

**PLANNING COMMISSION**  
**DRAFT WORK SESSION AGENDA**  
**July 9, 2013 - 3:00 PM**  
**4th floor Exhibit Hall**  
**Rouss City Hall**

1. Review agenda for July 16, 2013 regular meeting
2. Committee Reports
3. Status of projects/actions pending Council approval
4. Announcements
  - a. Berryville Ave CE District Public meeting – Mon 7/15, 5-8pm, Hampton Inn North

**PLANNING COMMISSION**  
**DRAFT AGENDA**  
**July 16, 2013 - 3:00 PM**  
**Council Chambers - Rouss City Hall**

**1. POINTS OF ORDER**

- A. Roll Call
- B. Approval of Minutes – June 18, 2013 regular meeting
- C. Correspondence
- D. Citizen Comments
- E. Report of Frederick Co Planning Commission Liaison

**2. PUBLIC HEARINGS**

- A. **RZ-13-289** AN ORDINANCE TO REZONE 44.44 ACRES OF LAND AT 2410 AND 2416 PAPERMILL RD (*Map Numbers 272-01-8 AND 291-02-A-B*) FROM INTENSIVE INDUSTRIAL (M-2) DISTRICT TO HIGHWAY COMMERCIAL (B-2) DISTRICT (**Mr. Moore**)
- B. **RZ-13-292** AN ORDINANCE TO REZONE 1.295 ACRES OF LAND AT 1720 VALLEY AVENUE (*Map Number 231-04-K-8A*) FROM HIGHWAY COMMERCIAL (B-2) DISTRICT WITH CORRIDOR ENHANCEMENT (CE) DISTRICT OVERLAY TO B-2 DISTRICT WITH PLANNED UNIT DEVELOPMENT (PUD) AND CE DISTRICT OVERLAY (**Mr. Youmans**)
- C. **RZ-13-196** AN ORDINANCE TO REZONE 8.523 ACRES OF LAND AT 1900 VALLEY AVENUE, 211 AND 301 WEST JUBAL EARLY DRIVE (*Map Numbers 251-01-27-A, 251-01-31-A, AND 251-04-01-A*) FROM LIMITED INDUSTRIAL (M-1), HIGH DENSITY RESIDENTIAL (HR), AND HIGHWAY COMMERCIAL (B-2) DISTRICTS TO B-2 DISTRICT WITH PLANNED UNIT DEVELOPMENT (PUD) OVERLAY. *Public hearing continued from May 21 and June 18, 2013 meetings.* (**Mr. Youmans**)

**3. OLD BUSINESS**

- A. Resolution to initiate: **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 (**Mr. Grisdale**)

**4. NEW BUSINESS**

- A. Administrative Approval (**Mr. Moore**):
  - 1) **SP-13-355** 3136 Papermill Rd Southside Church of Christ - additions and parking

**5. ADJOURN**

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

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**REQUEST DESCRIPTION**

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

**AREA DESCRIPTION**

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



**STAFF COMMENTS**

City staff believes that B-2 zoning of the Federal Mogul property will better result in development consistent with the Comprehensive Plan than the current M-2 zoning. The industrial use by Federal Mogul (formerly Abex) has ceased. Redevelopment of the site with uses compatible with major commercial use along most of S. Pleasant Valley Rd is envisioned. Specifically, the Comprehensive Plan includes the following:

Chapter 4: Economic Sustainability

Citywide Economic Development Objective #9:

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

Chapter 9 – Future Development

Character Map identifies:

northern part of land as Civic/Institutional or Park

southern part of land as Commerce Area Revitalization/Infill

## Chapter 11 – Southeast Planning Area

### Environment:

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

The proposed B-2 zoning would allow for harmonious land use, particularly with respect to restaurants providing outdoor dining and with the residential uses in close proximity to the west.

