

**WINCHESTER COMMON COUNCIL**  
**JANUARY 14, 2014**  
**AGENDA**  
**7:00 P.M.**

**CALL TO ORDER AND ROLL CALL**

**MOMENT OF SILENCE**

**PLEDGE OF ALLEGIANCE**

**APPROVAL OF MINUTES** – December 10, 2013 Regular Meeting

**REPORT OF THE MAYOR**

**REPORT OF THE CITY MANAGER**

**REPORT OF THE CITY ATTORNEY**

**1.0 PUBLIC HEARINGS**

- 1.1 O-2013-41:** Second Reading – AN ORDINANCE TO AMEND AND REENACT ARTICLES 3, 4, 5, 5.1, 6, 7, 8, 9, 13, AND 18 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO HOME OCCUPATIONS PERMITTED IN ACCESSORY STRUCTURES WITH A CONDITIONAL USE PERMIT **TA-13-493** (*Proposal to allow home occupations in accessory structures with a conditional use permit*)(**REQUIRES ROLL-CALL VOTE**)(**pages 3-11**)
  
- 1.2 CU-13-593:** Conditional Use Permit – Request of Michael Bortz on behalf of T-Mobile Northeast, LLC, to upgrade existing telecommunications facilities with replacement antennas at 799 Fairmont Avenue (*Map Number 153-01-2*) zoned Limited Industrial (M-1) District (**REQUIRES ROLL-CALL VOTE**)(**pages 12-25**)
  
- 1.3 Public Hearing:** An appeal of the decision by the Board of Architectural Review (BAR-13-524) requiring the removal of vinyl siding and replacement with wood siding for the property located at 16 West Monmouth Street zoned Residential Business (RB-1) District with Historic Winchester (HW) District overlay. (pages 26-63)

**2.0 PUBLIC COMMENTS**

**3.0 CONSENT AGENDA**

- 3.1 O-2014-02:** First Reading – AN ORDINANCE TO ADOPT SECTION 14-15 OF THE WINCHESTER CITY CODE PERTAINING TO USE OF PHOTO-MONITORING SYSTEMS TO ENFORCE LAW AGAINST PASSING STOPPED SCHOOL BUSES (*Allows the use of video monitoring systems on school buses for the purpose is issuing citations to motorists*)(pages 64-69)

- 3.2 Announce the term expiration of Allyson Pate as a member of the Social Services Advisory Board effective March 31, 2014 and direct the Clerk of Council to advertise the vacancy. Ms. Pate is not eligible for reappointment.

#### **4.0 AGENDA**

- 4.1 Announce the acceptance of the resignation of John Bishop as a member of the Winchester School Board effective January 6, 2014 and direct the Clerk of Council to advertise the vacancy
- 4.2 Motion to direct the Clerk of Council to prepare a Certificate of Appreciation for John Bishop for his service as a member of the Winchester School Board

#### **5.0 EXECUTIVE SESSION**

- 5.1 MOTION TO CONVENE IN EXECUTIVE SESSION PURSUANT TO §2.2-3711(A)(7) OF THE CODE OF VIRGINIA FOR THE PURPOSE OF RECEIVING LEGAL ADVICE AND STATUS UPDATE FROM THE CITY ATTORNEY AND LEGAL CONSULTATION REGARDING THE SUBJECT OF SPECIFIC LEGAL MATTERS REQUIRING THE PROVISION OF LEGAL ADVICE BY THE CITY ATTORNEY AND MATTERS OF ACTUAL OR PROBABLE LITIGATION AND PURSUANT TO §2.2-3711(A)(3) AND (6) FOR THE PURPOSE OF DISCUSSION OR CONSIDERATION OF THE SUBJECT OF THE ACQUISITION OF AN INTEREST IN REAL PROPERTY AND FOR THE PURPOSE OF DISCUSSION OF THE SUBJECT OF INVESTMENT OF PUBLIC FUNDS WHERE BARGAINING IS INVOLVED, AND WHERE IF MADE PUBLIC, THE BARGAINING POSITION OR FINANCIAL INTEREST OF THE CITY WOULD BE ADVERSELY AFFECTED AND PURSUANT TO §2.2-3711(a) (29) FOR THE PURPOSE OF DISCUSSION OF THE AWARD OF A PUBLIC CONTRACT INVOLVING THE EXPENDITURE OF PUBLIC FUNDS, INCLUDING INTERVIEWS OF BIDDERS OR OFFERORS, AND DISCUSSION OF THE TERMS AND SCOPE OF SUCH CONTRACT, WHERE DISCUSSION IN AN OPEN SESSION WOULD ADVERSELY AFFECT THE BARGAINING POSITION OR NEGOTIATING STRATEGY OF THE CITY AND PURSUANT TO §2.2-3711(A)(40) FOR THE PURPOSE OF DISCUSSION OF RECORDS EXCLUDED FROM CHAPTER 37 OF TITLE 2.2 OF THE CODE OF VIRGINIA PURSUANT TO SUBDIVISION 3 OF § 2.2-3705.6 AND PURSUANT TO §2.2-3711(A) (7) OF THE CODE OF VIRGINIA FOR THE PURPOSE OF DISCUSSION AND CONSIDERATION OF INFORMATION REGARDING THE SUBJECT OF THE EMPLOYMENT, ASSIGNMENT, APPOINTMENT, AND PERFORMANCE OF SPECIFIC PUBLIC OFFICERS APPOINTEES, AND EMPLOYEES OF THE CITY OF WINCHESTER INCLUDING THE APPOINTMENT OF OR PROSPECTIVE APPOINTMENT OF MEMBERS TO CERTAIN BOARDS AND COMMISSIONS.

#### **6.0 ADJOURNMENT**

**CITY OF WINCHESTER, VIRGINIA**

**PROPOSED CITY COUNCIL AGENDA ITEM**

**CITY COUNCIL MEETING OF:** 11/26/13 (Work Session), **CUT OFF DATE:** 11/20/13  
12/10/13 (First Reading) 1/14/14 (Second Reading/Public Hearing)

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

**ITEM TITLE:**

**TA-13-493 AN ORDINANCE TO AMEND AND REENACT ARTICLES 3, 4, 5, 5.1, 6, 7, 8, 9, 13, AND 18 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO HOME OCCUPATIONS PERMITTED IN ACCESSORY STRUCTURES WITH A CONDITIONAL USE PERMIT (*Proposal to allow home occupations in accessory structures with a conditional use permit*)**

**STAFF RECOMMENDATION:**

Approval.

**PUBLIC NOTICE AND HEARING:**

Public hearing required at second reading on 1/14/14.

**ADVISORY BOARD RECOMMENDATION:**

Planning Commission unanimously recommended approval.

**FUNDING DATA:** N/A

**INSURANCE:** N/A

The initiating Department Director will place below, in sequence of transmittal, the names of each department that must initial their review in order for this item to be placed on the City Council agenda.

| <u>DEPARTMENT</u>   | <u>INITIALS FOR APPROVAL</u>  | <u>INITIALS FOR DISAPPROVAL</u> | <u>DATE</u>       |
|---------------------|---|---------------------------------|-------------------|
| 1. Planning         |  |                                 | <u>11/20/13</u>   |
| 2. City Attorney    |  |                                 | <u>11/20/2013</u> |
| 3. City Manager     |  |                                 | <u>11-20-13</u>   |
| 4. Clerk of Council |   |                                 |                   |

Initiating Department Director's Signature:  11/20/13  
(Zoning and Inspections)



**APPROVED AS TO FORM:**  
  
CITY ATTORNEY

# CITY COUNCIL ACTION MEMO

**To:** Honorable Mayor and Members of City Council  
**From:** Aaron Grisdale, Director of Zoning and Inspections  
**Date:** November 26, 2013  
**Re:** Zoning Text Amendment (TA-13-493) – Home Occupations in Accessory Structures

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**THE ISSUE:**

The proposed Zoning Ordinance text amendment will modify the existing Zoning Ordinance language pertaining to allowing home occupations to occur in an accessory structure with a conditional use permit from City Council.

