIPTION

The subject Ridgewood Orchard site is vacant, except for an unused driveway extending from Merrimans Lane to the Sacred Heart Church. Land adjacent to the site to the west and east is zoned LR, including a wedge-shaped portion of the Ridgewood Orchard site that is not proposed for rezoning from LR. Land across Merrimans Lane further to the west includes the First Christian Church with frontage on Merrimans Lane and Amherst Street. Land further south along the west side of Merrimans Lane includes single-family residences, primarily on oversized lots. The mostly vacant DBL Holdings lot is a vacant landlocked tract that formerly housed a storage facility for a heating and cooling contractor. There is one storage building on the site that is proposed for demolition in conjunction with the school project.



Land to the south is part of the Moffett Estate and is primarily undeveloped. The easternmost portion of the Moffett land was conditionally rezoned from LR to MR in 2008 to support medium density residential use along the east side of Meadow Branch Avenue extended. Land to the southeast and east includes undeveloped portions of the Glass-Glen Burnie Foundation. The Sacred Heart property immediately to the east contains a church and private school in addition to a residential unit. Land to the north is zoned conditional B-2 and includes the CVS store as well as two vacant tracts of land, one to the east of the CVS and one on the opposite side of Meadow Branch Avenue to the west. Land further to the north across Amherst Street is zoned Residential Office (RO-1) and Medical Center (MC) and contains bank, medical office, and regional medical center uses.

STAFF COMMENTS

The adopted 2011 Comprehensive Plan called for the extension of Meadow Branch Avenue between Amherst Street and Buckner Drive and envisioned mixed use, New Urbanism-type development with a variety of housing types. **A 2014 revision to the 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 Estate established a mix of zoning designations on the 36-acre parcel to the west of the Sacred Heart property. All but two acres adjacent to Merrimans Lane was rezoned from LR to more intensive zoning. The southernmost (rear) 16 acres were rezoned from LR to MR. The middle 15 acres were rezoned from LR to RB-1. The front 3 acres were rezoned to B-2. The

proffer statement included use restrictions, design standards, and provisions controlling the timing of construction of Meadow Branch Avenue and the Green Circle Trail along one side of the 4-lane divided roadway.

The current rezoning request is outlined in the attached cover memo dated June 2, 2014 and revised on June 4th from Ron Mislowsky of Pennoni Associates, applicant for the two property owners. The conditional rezoning request includes a proffered Generalized Development Plan (GDP) **originally dated June 4, 2014 and most recently revised on July 11, 2014. It depicts** the proposed alignment of Meadow Branch Avenue and the configuration of the three proposed zoning districts. While the GDP does not depict the Green Circle Trail along Meadow Branch Avenue itself, a spur connecting to the Glen Burnie property is depicted across the 10.59-acre portion of the site over which **MR zoning without the 2005 proffers is now requested.** That spur trail alignment is consistent with the amendment to the Comp Plan.

The GDP depicts two land bays for conditional B-2 commercial use, mostly within the bounds of the area currently zoned RB-1. On the east side of Meadow Branch Ave is a smaller 2-acre site and on the west side is a larger 9.62-acre land bay. This includes a small portion of the DBL Holdings property. The proposed boundary for the EIP district on a majority (about 3 acres) of the DBL Holdings property and a little over 6 acres of the Ridgewood property is consistent with the proposed amended Comprehensive Plan and the Comprehensive Agreement approved by the City School Board as part of the JKES PPEA project. Most of the proposed EIP district within the Ridgewood property is area that is currently zoned MR where up to 40 single-family homes were proffered in 2005.

The area depicted on the GDP as Land Bay 'C' is a 10.59-acre portion of the site situated along the east side of Meadow Branch Avenue extending from the Sacred Heart property on the north to the Moffett Estate property to the south. **This predominantly MR district includes a conspicuous "tail" of RB-1 zoned land situated between the Sacred Heart property and the proposed Meadow Branch Ave right of way boundary. Most of this area was** part of the 16-acre conditional MR land from the 2005 rezoning with the exception of the tail and a little corner near the tail that was within the area zoned RB-1. The proposed zoning boundaries do correspond well with the existing zoning boundaries due to the proposed realignment of Meadow Branch Avenue to swing eastward of the school site.