### RECOMMENDATION

A favorable recommendation could read:

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

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

**RZ-13-289**

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

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

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

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

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

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

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

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

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

# REZONING EXHIBIT

**RZ-13-289**

PREPARED BY WINCHESTER PLANNING DEPARTMENT

May 22, 2013



EXISTING

M-2 ZONING FOR 2410 AND 2416 PAPERMILL ROAD



PROPOSED

B-2 ZONING FOR 2410 AND 2416 PAPERMILL ROAD

**RZ-13-292** AN ORDINANCE TO REZONE 1.295 ACRES OF LAND AT 1720 VALLEY AVENUE (*Map Number 231-04-K-8A*) FROM HIGHWAY COMMERCIAL (B-2) DISTRICT WITH CORRIDOR ENHANCEMENT (CE) DISTRICT OVERLAY TO B-2 DISTRICT WITH PLANNED UNIT DEVELOPMENT (PUD) AND CE DISTRICT OVERLAY

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#### REQUEST DESCRIPTION

The request is to establish PUD zoning over the existing B-2 (CE) zoning on the Coca-Cola property along the east side of Valley Avenue. No proffers are included with this rezoning. Approximately 4,600 square feet of existing ground floor office and some of the warehouse structure at 1720 Valley Avenue would be converted to retail use and the remainder of the structure (including newly created second story space) would be converted to apartment use known as 'The Bottleworks.' PUD allows for consideration of up to 18 residential units per acre; the proposal is for 18 apartment units on 1.295 acres.

The submitted Development Plan **dated [redacted], 2013** depicts the existing structure and 60 on-site parking spaces as well as 14 parallel parking spaces within the adjoining public street rights of way along Roberts Street and Burton Street. Floor plans dated May 21, 2013 submitted with the original application depict eight (8) two-story apartments in the northern warehouse addition, which today is a single-story high bay warehouse space. Six (6) additional ground-floor apartments are depicted in the warehouse space to the rear of the proposed retail space and four (4) second story apartments are proposed above the retail space in the southwest part of the building.

#### 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 Street 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 rezoning tract to the south is zoned Medium Density Residential (MR). Use of the 5 MR lots is single-family detached. Land across Robert 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 with the rezoning

request. Land across Valley Ave to the west is zoned MR and contains single-family homes and a couple of apartments.

At 1.295 acres in size, the proposed PUD is considerably below the 5-acre minimum called out in Section 13-1-4.1 of the Zoning Ordinance. Staff advised the applicant to try to work with the owner of the mixed use development at 1650 Valley Ave immediately to the north across Burton Avenue. That property owner (Omni LC) considered the invitation, but subsequently declined. However, the Zoning Ordinance allows for the Planning Commission to recommend and City Council to approve a waiver of the 5-acre minimum when the applicant can show that strict adherence would produce unnecessary hardship and preclude development that is more compatible with the Comprehensive Plan than that which could be permitted without the PUD zoning.

#### STAFF COMMENTS

In a letter to the Planning Director dated May 31, 2013, Mr. J.A. Scallan, co-owner and applicant (1720 Valley Avenue LLC) explains the proposed rezoning and the proposed mixed use project. The Development Plan consists of a mark up of an older conceptual site layout plan titled 'Proposed Office Complex Coca-Cola Plan Renovation' dated November 11, 2011. That plan had been prepared for a proposed office development that did not materialize.

#### Comprehensive Plan Consistency

The comprehensive plan calls for Commerce Center/Corridor reuse incorporating New Urbanism while also protecting significant private architectural resources such as the Coca-Cola plant. In Chapter 4 – Economic Development & Appendices, the Coca-Cola plant is identified as a Key Site to improve/change by citizens participating in Comp Plan public input meetings. In general the Plan advocates the following:

#### 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.”

#### Citywide Housing Objective #6:

“Promote decent affordable housing, particularly to serve targeted populations such as young professionals and retirees.”

The proposed upscale industrial loft-styled apartments would serve these targeted populations. The site is also situated in close proximity to a transit stop on the Valley Avenue bus route.