**RELATIONSHIP TO STRATEGIC PLAN:**

This text amendment correlates to the 2018 Goal #1 of “Grow the Economy” by providing for additional opportunities for residents to conduct gainful employment at their residential properties while mitigating potential negative impacts on neighboring properties.

**BACKGROUND:**

This publicly sponsored Zoning Ordinance text amendment is to allow for home occupations in accessory structures with a conditional use permit. Staff has received inquiries from citizens over the last several years regarding the ability to have a home occupation in their garage or similar detached accessory structure. Additionally, the amendment clarifies some types of occupations which are not permitted. (Full staff report attached).

**BUDGET IMPACT:**

No funding is required.

**OPTIONS:**

- Adopt the Zoning Ordinance Text Amendment
- Decline to adopt the Zoning Ordinance Text Amendment

**RECOMMENDATIONS:**

The Planning Commission recommended approved unanimously.

**TA-13-493 AN ORDINANCE TO AMEND AND REENACT ARTICLES 3, 4, 5, 5.1, 6, 7, 8, 9, 13, AND 18 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO HOME OCCUPATIONS PERMITTED IN ACCESSORY STRUCTURES WITH A CONDITIONAL USE PERMIT**

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**REQUEST DESCRIPTION**

This Zoning Ordinance text amendment was initiated by City Council as a publicly sponsored text amendment to revise the ordinance to allow for home occupations in accessory structures with a conditional use permit. Staff has received inquiries from citizens over the last several years regarding the ability to have a home occupation in their garage or similar detached accessory structure.

**STAFF COMMENTS**

Presently, the Zoning Ordinance provisions only permit a home occupation to be conducted in a dwelling unit in the main building on a property, with the exception of accessory garden uses. Staff recognizes that in today's economy there are greater numbers of individuals that are working from home or are looking to start a home business. This amendment would support this economic trend by allowing for a resident to request a conditional use permit (CUP) for a home occupation in an accessory structure by City Council.

In the slow economy over the past several years, citizens have been proactive in the utilization of the home occupation as a tool for self-employment and also as a starting point for growing a larger business before moving to a commercial location. In the years 2009-2012, the Zoning and Inspections department has approved on average 135 home occupations per year.

The intent to include the CUP requirement for these requests is due to the difference between main buildings and accessory structures regulations. Accessory structures, depending on the height, can be exempt from the setback provisions in a zoning district and may be located in greater proximity to a rear or side property line than main buildings. As a result there is a much higher likelihood of impacts on adjoining properties. By utilizing the conditional use permit review process, the Planning Commission and City Council can evaluate the potential impacts on neighboring properties and include conditions on the operation of the home occupation.

An application for a CUP for the home occupation would require the inclusion of the following:

- Property survey or sketch drawn to scale detailing the setbacks of the accessory structure and the proximity of structures on adjoining properties.
- A scaled interior site sketch illustrating the proposed home occupation in the accessory structure.
- A letter outlining the scope and nature of the occupation, involving operating hours, days of the week and similar details.

Additionally, this proposed text amendment clarifies some of the types of home occupations which are not permitted. Presently there are only five explicitly prohibited home occupations, including animal hospitals, auto repair, dance instruction, restaurants and tourist homes. Staff is recommending removal of dance instruction from this list. Staff also recommends inclusion of a few additional uses in this list,

most of which are use requests made by citizens over the past several years: massage therapy, motor vehicle uses, and kennels and pet daycare.

A provision was included which clarifies the intent of the home occupation standards (Section 18-19-2.2). The language added clarifies that there should be no interruption, congestion or change to character of the neighborhood in terms of traffic or vehicular parking resulting from a home occupation.

During the Planning Commission work session and public hearing there was discussion about the possibility of allowing some uses within accessory structures by-right, without a conditional use permit. After discussion there was not a unified opinion on the Commission about establishing such by-right uses at this point. Commissioners believed that this amendment is a solid first step in allowing additional opportunities for residents to conduct meaningful employment at their residence. They viewed this as an incremental process in first allowing uses with a CUP, and then exploring in the future the possibility of allowing a home occupation in accessory structures by right possibly at some point in the future.

#### RECOMMENDATION

At their November 19, 2013 meeting, the Planning Commission forwarded **TA-13-493** with a favorable recommendation because the amendment, as proposed, presents good planning practice by providing for expanded opportunities for residents to conduct home occupations in accessory structures while providing for case by case review of potential impacts on neighboring properties.

**RESOLUTION ADOPTING AN ORDINANCE TO AMEND AND REENACT ARTICLES 3, 4, 5, 5.1, 6, 7, 8, 9, 13, AND 18 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO HOME OCCUPATIONS PERMITTED IN ACCESSORY STRUCTURES WITH A CONDITIONAL USE PERMIT**

**TA-13-493**

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

**WHEREAS**, the existing Zoning Ordinance home occupation provisions have been established to provide for opportunities for residents to conduct gainful employment in their dwelling units while having minimal impacts on the neighboring community; and,

**WHEREAS**, the proposed Ordinance amendments will allow for residents to use an accessory structure as part of a home occupation provided that a conditional use permit is obtained; and,

**WHEREAS**, this proposed Ordinance amendments will support City Council's goal of "Grow the Economy" as provided for in the adopted 2013 Strategic Plan.

**NOW, THEREFORE, BE IT RESOLVED** that the Common Council of the City of Winchester hereby adopts the following text amendment:

AN ORDINANCE TO AMEND AND REENACT ARTICLES 3, 4, 5, 5.1, 6, 7, 8, 9, 13, AND 18 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO HOME OCCUPATIONS PERMITTED IN ACCESSORY STRUCTURES WITH A CONDITIONAL USE PERMIT

TA-13-493  
Draft 2 – 11/5/13

*Ed. Note: The following text represents an excerpt of Articles 3, 4, 5, 5.1, 6, 7, 8, 9, 13 and 18 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 3  
LOW DENSITY RESIDENTIAL DISTRICT – LR

SECTION 3-2. USES PERMITTED WITH A CONDITIONAL USE PERMIT.

3-2-7            Home occupations in accordance with Section 18-19-2.6.

ARTICLE 4  
MEDIUM DENSITY RESIDENTIAL DISTRICT – MR

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

4-2-11            Home occupations in accordance with Section 18-19-2.6.

ARTICLE 5  
HIGH DENSITY RESIDENTIAL DISTRICT - HR

SECTION 5-2. USES PERMITTED WITH A CONDITIONAL USE PERMIT.

5-2-19            Home occupations in accordance with Section 18-19-2.6.

ARTICLE 5.1  
LIMITED HIGH DENSITY RESIDENTIAL DISTRICT - HR-1

SECTION 5.1-2. USES PERMITTED WITH A CONDITIONAL USE PERMIT.

5.1-2-12            Home occupations in accordance with Section 18-19-2.6.