The Proffer Statement dated June 2, 2014 and revised June 4, 2014 (reviewed at the 7/8/14 work session) included proffers organized under 6 headings (A through F) that related to the following:

- A. Design Standards for B-2 Development**
- B. Allowed Uses in the B-2 District (Land Bay A)**
- C. Use Allowed in the EIP District(Land Bay B)**
- D. Use Allowed in the HR District(Land Bay C)**
- E. Phasing of Development**
- F. Construction of the Public Roads**

The latest revised Proffer Statement dated July 11, 2014 includes proffers organized under 5 headings (A through E) that related to the following:

- A. Design Standards for B-2 Development**
- B. Allowed Uses in the B-2 District (Land Bay A)**
- C. Removal of Previous Proffers in Land Bay C**
- D. Phasing of Development**
- E. Construction of the Public Roads**

The proposed Design Standards mimic many of the provisions in the current Amherst Street CE overlay District that is proposed for removal from the site. The applicant wishes to have greater flexibility than presently allowed under CE zoning to construct a large footprint commercial building. The proffers related to B-2 District Use restrictions outline uses in the B-2 district regulations that would not be allowed. **The revised Proffer C now calls 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'.**

The proffer pertaining to Phasing of Development makes reference to the publicly administered Meadow Branch Avenue construction project and really ties occupancy permits in any of the Land Bays to a determination of the roadway being 'substantially complete' by the City Engineer. General zoning and occupancy provisions would otherwise preclude any occupancies before the public street is complete.

The final proffer pertaining to Construction of the Public Roadway references the dedication of the public right of way to the City as shown on the GDP. It makes specific reference to providing the spur trail across Land Bay 'C' as a 10-foot wide hiker/biker trail prior to occupancy permits in Land Bay 'C' and notes that the trail would be City maintenance responsibility. The exact alignment of the trail would be subject to adjustment as part of the final layout of uses in the proposed HR district. The last proffer also makes reference to the location of access points along Meadow Branch Avenue as being compliant with the proposed GDP. The access proposal also calls for an access easement over Land Bay 'C' to serve Sacred Heart.

RECOMMENDATION

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. While 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.

A favorable motion by the Commission to support the applicant's 7-14-14 request could read: MOVE, that the Commission forward RZ-14-351 to City Council recommending approval of the rezoning 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.

-OR-

A favorable motion by the Commission **to support the applicant's 7-14-14 request except to retain some CE district overlay zoning on the B-2 area closest to Amherst Street** could read:

MOVE, that the Commission forward RZ-14-351 to City Council recommending approval of the rezoning as depicted on an exhibit entitled "*Rezoning Exhibit RZ-14-351, Prepared by Winchester Planning Department, July 15 2014*" because the proposed B-2**(with some retained CE overlay)**, 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.

AN ORDINANCE TO CONDITIONALLY REZONE 33.40 ACRES OF LAND AT 200 MERRIMANS LANE 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 LAND AT 418 MERRIMANS LANE FROM LR DISTRICT TO EIP DISTRICT AND B-2 DISTRICT
RZ-14-351

WHEREAS, the Common Council has received an application from Pennoni Associates Inc. on behalf of Ridgewood Orchard LTD Partnership and DBL Holdings LLC to rezone property at 200 and 418 Merrimans Lane from conditional Residential Business (RB-1) with Corridor Enhancement (CE) District overlay, conditional Medium Density Residential (MR), and Low Density Residential (LR) to Highway Commercial (B-2) District without Corridor Enhancement (CE) District overlay, Educational, Institution And Public Use (EIP) District, Residential Business (RB-1) District, and Medium Density Residential (MR) District with revised proffers; and,

WHEREAS, the Planning Commission forwarded the request to Council on July 15, 2014 recommending approval of the rezoning as depicted on an exhibit entitled "*Rezoning Exhibit RZ-14-351, Prepared by Winchester Planning Department, July 14, 2014*" because the proposed rezoning supports a public school, supports economic development and is generally consistent with the Comprehensive Plan. The recommendation is subject to adherence with the 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; and,