#### Potential Impacts & Proffers

The applicant has not submitted voluntarily proffers to mitigate potential impacts arising from the rezoning of the property to establish PUD overlay zoning. However, the impacts from this rezoning appear to be positive impacts. It is unlikely that the 13 two-bedroom units and the 5 one-bedroom units will create negative impacts in the form of school-aged children requiring public education. The applicant notes that the industrial loft apartments will instead appeal to young professionals and empty-nesters.

Staff informed the applicant that the Planning Commission was not likely to require a Fiscal Impact Analysis and a Traffic Impact Analysis which are two studies that can be required by the Planning Commission for a PUD rezoning application per Sections 13-4-2.2k and l of the Zoning Ordinance.

#### Site Development and Buffering

The applicant should consider the need for buffering to screen the first floor apartments in the building. The applicant is proposing some semi-private patios for four of the apartments that face to the main parking lot at the Roberts St (east) end. Screening should be called out for the boundary in common with the MR zoned single-family lots along the north side of Bellview Ave to the southeast.

#### Recreation and Open Space

The applicant is not proposing any recreational amenities. Staff has suggested that the applicant consider providing additional private patios for units 9, 10, and 11 on the ground level and rooftop patios for units 15 & 16 that look out over the one-story warehouse space. The applicant has also been asked to reduce the amount of impervious asphalt and concrete coverage on the site since the proposed mix use will require many fewer spaces than the previously proposed office use and the obsolete industrial use.

#### Storm water Management

Storm water management will need addressed, but can be handled during the time of site plan review.

#### Density

The applicant proposes 5 one-bedroom units, and 13 two-bedroom units. PUD overlay allows for consideration of up to 18 dwelling units per acre, which in the case of 1.29 acres would translate to a maximum of 23 dwelling units. The applicant is proposing a total of 18 dwelling units. The actual project density comes out to 13.9 units per acre.

#### Project Phasing

The applicant has not indicated that there is any proposal to phase in the project as part of the PUD rezoning. It is likely, in the current economy, that some or all of the 4,600 square feet of retail (or other nonresidential use) will remain vacant longer than the apartment use.

#### Other Issues

The applicant has not addressed all of the requirements for a complete PUD proposal as spelled out in Section 13-4 of the Zoning Ordinance. Among the Development Plan requirements not included are the following:

- Vicinity Map
- Total tract area
- Topography with contour intervals
- Concept plan showing accurate relationship of proposed uses
- Land Use Plan showing setbacks from streets, traffic circulation patterns, open spaces, etc.
- Approximate location of existing and proposed utilities
- Location of all screening and percent of green space provided vs. required
- Plan or statement detailing improved recreational open spaces
- A plan or statement detailing covenants, restrictions, and conditions pertaining to the use, maintenance and operation of common spaces, and,

### Design Quality

The applicant has submitted floor plans for this rezoning proposal, but there is no proffer ensuring adherence to the submitted plans. The submitted typical floor plans depict the size and configuration of the various unit types and the location of the retail space. The floor plans show numerous skylights and window walls allowing for natural light into the otherwise windowless corridors and some windowless bedrooms.

Elevations should also be provided to ensure that architectural integrity of the historic structure is preserved where applicable, especially on the Valley Avenue elevation. The site is situated within the Valley Ave Corridor Enhancement (CE) District so all exterior modifications will be subject to review and approval of a CE Certificate of Appropriateness. The introduction of doors and windows and the removal of overhead doors will bring the building into greater compliance with the CE standards and guidelines. While building elevations and floor plans are not explicitly required for PUD applications, Section 13-4-2 of the WZO states that the Development Plan shall contain supplementary data for a particular development, as reasonably deemed necessary by the Planning Director.

### RECOMMENDATION

Generally, staff feels that the proposal is consistent with many of the broader elements of the City's long-term vision to attract more young professionals and empty-nesters to the City. Staff feels that the use of the PUD provision for this 1.295-acre site is acceptable even though it is considerably less than five acres in size.