**ARTICLE 6  
RESIDENTIAL OFFICE DISTRICT - RO-1**

**SECTION 6-2. USES PERMITTED WITH A CONDITIONAL USE PERMIT.**

**6-2-10            Home occupations in accordance with Section 18-19-2.6.**

**ARTICLE 7  
RESIDENTIAL BUSINESS DISTRICT - RB-1**

**SECTION 7-2. USES PERMITTED WITH A CONDITIONAL USE PERMIT.**

**7-2-24            Home occupations in accordance with Section 18-19-2.6.**

**ARTICLE 8  
HIGHWAY COMMERCIAL DISTRICT - B-2**

**SECTION 8-2. USES PERMITTED WITH A CONDITIONAL USE PERMIT.**

**8-2-27            Home occupations in accordance with Section 18-19-2.6.**

**ARTICLE 9  
CENTRAL BUSINESS DISTRICT - B-1**

**SECTION 9-2. USES PERMITTED WITH A CONDITIONAL USE PERMIT.**

**9-2-26            Home occupations in accordance with Section 18-19-2.6.**

**ARTICLE 13  
PLANNED DEVELOPMENT**

**13-1-3.17        USES PERMITTED WITH A CONDITIONAL USE PERMIT.**

**a. Home occupations in accordance with Section 18-19-2.6.**

**ARTICLE 18  
GENERAL PROVISIONS**

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

- 18-19-1 Home occupations are permitted in any dwelling unit.
- 18-19-2 A home occupation is an accessory use of a dwelling unit for gainful employment involving the manufacture, provision, or sale of goods and/or service, including the sale of food and/or non-food crops produced on the site; and conducted in a dwelling unit **except as allowed in an accessory structure per the Conditional Use Permitting provisions identified in Section 18-19-2.6. Home Occupations shall only be engaged in by a person or persons residing in the dwelling unit, provided that: (10/12/10, Case TA-10-418, Ord. No. 2010-51)**
- 18-19-2.1 It is clearly incidental and subordinate to the dwelling unit's use for residential purposes by its occupants;
- 18-19-2.2 With the exception of an accessory garden use **and as provided in Section 18-19-2.6**, it is conducted in the main building and does not result in alteration of the appearance of the dwelling unit or the lot on which it is located. **There shall be no interruption, congestion or change to the character of the neighborhood in terms of traffic or vehicular parking resulting from the operation of the home occupation. (10/12/10, Case TA-10-418, Ord. No. 2010-51);**
- 18-19-2.3 With the exception of displaying food and/or non-food crops produced on the site, it is not identified by any sign or by a display of merchandise visible from the exterior of the building (10/12/10, Case TA-10-418, Ord. No. 2010-51);
- 18-19-2.4 It does not involve the storage of goods and materials in excess of fifty (50) square feet of floor area. This storage may be either in the main building or an accessory building, but it shall not be permitted outdoors.
- 18-19-2.5 No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference beyond what normally occurs in the applicable zoning district.
- 18-19-2.6 A conditional use permit shall be required for any home occupation that proposes to involve the use of an accessory structure as part of a home occupation. In addition to the provisions of this Section, home occupations must conform to the entirety of Section 18-19. In no case shall the floor area used in the accessory structure exceed fifty (50) percent of the gross floor areas of the residential dwelling unit. A conditional use permit application for home occupations under this Section shall include the following:**
- a. **Property survey or sketch drawn to scale detailing the setbacks of the accessory structure and distances to each of the property lines as well as the distances to structures within 50 feet on immediately adjacent properties.**

- a. Property survey or sketch drawn to scale detailing the setbacks of the accessory structure and distances to each of the property lines as well as the distances to structures within 50 feet on immediately adjacent properties.
- b. A scaled interior layout sketch illustrating the proposed home occupation in the accessory structure.
- c. A letter outlining the scope and nature of the occupation, involving operating hours, days of the week, and similar details, as well as an explanation of conformance with Section 18-2-1.1 of this Ordinance.

18-19-3

The operation of a family day home for not more than five (5) children shall be considered as residential occupancy by a single family; and, therefore does not require a Certificate of Home Occupation. Family day homes serving six through twelve children, exclusive of the provider's own children and any children who reside in the home, shall obtain a Certificate of Home Occupation and shall be licensed by the Virginia Department of Social Services. However, no family day home shall care for more than four children under the age of two, including the provider's own children and any children who reside in the home, unless the family day home is licensed or voluntarily registered. A family day home where the children in care are all grandchildren of the provider shall not be required to be licensed or obligated to obtain a Certificate of Home Occupation. (9/14/10, Case TA-10-337, Ord. No. 2010-40)

18-19-4

Permitted home occupations shall not in any event include:

- Bookstores or motion picture theaters
- Animal hospitals and kennels
- ~~Auto repair~~
- ~~Dance instruction~~
- Bed and breakfasts homestays and boarding houses
- Massage therapy (other than strictly a home office used for record keeping)
- Motor vehicle sales, repair, equipment installation, and similar activities
- Pet Daycare, training or grooming exceeding care of more than one (1) pet at a time, excluding those of the tenant of the dwelling unit
- Private Clubs or Lodges
- Restaurants
- Tourist Homes
- Vehicle towing, demolishing, or salvaging

**CITY OF WINCHESTER, VIRGINIA**

**PROPOSED CITY COUNCIL AGENDA ITEM**

**CITY COUNCIL MEETING OF:** 1/07/14 (work session),      **CUT OFF DATE:** 12/17/13  
1/14/14 (regular mtg)

RESOLUTION     ORDINANCE     PUBLIC HEARING

**ITEM TITLE:**

**CU-13-593** Request of Michael Bortz on behalf of T-Mobile Northeast, LLC, for a conditional use permit to upgrade existing telecommunications facilities with replacement antennas at 799 Fairmont Avenue (*Map Number 153-01- -2*) zoned Limited Industrial (M-1) District.

**STAFF RECOMMENDATION:**

Approval with conditions

**PUBLIC NOTICE AND HEARING:**

Public hearing for 1/14/14 Council mtg

**ADVISORY BOARD RECOMMENDATION:**

Planning Commission recommended approval with conditions

**FUNDING DATA:** N/A

**INSURANCE:** N/A

The initiating Department Director will place below, in sequence of transmittal, the names of each department that must initial their review in order for this item to be placed on the City Council agenda.

| <u>DEPARTMENT</u>   | <u>INITIALS FOR APPROVAL</u> | <u>INITIALS FOR DISAPPROVAL</u> | <u>DATE</u>       |
|---------------------|------------------------------|---------------------------------|-------------------|
| 1. Planning         | <u>  JY  </u>                | _____                           | <u>12/17/13</u>   |
| 2. City Attorney    | <u>  [Signature]  </u>       | _____                           | <u>12/18/2013</u> |
| 3. City Manager     | <u>  DI  </u>                | _____                           | <u>12-20-13</u>   |
| 4. Clerk of Council | _____                        | _____                           | _____             |
|                     | _____                        | _____                           | _____             |

Initiating Department Director's Signature:   [Signature]        12/17/13  
 (Zoning and Inspections)



**APPROVED AS TO FORM:**  
  [Signature]   12/18/2013  
**CITY ATTORNEY**

# CITY COUNCIL ACTION MEMO

**To:** Honorable Mayor and Members of City Council  
**From:** Aaron Grisdale, Director of Zoning and Inspections *AM6*  
**Date:** January 7, 2014  
**Re:** Conditional Use Permit (TA-13-593) – 799 Fairmont Ave

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**THE ISSUE:**

Request for CUP for installation of six antennas on the existing telecommunications facility at 799 Fairmont Avenue.

**RELATIONSHIP TO STRATEGIC PLAN:**

N/A

**BACKGROUND:**

City staff has received a conditional use permit application for the modification of an existing telecommunications facility at 799 Fairmont Avenue (National Fruit property). The applicant intends to remove six antennas and replace them with six new antennas. (Full staff report is attached).

**BUDGET IMPACT:**

No funding is required.

**OPTIONS:**

- Approve the CUP
- Disapprove the CUP

**RECOMMENDATIONS:**

The Planning Commission recommended approved unanimously.

**CU-13-593** Request of Michael Bortz on behalf of T-Mobile Northeast, LLC, for a conditional use permit to upgrade existing telecommunications facilities with replacement antennas at 799 Fairmont Avenue (*Map Number 153-01- -2*) zoned Limited Industrial (M-1) District.

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#### REQUEST DESCRIPTION

The applicant is proposing to remove six existing antennas and install six new antennas as part of an upgrade of existing telecommunications facilities at the tower located on the National Fruit property at 799 Fairmont Avenue.

#### AREA DESCRIPTION

The existing tower is located in a wooded area in the northwest portion of the ±68 acre, M-1 zoned National Fruit Product Company industrial property. Land to the east is also zoned M-1 and includes the migrant worker camp and some single family residences along the west side of Fairmont Ave. Land to the west is zoned LR and is vacant. Land further to the southwest includes an M-1 zoned City water tank and an LR zoned single family residence. Land directly to the north is located in Frederick County and includes vacant land in the Rural Area (RA) and Residential Performance (RP) Districts.