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

NOW, THEREFORE, BE IT ORDAINED by the Common Council of the City of Winchester, Virginia that the following land is hereby rezoned from the existing zoning designation of conditional Residential Business (RB-1) with Corridor Enhancement (CE) District overlay, conditional Medium Density Residential (MR), and Low Density Residential (LR) to Highway Commercial (B-2) District without Corridor Enhancement (CE) District overlay, Educational, Institution And Public Use (EIP) District, Residential Business (RB-1) District, and Medium Density Residential (MR) District with revised proffers:

Approximately 36.77 acres of land at 200 and 418 Merrimans Lane as depicted on an exhibit entitled "*Rezoning Exhibit RZ-14-351, Prepared by Winchester Planning Department, July 14, 2014*".

BE IT FURTHER ORDAINED by the Common Council of the City of Winchester, Virginia that the rezoning is subject to adherence with the 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.



PENNONI ASSOCIATES INC.
CONSULTING ENGINEERS

MEMORANDUM

TO: Tim Youmans, Planning Director, City of Winchester
FROM: Ron Mislowsky, PE
DATE: June 2, 2014 Revised June 4, 2014
SUBJECT: Ridgewood Orchard and DBL Holdings Rezoning Application
CC: Kevin McKew, Winchester Public Schools
Tucker Conaboy, Caldwell and Santmyer Inc.
Ty Lawson



In 2005, the Winchester Common Council approved a proffered rezoning for parcels owned by the G.F. Smith Estate at the intersection of Merrimans Lane, Meadow Branch Avenue and Amherst Street. The current owners of the Ridgewood Orchard and DBL Holdings properties on Merrimans Lane desire to rezone their lots, amending the approved proffers dated 10 May 2005 to relocate the Meadow Branch Avenue right-of-way and revise the underlying zoning and allowed uses in the RB-1 and MR areas. In summary, we would propose that the affected land areas be rezoned to B-2, HR and EIP, with conditions.

Uses on the B-2 area between a proposed EIP District and Merrimans/Amherst, would be generally restricted to those allowed under the current zoning for the same area. We have excluded uses that we believe may be out of character for this area.

Uses on the HR area east of Meadow Branch Avenue Extended would be limited to uses as allowed by Winchester Zoning Ordinance Section 5.

The EIP District, west of Meadow Branch Avenue Extended would be used for a public school.

It is the opinion of the owners that while the design standards provided in the CE Overlay section of the ordinance are effective when dealing with the smaller B-2/RO-1 properties bordering Amherst Street, the building size requirements and administration of the reviews and approvals would make development of the proposed larger commercially zoned parcels more cumbersome. Therefore, we would propose that Corridor Enhancement Overlay be removed from the subject parcels, but the corridor overlay design standards have been imposed on the areas zoned B-2.

We have attached the signed application, the required fee and the proposed proffer statement including a generalized development plan. We would welcome the opportunity to meet with you to review any comments you might have on the application or answer questions.

PROFFER STATEMENT

A PROPOSED REZONING

for

A PORTION OF

TAX MAP PARCEL ID: 169-01-3 AND TAX MAP PARCEL ID: 149-1-7

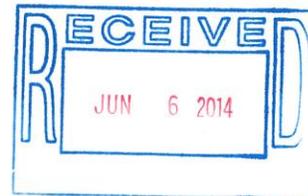
Prepared For: Ridgewood Orchard LTD Partnership
549 Merrimans Lane
Winchester, Virginia 22601

and

DBL Holdings LLC
4150 Martinsburg Pike
Clear Brook, Virginia 22624

Prepared By: Pennoni Associates Inc.
117 E. Piccadilly Street
Suite 200
Winchester, Virginia 22601
Tel: 540-667-2139

Original Date: June 2, 2014
Revision 1: June 4, 2014



PROFFER STATEMENT

PARCEL TAX MAP ID 169-01-3 AND
PARCEL TAX MAP ID 149-1-7

INTRODUCTION

This proposed rezoning involves two parcels of land within the City of Winchester. According to the tax records of the City of Winchester, Tax Map Parcel ID 169-01-3 contains approximately 3.4 acres and is currently zoned LR. Tax Map Parcel ID 149-1-7 contains approximately 33.4 acres and is currently zoned MR and RB-1 with conditions. These parcels are illustrated on the Proffered Generalized Development Plan (GDP).