A motion for a **favorable** recommendation could read:

**MOVE**, that the Planning Commission forward Rezoning **RZ-13-292** to City Council recommending approval because the proposed B-2 (CE)(PUD) zoning, supports mixed use and the expansion of housing serving targeted populations as called out in the Comprehensive Plan. The recommendation is subject to adherence with the Development Plan titled ' [REDACTED] ' dated [REDACTED], 2013.

The Planning Commission recommends that City Council approve 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 has shown 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.

A motion for an **unfavorable** recommendation on the request could read:

**MOVE**, that the Planning Commission forward Rezoning **RZ-13-292** to City Council recommending disapproval because the application for the proposed B-2 (CE)(PUD) zoning as submitted: *{pick any or all of the following}*

- a) is incomplete with regard to information required to be shown on the Development Plan as per Section 13-4-2 of the Zoning Ordinance.
- b) is less than 5 acres in size and the applicant has not demonstrated a clear hardship;
- c) would result in development less desirable than the existing B-2 (CE) zoning,
- d) lacks sufficient quantity and quality of open space and recreational amenities; and,

- e) lacks measures to mitigate potential negative impacts such as inappropriate exterior changes or undesirable residential unit layout since there are no proffers included with the rezoning request.

A motion to table could read:

**MOVE**, that the Planning Commission table Rezoning **RZ-13-292** for one month because the application for the proposed B-2 (CE)(PUD) zoning as submitted is incomplete.

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

Planning Dept.  
Rouss City Hall  
15 North Cameron Street  
Winchester VA 22601

May 31<sup>st</sup> 2013



To whom it may concern,

Please allow this letter to serve as a request to the City Council to allow a Planned Unit Development 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 proposed plan for the Planned Unit Development consists of a retail space fronting on Valley Avenue of approximately 4,600 square feet and eighteen total apartments including 13 two bedroom two bath and 5 one bedroom one bath. The proposed apartments will be true "industrial loft style" units and will make the best possible use of the historic fabric of the existing building.

The plan also includes significant site improvement providing 60 on site parking spaces and 14 street parking spaces and extensive landscaping as part of the improved site plan.

To accomplish this mix of units we respectfully request a Planned Unit Development overlay for the site to allow residential apartments on the first floor and to increase the allowable density of apartments in B-2 zone to the maximum allowable in a PUD 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 would appeal to a wide variety of potential renters including young professionals and retirees.

If approved, this plan will transform the existing historic structure into a vibrant exciting place that will contribute greatly not only to the major tourist artery of Valley Avenue but also to the stock of successful adaptive reuse projects in the City of Winchester.

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

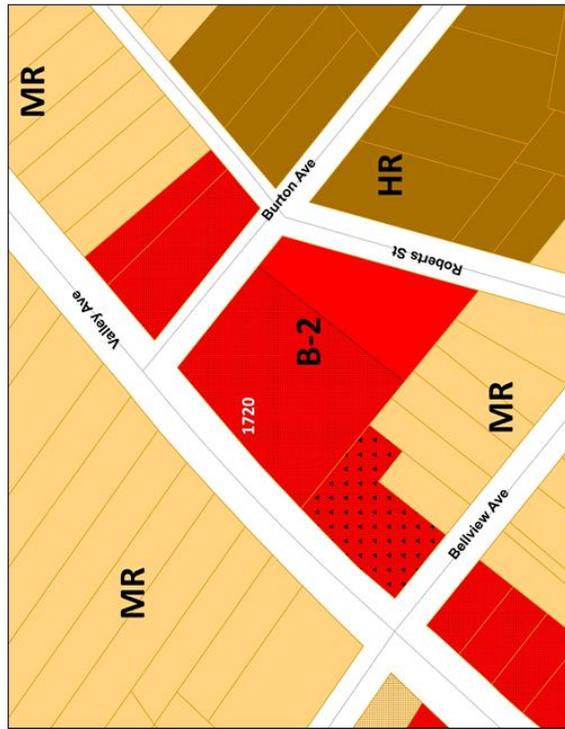
Yours faithfully,

  
Mr J. A. Scallan  
[info@scallanproperties.com](mailto:info@scallanproperties.com)  
(202) 544-6500 (ext. 700)