#### STAFF COMMENTS

The applicant intends to remove six existing antennas mounted to the pre-existing lattice tower and replace them with six new panel antennas of a similar size. The new antennas will be mounted at an elevation of 135 feet and 152 feet and will not result in an increase to the height of the existing tower. Collocation of antennas on existing structures as proposed is encouraged within the Zoning Ordinance. The applicant does not intend on expanding the existing ground support equipment with this request. The purpose of this upgrade is to provide 4G LTE (long-term evolution) wireless data services as well as help to improve its current 3G data and voice coverage.

#### RECOMMENDATION

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

At their December 17, 2013 meeting, the Planning Commission unanimously forwarded **CU-13-593** to Council recommending approval because the use, as proposed, should not adversely affect the health, safety, or welfare of residents and workers in the neighborhood nor be injurious to adjacent properties or improvements in the neighborhood. The recommended approval is subject to the following conditions:

1. Submit an as-built emissions certification after the facility is in operation;

2. The applicant, tower owner, or property owner shall remove equipment within ninety (90) days once the equipment is no longer in active use;
3. Submit a bond guaranteeing removal of facilities should the use cease.



**NETWORK BUILDING  
& CONSULTING, LLC**

August 29, 2013

City of Winchester  
Department of Zoning and Inspections  
15 N. Cameron St  
Winchester, Virginia 22601

**RE:** Conditional Use Permit  
799 Fairmont Ave  
Winchester, VA 22601

**Site Name:** HCH021 – Winchester

**Applicant:**  
T-Mobile Northwest LLC (Hereafter referred to as "T-Mobile.")  
12050 Baltimore Avenue  
Beltsville, MD 20705

**Applicant's Agent:**  
Michael Bortz  
7380 Coca Cola Drive, Suite 106  
Hanover, 21076

**Description of Intent**

T-Mobile is requesting to amend existing conditions, per Section 18-2-1 of the Zoning Ordinance, on an existing telecommunications site located within an M1, or Limited Industrial District. T-Mobile is in the process of upgrading its core network, including all cell sites, in preparation for its 4G long-term evolution (LTE) service launch. These upgrades will allow T-Mobile to provide 4G LTE wireless data services as well as help to improve its current 3G data and voice coverage. As this is a complete change in antennas at this location, a new conditional use permit would be required.

**Proposed Scope of Work**

The six existing panel antennas mounted to the pre-existing lattice tower shall be removed and replaced with six new panel antennas of similar size. The new antennas are shown at an elevation of 135 feet and 152 feet, the same height as the existing T-Mobile antennas.