Adjacent property to the west, south and east is generally zoned LR and MR. Properties to the north, between the parcels and Amherst Street, are zoned LR and B-2. The owners desire to rezone the subject land to provide a mixture of B-2 Highway Commercial District, HR High Density Residential District and EIP Education Institution Public District with conditions.

The owners recognize that since the parcels are located within the western entrance corridor to the City and about residential properties, church properties, and the Glen Burnie Foundation property, unique design standards must be implemented during the development of the parcels.

Acknowledging the importance of maintaining and enhancing certain characters desirable in this area, as well as the City in general, the owners are willing to proffer adherence to (A) design standards for all B-2 structures, (B) restrictions on the types of activities allowed in the B-2 zoning districts, (C) dedication of the right-of-way for public road improvements and (D) participation in the funding for extension of Meadow Branch Avenue as a VDOT locally administered project which qualifies for revenue sharing.

Pursuant to the applicable provisions of the City of Winchester Zoning Ordinance, the undersigned owners proffer that in the event that the City Council of the City of Winchester shall approve Rezoning Application #_____ for the rezoning of approximately 36.8 acres on Parcels 149-1-7 and 169-1-3 from LR, RB-1 and MR to B-2, HR and EIP, development of these parcels will be in conformity with the terms and conditions set forth in this document. These terms and conditions may be subsequently amended or revised by the owners of the property with permission from the City Council of the City of Winchester in accordance with City codes. These proffers shall be binding on the owners and their legal successors or assigns.

The conditions proffered herein supersede all prior proffers submitted by the owners on the affected Land Bays. All prior proffers affecting these areas are hereby revoked by the owners.

(A) PROFFERS RELATING TO DESIGN STANDARDS FOR B-2 DEVELOPMENT

The land zoned B-2, within Land Bay A, shall be subject to the standards provided in the City of Winchester Zoning Ordinance Sections 14-2-2 and 14-2-6, except that the subsection 14.2-6.1c, regulating building size, will not apply.

Deviation from the design standards in Winchester Zoning Ordinance Sections 14-2-6.1a, 14-2-6.4a and 14-2-6.4e may be approved by the City of Winchester Planning Commission if it is determined the proposed design represents good planning practice and does not detract from the corridor appearance.

PROFFER STATEMENT

PARCEL TAX MAP ID 169-01-3 AND
PARCEL TAX MAP ID 149-1-7

(B) PROFFERS RELATING TO ALLOWED USES IN THE PROPOSED B-2 DISTRICT (LAND BAY A)

Structures to be erected and land to be used in the proposed B-2 district, Land Bay A, shall be as allowed by the Winchester Zoning Ordinance Section 8 except the following:

- 8-1-11 Building supplies and service with storage under cover.
- 8-1-24 Machinery sales and service.
- 8-1-32 Processing or manufacturing establishments that are not objectionable because of smoke, odor, dust, or noise, but only when such processing or manufacturing is incidental to a retail business conducted on the premises and where not more than ten (10) persons are employed on the premises in the processing or manufacturing activities.
- 8-1-41 Outdoor storage of materials and supplies and display of merchandise for sale or rent incidental to the conduct of any permitted uses on the lot as provided for in Section 18-20 of this Ordinance. (10/17/95, Case TA-95-04, Ord. No 053-95).
- 8-1-44 Wholesale businesses where loading areas are completely screened from public street view.
- 8-1-50 Assembling establishments not involved in any on site manufacturing that are not objectionable because of smoke, odor, dust, or noise with not more than ten (10) persons employed. (1/14/03, Case TA-02-10, Ord. No. 003-2003).