# REZONING EXHIBIT

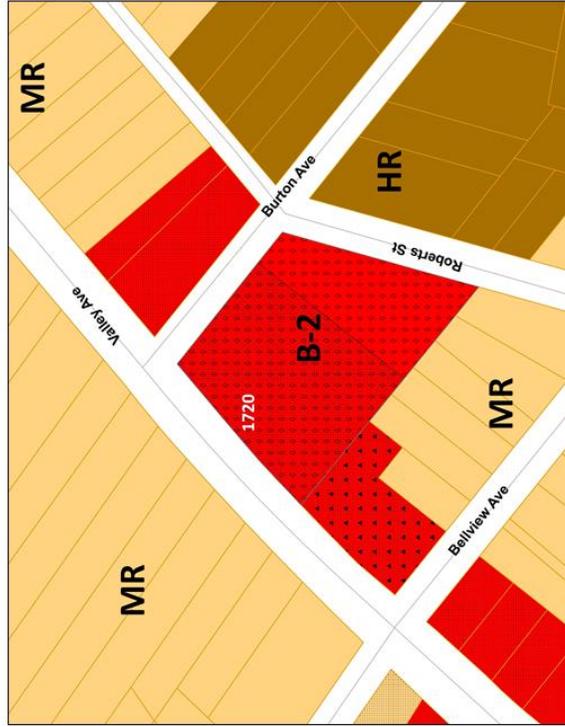
## RZ-13-292

PREPARED BY WINCHESTER PLANNING DEPARTMENT  
JULY 2, 2013



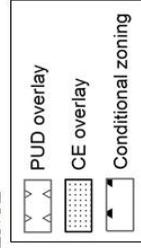
EXISTING

B-2 (part CE) ZONING FOR 1720 VALLEY AVENUE



PROPOSED

B-2 (PUD/part CE) ZONING FOR 1720 VALLEY AVENUE



AN ORDINANCE TO REZONE 1.295 ACRES OF LAND AT 1720 VALLEY AVENUE FROM HIGHWAY COMMERCIAL (B-2) DISTRICT WITH CORRIDOR ENHANCEMENT (CE) DISTRICT OVERLAY TO B-2 DISTRICT WITH PLANNED UNIT DEVELOPMENT (PUD) AND CE DISTRICT OVERLAY

**RZ-13-292**

**WHEREAS**, the Common Council has received an application from J. Andrew Scallan on behalf of 1720 Valley Avenue LLC to rezone property at 1720 Valley Avenue from Highway Commercial (B-2) District with Corridor Enhancement (CE) District Overlay to Highway Commercial (B-2) District with Planned Unit Development (PUD) and Corridor Enhancement (CE) District Overlay with; and,

**WHEREAS**, the Planning Commission forwarded the request to Council on [REDACTED], 2013 recommending approval of the rezoning request as depicted on an exhibit entitled “*Rezoning Exhibit RZ-13-292 Prepared by Winchester Planning Department July 2, 2013*” because the proposed B-2 (PUD) (CE) zoning, supports mixed use and the expansion of housing serving targeted populations. The recommendation is subject to adherence with the Development Plan titled ‘ [REDACTED] ’ dated [REDACTED], 2013; and,

**WHEREAS**, a synopsis of this Ordinance has been duly advertised and a Public Hearing has been conducted by the Common Council of the City of Winchester, Virginia, all as required by the Code of Virginia, 1950, as amended, and the said Council has determined that the rezoning associated with this property herein designated supports mixed use and the expansion of housing serving targeted populations as called out in the Comprehensive Plan.