7380 Coca Cola Dr., Suite 106

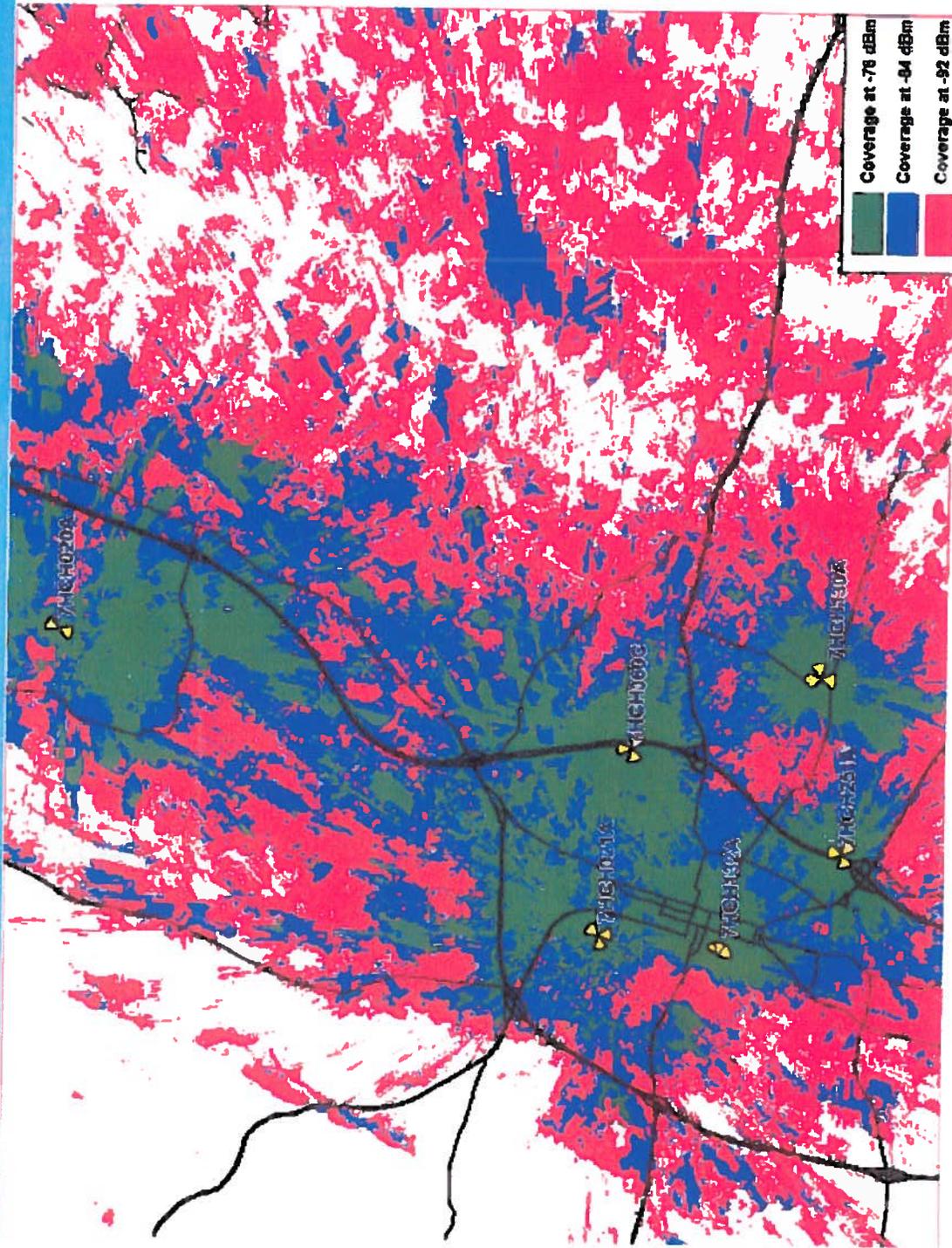
Hanover, MD

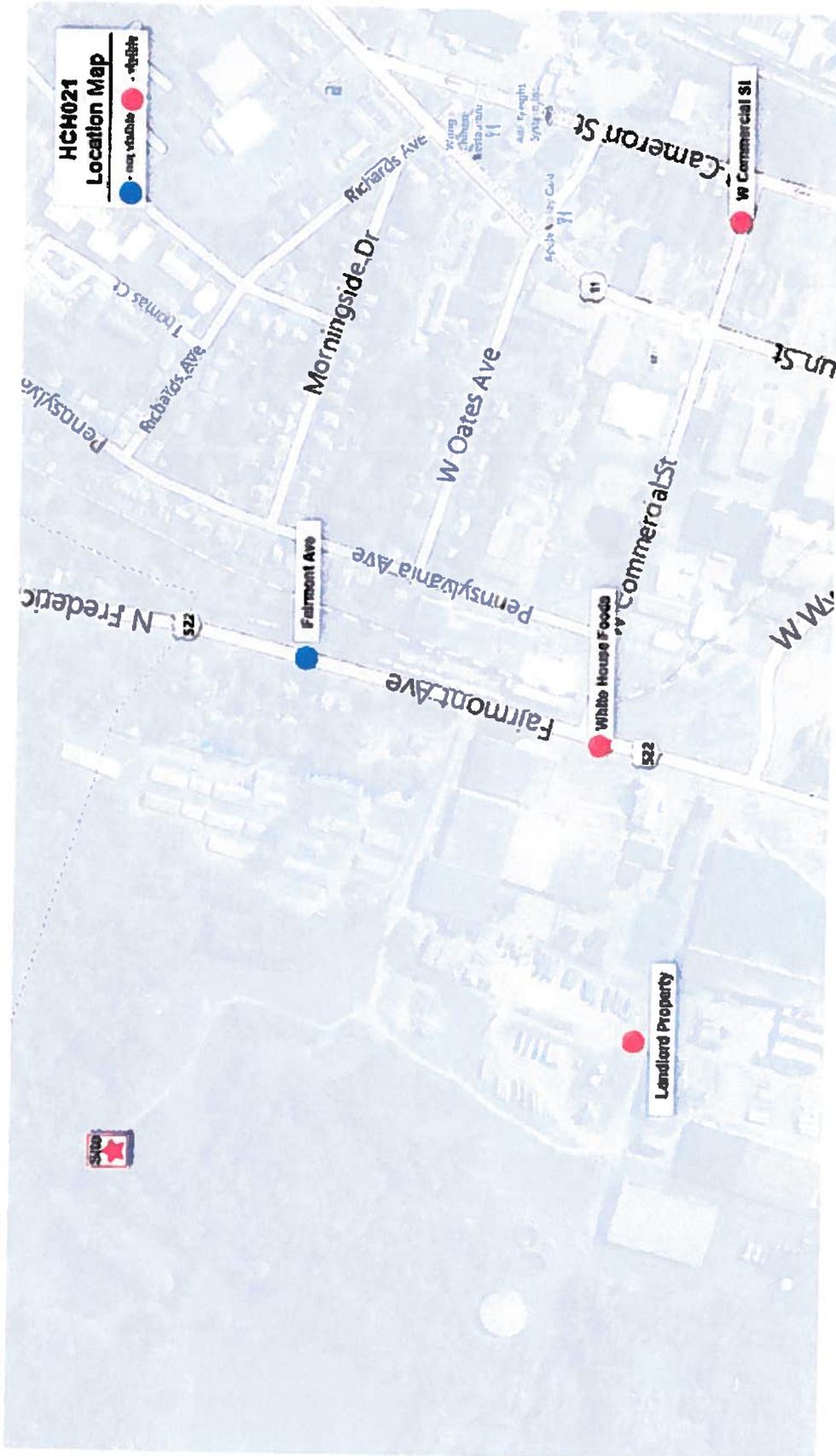
21076

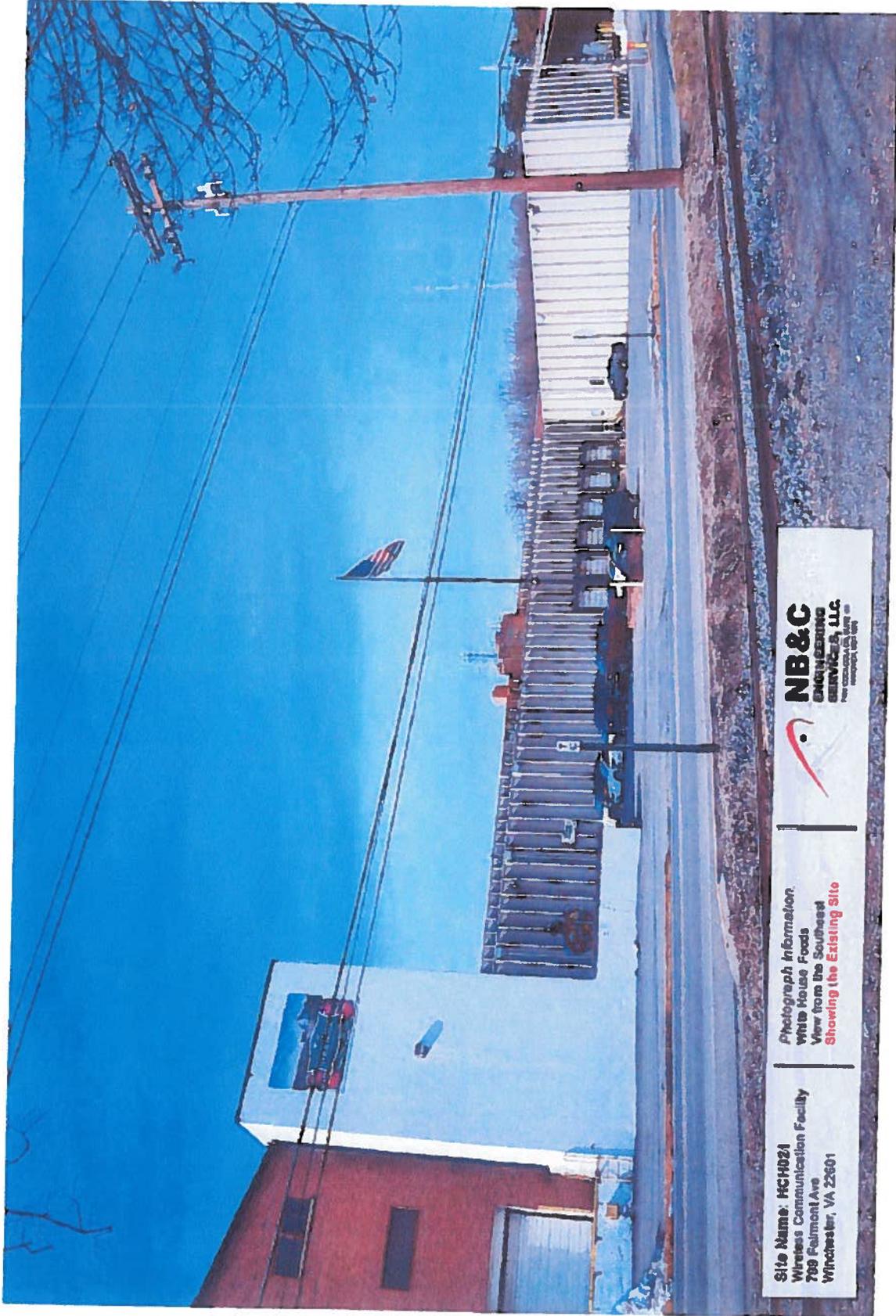
(410) 712-7092 FAX (410) 712-4056



# Composite Coverage with HCH021A











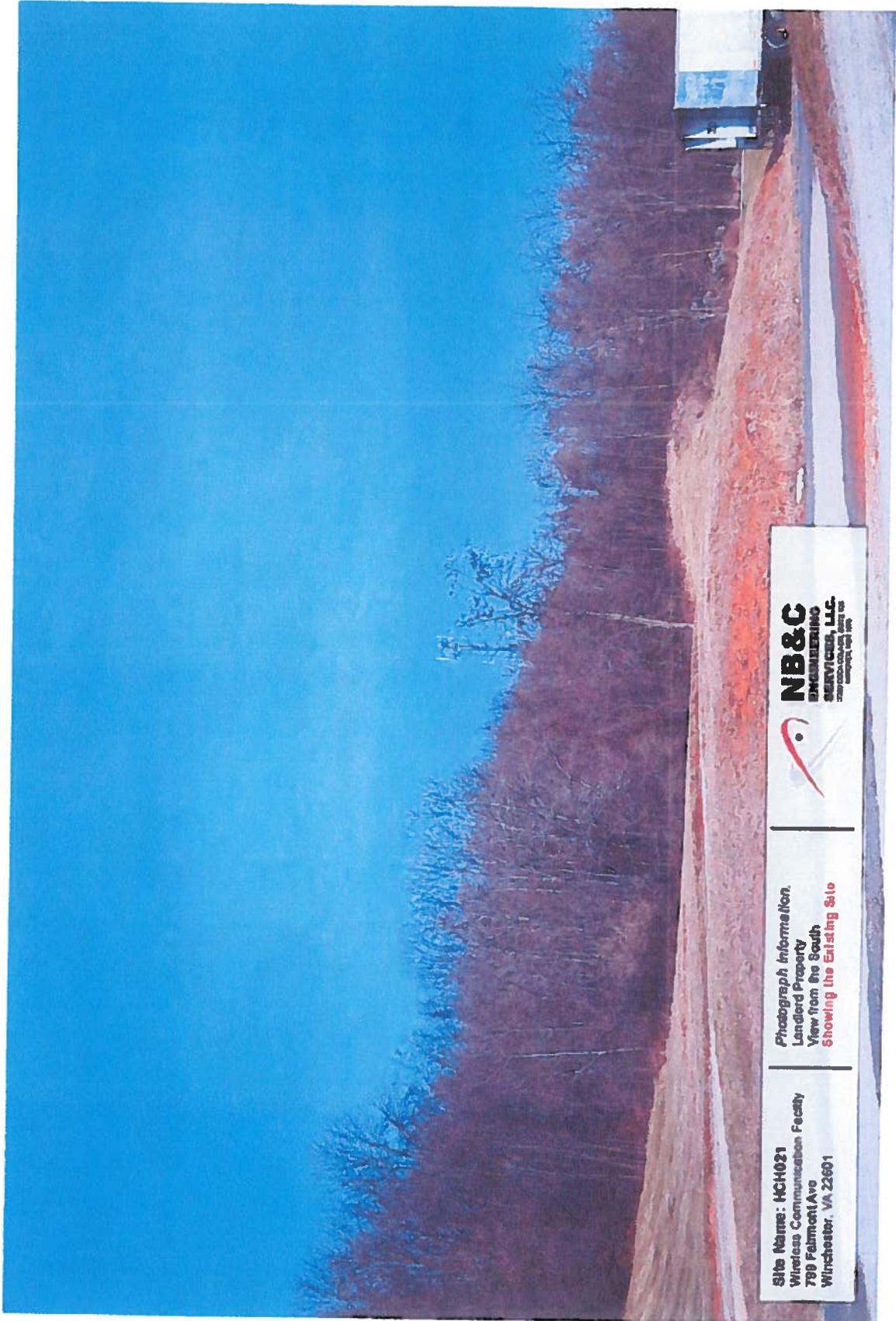


**Site Name: MCH021**  
Wireless Communication Facility  
799 Fairmont Ave  
Winchester, VA 22601

**Photograph Information**  
W Commercial St  
View from the Southeast  
Showing the Proposed Site



**NB&C**  
ENGINEERING  
SERVICES, LLC.  
10000-0001 ST





**Site Name: HCN021**  
Wireless Communication Facility  
798 Fairmont Ave  
Winchester, VA 22601

**Photograph Information:**  
Landed Property  
View from the South  
**Showing the Proposed Site**



**NB&C**  
ENGINEERING  
SERVICES, LLC  
100 SOUTH MAIN ST  
WINCHESTER, VA 22601

**CITY OF WINCHESTER, VIRGINIA**

**PROPOSED CITY COUNCIL AGENDA ITEM**

**CITY COUNCIL MEETING OF:** 1/7/14 (Work Session),      **CUT OFF DATE:** 12/20/13  
(1/14/14 - Public Hearing)

**RESOLUTION** \_\_\_      **ORDINANCE** \_\_\_      **PUBLIC HEARING** X

**ITEM TITLE:**

An appeal of the decision by the Board of Architectural Review (BAR-13-524) requiring the removal of vinyl siding and replacement with wood siding for the property located at 16 West Monmouth Street zoned Residential Business (RB-1) District with Historic Winchester (HW) District overlay.

**STAFF RECOMMENDATION:**

Approval.

**PUBLIC NOTICE AND HEARING:**

Public Hearing Required – 1/14/14.

**ADVISORY BOARD RECOMMENDATION:**

N/A

**FUNDING DATA:** N/A

**INSURANCE:** N/A

The initiating Department Director will place below, in sequence of transmittal, the names of each department that must initial their review in order for this item to be placed on the City Council agenda.

| <u>DEPARTMENT</u>   | <u>INITIALS FOR APPROVAL</u> | <u>INITIALS FOR DISAPPROVAL</u> | <u>DATE</u>       |
|---------------------|------------------------------|---------------------------------|-------------------|
| 1. City Attorney    | <i>[Signature]</i>           |                                 | <u>12/20/2013</u> |
| 2. City Manager     | <i>[Signature]</i>           |                                 | <u>12-20-13</u>   |
| 3. Clerk of Council |                              |                                 |                   |
|                     |                              |                                 |                   |
|                     |                              |                                 |                   |

Initiating Department Director's Signature: *[Signature]*      12/20/13  
(Zoning and Inspections)



APPROVED AS TO FORM: *[Signature]*      12/20/2013  
CITY ATTORNEY

# CITY COUNCIL ACTION MEMO

**To:** Honorable Mayor and Members of City Council  
**From:** Aaron Grisdale, Director of Zoning and Inspections *Ang*  
**Date:** January 14, 2014  
**Re:** Appeal of BAR Decision (BAR-13-524) to City Council

---

## **THE ISSUE:**

The Clerk of Council received an appeal of a BAR decision (BAR-13-524). City Council must hold a public hearing within 60 days of the date of appeal.

## **RELATIONSHIP TO STRATEGIC PLAN:**

N/A