Additionally, for uses allowed under 8-1-39, Service stations, provided that all repair of vehicles take place in a fully enclosed building. (10/11/83, Case TA-83-06, Ord. No. 034-83), no outside amplified music will be permitted.

- 8-2-1 Mini-warehouses/mini-storage, as defined, subject to the following provisions. (5-16-78) (Revised section adopted 9-10-91, Case TA-91-02, Ord. No. 037-91).
- 8-2-2 Adult bookstores, adult motion picture theaters, and adult mini-motion picture theaters.
- 8-2-4 Entertainment Establishments, located less than 200 feet from a residentially zoned property.
- 8-2-7 Private clubs and lodges.
- 8-2-8 Roller Rinks.
- 8-2-9 Tourist homes.
- 8-2-10 Kennels.
- 8-2-10.1 Pet Daycare Center.
- 8-2-11 Single family detached dwellings. (9/12/89, Case TA-89-01, Ord. No. 022-89).
- 8-2-18 Group Home and assisted living facility in which no more than eight (8) persons reside as residential occupancy by a single family.
- 8-2-22 Short-term loan establishment.
- 8-2-23 Crematories.
- 8-2-24 Hookah establishment, as defined.
- 8-2-25 Accessory structure, used and occupied as a subordinate dwelling unit by a domestic employee, as defined.
- 8-2-26 Arenas, Amphitheaters, and Stadiums.
- 8-2-27 Home occupations.

PROFFER STATEMENT

PARCEL TAX MAP ID 169-01-3 AND
PARCEL TAX MAP ID 149-1-7

(C) PROFFERS RELATING TO USE IN THE PROPOSED EIP DISTRICT (LAND BAY B)

Structures to be erected and land to be used in the proposed EIP district in Land Bay B shall be as allowed by the Winchester Zoning Ordinance Section 16.1.

(D) PROFFERS RELATING TO USE IN THE PROPOSED HR DISTRICT (LAND BAY C)

Structures to be erected and land to be used in the proposed HR District in Land Bay C shall be as allowed by the Winchester Zoning Ordinance Section 5.

(E) PROFFERS RELATING TO THE PHASING OF DEVELOPMENT

The City of Winchester will construct Meadow Branch Avenue from Merrimans Lane south to Heth Place as a VDOT Locally Administered Project qualifying for State revenue sharing. No occupancy permits can be issued on the subject properties until road construction is substantially complete as determined by the City Engineer.

(F) PROFFERS RELATING TO THE CONSTRUCTION OF PUBLIC ROADS

The owners agree to dedicate through the parcels, the rights-of-way for the roads commonly known as Meadow Branch Avenue Extension and Merrimans Lane realigned, as generally shown on the Proffered GDP. Such dedication of rights-of-way and necessary easements, shall additionally allow for extension of the Green Circle Walking Trail.

At time of the development of Land Bay C, a 10 ft. hiker biker trail shall be constructed from the pedestrian access on the east side of Meadow Branch Avenue Extension to the Glass Glen Burnie Foundation property line. The walking trail shall be in place and necessary maintenance easements dedicated to the City of Winchester prior to occupancy permits being issued within Land Bay C. The route of the trail may be adjusted to best conform to the final layout for Land Bay C.

The entrances to Land Bays will be as generally shown on the GDP. The number of entrances to each Land Bay will be limited to that shown.

The conditions proffered above shall be binding on the heirs, executors, administrators, assigns, and successors in the interest of the owners. In the event that the City Council of Winchester grants this rezoning and accepts these proffers, then these proffers shall apply to the land rezoned in addition to the other requirements of the City of Winchester Codes.

SIGNATURES APPEAR ON THE FOLLOWING PAGE(S)

PROFFER STATEMENT
PARCEL TAX MAP ID 169-01-3 AND
PARCEL TAX MAP ID 149-1-7

Submitted By:

Ridgewood Orchard LTD Partnership

By: _____

Date: _____

STATE OF VIRGINIA, AT LARGE
FREDERICK COUNTY, To-wit:

The foregoing instrument was acknowledged before me this ____ day of _____, 2014,
by _____.