**NOW, THEREFORE, BE IT ORDAINED** by the Common Council of the City of Winchester, Virginia that the following land is hereby rezoned from the existing zoning designation of Highway Commercial (B-2) District with Corridor Enhancement (CE) District Overlay to B-2 District with Planned Unit Development (PUD) and Corridor Enhancement (CE) District Overlay:

Approximately 1.295 acres of land at 1720 Valley Avenue as depicted on an exhibit entitled “*Rezoning Exhibit RZ-13-292 Prepared by Winchester Planning Department July 2, 2013*”.

**BE IT FURTHER ORDAINED** by the Common Council of the City of Winchester, Virginia that the rezoning is subject to adherence with the Development Plan titled ‘ [REDACTED] ’ dated [REDACTED], 2013.

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

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#### REQUEST DESCRIPTION

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

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

#### AREA DESCRIPTION

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



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

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

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

#### STAFF COMMENTS

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

#### Comprehensive Plan Consistency

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

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

#### Potential Impacts & Proffers

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

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

The **July 1, 2013** version of the Proffer Statement for Jubal Square includes 8 proffers which are attached. Proffers # 1, and #4-7 are references to the submitted Development Plan. With the exception of the commitment to build the additional 5 feet of width of Green Circle Trail in updated Proffer #7, they do not address any impacts beyond which were already addressed with the mandatory Development Plan itself. Proffers #2&3 assure substantial conformity with submitted building elevations, specifically the elevations of the two buildings that would back up close to W. Jubal Early Drive. These two proffers do mitigate potential negative impacts related to quality of development and specifically the aesthetics of the new structures visible from one of the City's major east-west transportation corridors. New Proffer #8 references rules and regulations to ensure quality of the apartment complex. A draft set of Rules and Regulations was submitted on July 1, 2013.

Staff informed the applicant that the Planning Commission was likely to require a Fiscal Impact Analysis and a Traffic Impact Analysis which are two studies that can be required by the Planning Commission for a PUD rezoning application per Sections 13-4-2.2k and l of the Zoning Ordinance.

#### Fiscal Impact Analysis

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

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

#### Traffic Impact Analysis

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

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

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

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

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

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

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

#### Site Development and Buffering

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

#### Recreation and Open Space

The applicant is proposing an outdoor pool and patio area near the community building that would house management offices as well as some indoor recreation use. Proffer #6 notes the inclusion of the pool, clubhouse and fitness center as part of the amenities offered to residents of Jubal Square. The plan also depicts the segment of the Green Circle Trail that is called for along the W. Jubal Early Drive frontage.

#### Storm water Management

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

#### Density

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

#### Community Rules and Regulations

**Proffer #8 references rules and regulations for the development. These rules and restrictions will be included with the apartment leases and will ensure that the project meets high standards for maintenance and management of the complex.**

#### Project Phasing

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

#### Other Issues

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

**A letter from Mr. Denis Belzile, President & CEO of O'Sullivan Films to the Planning Director dated June 17, 2013 was received on June 17, 2013. In the letter, concerns are raised regarding the merit of establishing 140 residential units in close proximity to the existing multi-shift industrial operation. Mr. Belzile notes recent expansion at the industrial site and the possibility of further expansion.**

#### Design Quality

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

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

## RECOMMENDATION

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

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

A motion for a favorable recommendation could read:

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

A motion for an unfavorable recommendation on the request could read:

**MOVE**, that the Planning Commission forward Rezoning **RZ-13-196** to City Council recommending disapproval because the proposed B-2 (PUD) zoning as submitted: *{pick any or all of the following}*

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

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

**RZ-13-196**

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

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

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

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

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

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

Bluestone Land, L.L.C.

1821 Avon Street, Suite 200 Charlottesville, Virginia 22902  
Phone: 434-979-2900 Fax: 434-979-0001

April 3, 2013

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



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

Dear Mr. Youmans,

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

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

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

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

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

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

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

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

*[Signature Page Follows]*

Sincerely,

Bluestone Land, L.L.C.

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

By: William N. Park, its Manager



*Engineers • Surveyors • Land Planners*

May 1, 2013

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

**RE: Jubal Square Apartments**

Dear Mr. Park:

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

Sincerely,

A handwritten signature in black ink, appearing to read 'Brasil W. Hamrick, Jr.', written in a cursive style.