## **BACKGROUND:**

During an inspection of the neighborhood in early May 2013, new vinyl siding was observed at 16 West Monmouth Street. The area code enforcement inspector sent a Notice of Violation to the property owner, Samuel Landon Maddox, on May 10, 2013. This NOV, sent certified and return receipt, was returned "Unclaimed." The NOV was then posted to the front door of the structure on June 4, 2013. Having received no response from the owner, a second attempt was made to notify on July 10, 2013, during which the NOV was sent certified and return receipt, and was accepted by the owner on July 24, 2013. After not receiving any contact from the property owner after notification, not receiving a Certificate of Appropriateness application, and the vinyl siding remaining on the structure, a Notice of Citation for \$200 was sent for the outstanding violation to the owner. After receipt of the civil penalty, and enforcement on some other code enforcement matters internal to the structure, a representative came to the office to discuss the outstanding issues and submitted the requisite COA application on September 23, 2013.

The Board of Architectural Review was originally scheduled to hear the matter at their October 3, 2013 meeting; however, the applicant was not able to attend the meeting and the issue was tabled. The case (BAR-13-524) was heard by the Board on October 17, 2013. At the BAR meeting the COA was approved for some of the proposed changes including window replacements on the rear of the structure and paint color changes; however, the Board stated that "[t]he vinyl siding must be removed and wood siding put back or existing wood siding reused and painted." This requirement for the vinyl removal of the BAR's decision is the subject of Mr. Maddox's appeal.

Chapter 3, page 15 of the Winchester Historic District Design Guidelines, discusses substitute materials as part of Residential Rehabilitation. This portion of the guidelines reads: "*Synthetic sidings are not appropriate in the district. In addition to changing the appearance of a historic building, synthetic sidings may make maintenance more difficult because they may cover up potential moisture problems that can become more serious.*"

On November 15, 2013, an appeal of the BAR decision and required fee were submitted to the Deputy Clerk of Council, in accordance with Section 14-9-1 of the Winchester Zoning Ordinance. The Clerk has sixty (60) days to schedule a public hearing with City Council from the date of the appeal. During this review of the appeal, "[t]he same standards shall be applied by Council as are established for the Board of Architectural Review. The Council may affirm, reverse or modify the decision of the Board, in whole or in part."

**January 14, 2014 Update:** A letter from the Board of Architectural Review outlining the findings of fact and rationale behind their October 17, 2013 decision was signed by the Chairman of the Board of Architectural Review on January 2, 2014 and is included with this packet. .

Additional information was requested by Council on previous BAR cases where exterior changes were denied by the Board and the applicant had to remove the exterior changes. Three cases were found:

**BAR-06-98** – Request of Alicia Pearson, Tu Tu Pink, for approval of paint at 24 East Piccadilly Street.

- BAR denied use of bright pink color for exterior. The application was appealed to City Council and Council upheld the decision of the BAR.

**BAR-08-39** Request of David Madison for approval of natural stain and sealer over approved wood siding at 305 N. Loudoun St.

- Staining of wood siding occurred without a Certificate of Appropriateness, the application was denied and the owner had to change the exterior. The owner removed the natural wood stain and painted the structure.

**BAR-10-160** Request of Milano's to keep shade tint on windows at 107 W Boscawen St.

- BAR denied COA and required removal of window tinting.

**BUDGET IMPACT:**

No funding is required.