My commission expires on _____

Notary Public _____

PROFFER STATEMENT
PARCEL TAX MAP ID 169-01-3 AND
PARCEL TAX MAP ID 149-1-7

Submitted By:

D B L Holdings LLC

By: _____

Date: _____

STATE OF VIRGINIA, AT LARGE
FREDERICK COUNTY, To-wit:

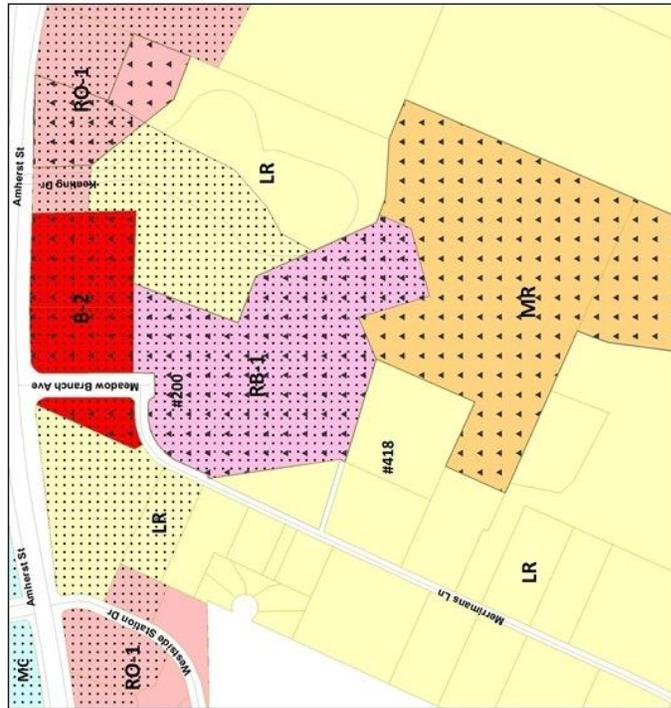
The foregoing instrument was acknowledged before me this _____ day of _____, 2014,
by _____.

My commission expires on _____

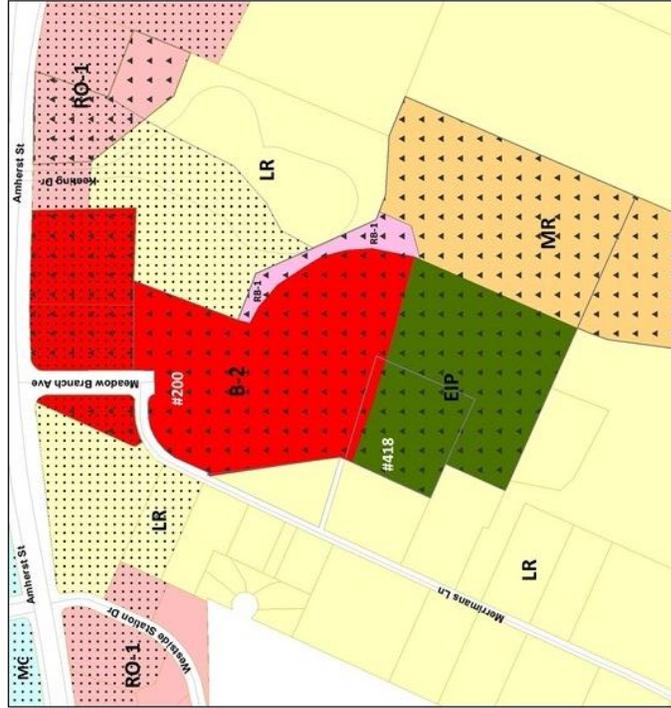
Notary Public _____

REZONING EXHIBIT RZ-14-351

PREPARED BY WINCHESTER PLANNING DEPARTMENT
JULY 14, 2014



EXISTING:
200 MERRIMANS LN
 Conditional RB-1 (CE)
 Conditional MR
 LR



PROPOSED:
200 MERRIMANS LN
 Conditional EIP
 Conditional B-2
 Conditional RB-1
 Conditional MR
 LR

418 MERRIMANS LN
 Conditional EIP
 Conditional B-2