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

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

## JUBAL SQUARE TRAFFIC ANALYSIS

### Narrative

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

### Development Condition Number 1

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

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

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

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

**Development Condition Number 1 Continued**

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

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

**Development Condition Number 2**

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

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

**Conclusion**

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



Rouss City Hall  
15 North Cameron Street  
Winchester, VA 22601

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

## MEMORANDUM

TO: Tim Youmans, Planning Director

FROM: Perry Eisenach, Public Services Director

DATE: June 28, 2013

SUBJECT: Proposed Jubal Square Apartments

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

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

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

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

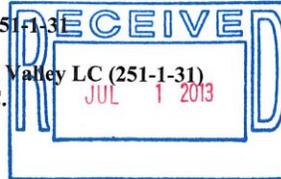
- d. I do recommend restricting parking on the south side of Service Road near the Valley intersection and adding striping to create a left turn lane and right turn lane for traffic turning onto Valley Avenue.

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

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

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

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



**Dated: July \_\_, 2013**

Property Information

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

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

Site Planning Improvements

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

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

4. The maximum number of residential units will be one hundred forty (140).
5. The entrance from Jubal Early Drive will be limited to right turn in and right turn out. Secondary access will be from the Service Road to Valley Avenue (U.S. Route 11).
6. Amenities for the development for use by residents shall include a community center with pool and fitness facility.
7. Upon request by the City, Applicant shall dedicate a ten (10') foot wide easement along Jubal Early Drive frontage for accommodation of the Green Circle Trail to be installed by applicant. The existing trail shall be increased to ten (10') foot wide.
8. The apartment complex shall operate under rules and regulations which shall be generated and amended from time to time by the owner of the apartment complex at its sole discretion. The applicant proffers to maintain rules and regulations in order to ensure the quality of the apartment complex.

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

*Signature page follows*

APPLICANT

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

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

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_,  
2013, by William N. Park, Manager of BLUESTONE LAND, L.L.C

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

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

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

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

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

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

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

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

OWNER (251-1-31)

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

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

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

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

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

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

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

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

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

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

## RULES AND REGULATIONS

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



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

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

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

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

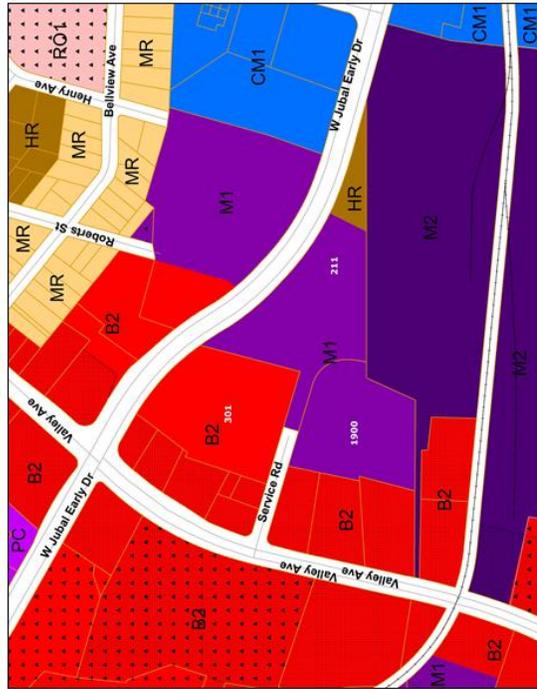
This is to certify that I/we the resident(s) received, read, understand and agree to abide by the Property Rules and Regulations. I/We understand that a violation of these Property Rules and Regulations is a default under the Lease Agreement.