**OPTIONS:**

- Uphold the decision of the Board of Architectural Review
- Amend the decision of the Board of Architectural Review
- Reverse the decision of the Board of Architectural Review

**RECOMMENDATIONS:**

The Director of Zoning and Inspections recommends upholding the decision of the BAR.



---

Rouss City Hall  
15 North Cameron Street  
Winchester, VA 22601

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

January 2, 2014

**BAR-13-524** Request of Samuel Maddox, property owner, for a certificate of appropriateness to replace windows and siding and exterior paint for the property at 16 W. Monmouth Street, zoned Residential Business (RB-1) District with Historic Winchester (HW) District overlay.

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At the Board of Architectural Review meeting on October 17, 2013, on a vote of 5-0, the Board granted a Certificate of Appropriateness for portions of the application, including replacement of rear windows and paint. However, the use of vinyl siding was not approved, and it was required for the siding to be returned back to previously existing wood siding or use new replacement wood siding. The application for vinyl siding was made after the installation of such siding was started by the property owner, rather than before starting work as is typical with applications for Certificates of Appropriateness.

The purpose of this document is to memorialize the findings of fact regarding BAR-13-524. This decision on October 17, 2013 was based upon the Winchester Historic District Design Guidelines, specifically the following from Chapter 3: Residential Rehabilitation, page 15 – Substitute Materials (emphasis added):

*A building's historic character is a combination of its design, age, setting, and materials. The exterior walls of a building, because they are so visible, play a very important role in defining its historic appearance. Wood clapboards, wood shingles, wood board-and-batten, brick, stone, stucco or a combination of the above materials all have distinctive characteristics. Synthetic materials can never have the same patina, texture, or light-reflective qualities.*

*These modern materials have changed over time, but have included asbestos, asphalt, vinyl, aluminum, and EIFS (exterior insulation and finish system) and have been used to artificially create the appearance of brick, stone, shingle, stucco and wood siding surfaces.*

*Synthetic sidings are not appropriate in the district. In addition to changing the appearance of a historic building, synthetic sidings may make maintenance more difficult because they may cover up potential moisture problems that can become more serious. Artificial siding, once it dents or fades may need painting just as frequently as wood.*

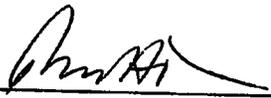
Based upon the above guidelines, the Board made its decision for the following reasons:

1. During the October 17, 2013 meeting, the Board of Architectural Review reviewed all the submitted materials included with the Certificate of Appropriateness application, BAR-13-524.

2. The property owner, Samuel L. Maddox, was present at the October 17, 2013 meeting to provide background information on the proposal and answer questions from the Board.
3. The side wall (East wall) of the house, which is covered by vinyl siding, is visible from the public right-of-way and is subject to the Board of Architectural Review approval.
4. The Winchester Historic District Design Guidelines state that “[s]ynthetic sidings are not appropriate in the district. In addition to changing the appearance of a historic building, synthetic sidings may make maintenance more difficult because they may cover up potential moisture problems that can become more serious.”
5. Vinyl siding is considered to be a “synthetic siding,” which is clearly stated that it is not an appropriate material for residential rehabilitation within the Historic Winchester district according to the design guidelines, Chapter 3, page 15.

For the foregoing reasons, this Board did not grant approval in the form of a Certificate of Appropriateness to the applicant for the use of vinyl siding on the structure. The applicant is required to remove the vinyl siding and use a wood material similar to what is installed underneath the vinyl siding.

Date: January 2, 2014

Signature:  \_\_\_\_\_

Thomas Rockwood, Chairman of Board of Architectural Review



Rouss City Hall  
15 North Cameron Street  
Winchester, VA 22601

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

**May 10, 2013**

MADDOX SAMUEL LANDON  
16 WEST MONMOUTH STREET  
WINCHESTER, VA 22601

**RE: NOTICE OF VIOLATION, 16 W MONMOUTH ST (Tax Map ID: 193-01-1-9 -> <01)  
Case #: 13-00002548, CERTIFIED MAIL**

**Dear,**

The purpose of this letter is to formally identify and resolve zoning violations at 16 W MONMOUTH ST, Winchester, Virginia. According to the records of the City Assessor, this property is owned by you. This property is located entirely within the **RB1 (Residential Business)** Zoning District, in the Winchester Historic District. During a recent inspection on May 9, 2013, zoning violations were observed. During a site inspection it was observed that there is new siding on the dwelling without an approved Certificate of Appropriateness. Since this property is located within the Historic Winchester District, and the changes can be seen from the public right of way, the new siding must receive a Certificate of Appropriateness from the Board of Architectural Review, pursuant to Section 14-3-1 of the Winchester Zoning Ordinance:

§14-3-1 No building or structure within the Historic Winchester District shall be erected, reconstructed, altered, restored, or demolished, unless and until an application for a Certificate of Appropriateness shall have been approved by the Board of Architectural Review.

§14-2-2 For the purpose of this article, "structure" shall include walls, fences, signs, light fixtures, steps, or appurtenant elements thereof.

In order to fully comply with the Zoning Ordinance, the following options are available:

1. Complete and submit an application for a Certificate of Appropriateness for the BAR, with all required materials no later than May 28, 2013 by noon for the June 6, 2013 meeting; or,
2. Appeal this decision to the Board of Zoning Appeals no later than 30 days after your receipt of this letter.

Failure to correct the violation by the stated compliance date may result in the issuance of civil penalties. I have included for your convenience an application for the BAR. If you

have any questions or concerns, please do not hesitate to contact me directly at (540) 667-2316 or Aaron Grisdale (Zoning Administrator) at 667-1815 ex 1492.

In accordance with Section 15.2-2311 of the Code of Virginia (1950), as amended, you have the right to appeal the foregoing determinations to the Board of Zoning Appeals within thirty (30) days after the date of this letter. Otherwise, the decisions set forth in this letter shall be final and unappealable if not appealed within the thirty-day period. The filing fee for appeals is \$200.00 and should be enclosed with the completed application, if you intent to appeal this determination.

Regards,



Sherry Simpson  
City of Winchester  
Code Enforcement

U.S. Postal Service<sup>TM</sup>  
CERTIFIED MAIL<sup>SM</sup> RECEIPT  
(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at [www.usps.com](http://www.usps.com).

**SOFFICIAL USE**

18-9548

Postmark  
Here

|   |    |
|---|----|
| Postage   | \$ |
| Certified Fee                                     |    |
| Return Receipt Fee<br>(Endorsement Required)      |    |
| Restricted Delivery Fee<br>(Endorsement Required) |    |
| Total Postage & Fees                              | \$ |

Sent To: Maddox Samuel London  
 Street, Apt. No.: 1610 Monmouth St  
 or PO Box No.: 1610 Monmouth St  
 City, State, ZIP+4: Winchester VA 22601

PS Form 3800, August 2005

See Reverse for Instructions

## Aaron Grisdale

---

**From:** US\_Postal\_Service@usps.com  
**Sent:** Friday, December 20, 2013 8:27 AM  
**To:** Aaron Grisdale  
**Subject:** U.S. Postal Service Track & Confirm email Restoration - 70102780000194528617

This is a post-only message. Please do not respond.

Aaron Grisdale has requested that you receive this restoration information for Track & Confirm as listed below.

Current Track & Confirm e-mail information provided by the U.S. Postal Service.