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

# REZONING EXHIBIT

## RZ-13-196

PREPARED BY WINCHESTER PLANNING DEPARTMENT  
JUNE 4, 2013



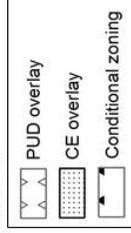
### EXISTING

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



### PROPOSED

CONDITIONAL B-2(PUD) ZONING FOR 211 & 301 W. JUBAL EARLY DR  
AND 1900 VALLEY AVE, LESS A 0.266 ACRE PORTION OF 301 W. JUBAL  
EARLY DR TO REMAIN B-2 WITHOUT PUD OVERLAY



**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**

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**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.

**Update for July 16, 2013 Planning Commission Meeting:**

Staff has taken into consideration the concerns and questions brought up by the Commission during the June meeting and tried to incorporate some revisions to the proposed text amendment. The updated amendment includes revisions to the definitions of *Restaurant* and *Entertainment Establishments*, to further clarify the intent of those particular definitions. Secondly, a modification was added to the use regulations to include the proximity to off-street parking areas to the dividing line between when the entertainment establishment is permitted by-right and with a conditional use permit. For any request of an outdoor entertainment establishment, it will require a CUP in each district where it is permitted.

Lastly, some basic standards were included for the *Entertainment Establishments* that will apply to all such uses. If a business intends to deviate from any of the uses it will require a conditional use permit. Staff desired to include provisions that mitigate the potential negative effects of these types of operations that are not directly covered by another enforcement jurisdiction: such as a requirement to pay taxes is already covered by the Commissioner of Revenue and City Treasurer’s offices, and loud noise concerns are covered by City Code and enforced by the Police Department.

## 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 an opportunity for a vibrant downtown as well as allowing for reasonable review of entertainment uses in close proximity to residential zones.

**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 3 –July 3, 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)~~  
**Repealed.**

~~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 for which no cover charge is required and 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, during any one hour or more, becomes the principal use during that time for the business' operations, or such entertainment occurs after 11:00 p.m., with or without dancing, and typically involving a cover or other charge for admission and event advertising. These venues shall not include theaters, bowling alleys, stadiums, arenas, or other separately defined uses.**

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 or the off-street parking area to the residential zone property line.**

SECTION 8-2. USES REQUIRING A CONDITIONAL USE PERMIT

8-2-4            ~~Nightclubs and dance halls.~~ **Entertainment Establishments, located less than 200 feet from a residentially zoned property, as measured from the structure containing the establishment or the off-street parking area to the residential zone property line, and such establishments where the entertainment will be conducted outdoors.**

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 or the off-street parking area to the residential zone property line.**

SECTION 9-2. USES REQUIRING A CONDITIONAL USE PERMIT

9-2-8            ~~Nightclubs and dance halls.~~ **Entertainment Establishments, located less than 200 feet from a residentially zoned property, as measured from the structure containing the establishment or the off-street parking area to the residential zone property line, and such establishments where the entertainment will be conducted outdoors.**

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 or the off-street parking area to the residential zone property line.**

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

- 10-2-3** ~~Nightclubs and dance halls.~~ Entertainment Establishments, located less than 200 feet from a residentially zoned property, as measured from the structure containing the establishment or the off-street parking area to the residential zone property line, and such establishments where the entertainment will be conducted outdoors.

**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 or the off-street parking area to the residential zone property line.

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

- 13-2-4.5** ~~Nightclubs and dance halls.~~ Entertainment Establishments, located less than 200 feet from a residentially zoned property, as measured from the structure containing the establishment or the off-street parking area to the residential zone property line, and such establishments where the entertainment will be conducted outdoors.

**ARTICLE 18**

**GENERAL PROVISIONS**

**Section 18-24 Entertainment Establishments**

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

**18-24-1 General Standards**

**18-24-1.1 All exterior doors and windows must remain closed during operating hours.**

**18-24-1.2 No more than three criminal police calls may be attributable to the establishment within a thirty day continuous period; after which private security shall be required.**

**18-24-1.3 Hours of operation on Sundays through Thursdays shall not occur outside of 8:00 a.m. to 11:00 p.m. and Fridays and Saturdays shall not occur outside of 8:00 a.m. until 2:00 a.m. the following day.**