Label Number: 70102780000194528617

Service Type: Certified Mail™

| Shipment Activity                      | Location                 | Date & Time           |
|--|--------------------------|-----------------------|
| Delivered                              | WINCHESTER VA 22601      | June 3, 2013 10:42 am |
| Processed at USPS Origin Sort Facility | DULLES VA 20101          | June 2, 2013 10:34 pm |
| Depart USPS Sort Facility              | CAPITOL HEIGHTS MD 20790 | June 2, 2013          |
| Processed at USPS Origin Sort Facility | CAPITOL HEIGHTS MD 20790 | June 1, 2013 8:58 pm  |
| Unclaimed                              | WINCHESTER VA 22601      | May 28, 2013 9:57 am  |
| Notice Left                            | WINCHESTER VA 22601      | May 11, 2013 3:52 pm  |
| Arrival at Unit                        | WINCHESTER VA 22601      | May 11, 2013 6:23 am  |
| Depart USPS Sort Facility              | DULLES VA 20101          | May 11, 2013          |
| Processed at USPS Origin Sort Facility | DULLES VA 20101          | May 11, 2013 2:32 am  |
| Depart USPS Sort Facility              | MERRIFIELD VA 22081      | May 11, 2013          |
| Processed at USPS Origin Sort Facility | MERRIFIELD VA 22081      | May 10, 2013 10:21 pm |
| Dispatched to Sort Facility            | WINCHESTER VA 22601      | May 10, 2013 4:31 pm  |
| Acceptance                             | WINCHESTER VA 22601      | May 10, 2013 3:43 pm  |

USPS has not verified the validity of any email addresses submitted via its online Track & Confirm tool.

For more information, or if you have additional questions on Track & Confirm services and features, please visit the Frequently Asked Questions (FAQs) section of our Track & Confirm tool at <http://www.usps.com/shipping/trackandconfirmfaqs.htm>.



Rouss City Hall  
15 North Cameron Street  
Winchester, VA 22601

Telephone: (540) 667-1815  
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TDD: (540) 722-0782  
Website: [www.winchesterva.gov](http://www.winchesterva.gov)

**July 10, 2013**

MADDOX SAMUEL LANDON  
16 WEST MONMOUTH STREET  
WINCHESTER, VA 22601

**RE: NOTICE OF VIOLATION, 16 W MONMOUTH ST (Tax Map ID: 193-01-I-9 -> <01)  
Case #: 13-00002548, CERTIFIED MAIL**

**Dear,**

The purpose of this letter is to formally identify and resolve zoning violations at 16 W MONMOUTH ST, Winchester, Virginia. According to the records of the City Assessor, this property is owned by you. This property is located entirely within the **RB1 (Residential Business)** Zoning District, in the Winchester Historic District. During a recent inspection on May 9, 2013, zoning violations were observed. During a site inspection it was observed that there is new siding on the dwelling without an approved Certificate of Appropriateness. Since this property is located within the Historic Winchester District, and the changes can be seen from the public right of way, the new siding must receive a Certificate of Appropriateness from the Board of Architectural Review, pursuant to Section 14-3-1 of the Winchester Zoning Ordinance:

§14-3-1 No building or structure within the Historic Winchester District shall be erected, reconstructed, altered, restored, or demolished, unless and until an application for a Certificate of Appropriateness shall have been approved by the Board of Architectural Review.

§14-2-2 For the purpose of this article, "structure" shall include walls, fences, signs, light fixtures, steps, or appurtenant elements thereof.

In order to fully comply with the Zoning Ordinance, the following options are available:

1. Complete and submit an application for a Certificate of Appropriateness for the BAR, with all required materials no later than July 22, 2013 by noon for the August 1, 2013 meeting; or,
2. Appeal this decision to the Board of Zoning Appeals no later than 30 days after your receipt of this letter.

**Failure to correct the violation by the stated compliance date may result in the issuance of civil penalties.** I have included for your convenience an application for the

BAR. If you have any questions or concerns, please do not hesitate to contact me directly at (540) 667-2316 or Aaron Grisdale (Zoning Administrator) at 667-1815 ex 1492.

In accordance with Section 15.2-2311 of the Code of Virginia (1950), as amended, you have the right to appeal the foregoing determinations to the Board of Zoning Appeals within thirty (30) days after the date of this letter. Otherwise, the decisions set forth in this letter shall be final and unappealable if not appealed within the thirty-day period. The filing fee for appeals is \$200.00 and should be enclosed with the completed application, if you intent to appeal this determination.

Regards,



Sherry Simpson  
City of Winchester  
Code Enforcement

CERTIFIED MAIL™ RECEIPT  
(Domestic Mail Only; No Insurance Coverage Provided)

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OFFICIAL USE

|   |    |
|---|----|
| Postage   | \$ |
| Certified Fee                                     |    |
| Return Receipt Fee<br>(Endorsement Required)      |    |
| Restricted Delivery Fee<br>(Endorsement Required) |    |
| Total Postage & Fees                              | \$ |

13-9648  
SdSN



Sent To  
 Maddox Samuel London  
 Street, Apt. No.  
 or PO Box No. 16 W. Monmouth St.  
 City, State, ZIP+4  
 Winchester, VA 22601

2012 2210 0000 4547 3022

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Maddox Samuel Landon  
 116 W. Portsmouth St  
 Winchester VA 22601

COMPLETE THIS SECTION ON DELIVERY

- A. Signature *Samuel L Maddox*  
 X *Samuel L Maddox* Addressee
- B. Received by (Printed Name) *Samuel L Maddox* C. Date of Delivery *7-29-13*
- D. Is delivery address different from item 1?  Yes  No  
 If YES, enter delivery address below:

3. Service Type

- Certified Mail
- Registered
- Insured Mail
- Express Mail
- Return Receipt for Merchandise
- C.O.D.

4. Restricted Delivery? (Extra Fee)

- Yes
- No

2. ZIP+4® 7012 2210 0000 4547 3022

PS Form 3811, February 2004 Domestic Return Receipt

102595-02-M-154



15 North Cameron Street Winchester, VA 22601  
540- 667-1815



### Notice of Citation

13-00002548

September 11, 2013

**Payment Due Date: 10-11-2013**

**Amount Due: \$200.00**

**Amount Paid:**

MADDOX SAMUEL LANDON  
16 WEST MONMOUTH STREET  
WINCHESTER, VA 22601

RE: 16 W MONMOUTH ST  
Case: 13-00002548

Dear MADDOX SAMUEL LANDON,

Your property at 16 W MONMOUTH ST was determined to be in violation of the City of Winchester Code(s) listed below:

**Violation Detail**  
00010 ZONING 14-3-1 Certificate of Appropriateness  
Date Est: May 10, 2013 Location: Qty: 001  
1<sup>st</sup> Civil Penalty of \$200.00

**If the violation(s) are not corrected:** additional civil penalties could be assessed until the violation(s) is brought into compliance. Please see the reverse side for further instructions.

**Important Notice:** Failure to correct the violation(s) within ten (10) days will result in additional civil penalties. The trial request or waiver must be received by the due date noted above.

If you have any questions regarding this citation contact Sherry Simpson (540) 667-1815, please refer to the 13-00002548 when calling.

## Questions and Answers

### Q. Why did I get this notice?

A. A property owned by you or for which you are the responsible party has been found in violation of City Code.

### Q. Is this citation a criminal misdemeanor?

A. No, this citation is not a criminal charge. Instead it is a non-criminal violation for which civil penalties are assessed.

### Q. What are my options?

- A. You have two options:
- (1) You may accept responsibility by correcting the violation(s) and pay the civil penalties. (see Waiver of Trial)
  - (2) You may contest this citation by completing the Request for Trial.

### Q. What happens if I do not pay the penalty?

A. If no payment is received, the City may institute legal action to collect outstanding penalties.

### Q. What if the violation(s) aren't corrected?

A. If the violation is not corrected; additional civil penalties would be assessed until the violation(s) are brought into compliance.

## Request for Trial

If you wish to contest this citation and have it tried in Winchester General District Court. Please provide the following information. This information is required so the court can notify you of the hearing date and time.

Name

Address

City

State/Zip

Signature:

Once completed mail or deliver in person the entire form to:

City of Winchester  
Zoning & Inspections Department  
15 N. Cameron Street  
Winchester, VA 22601

You should receive notification of the hearing date and time within several weeks. If you have questions about the appeal process, please contact:

City Attorney for the City of Winchester  
667-1815

## Waiver of Trial

You have the right to have this citation tried in the Winchester General District Court. If you wish to waive your right to trial and pay the civil penalty, you must sign the waiver below.

By signing this waiver, you are admitting liability for the violation(s) and you must remedy or abate these violation(s) by an agreed to compliance date not to exceed six months. It is your responsibility to contact the Inspections Department and obtain a compliance date. Your signature has the same force and effect as a judgment in court.

Date:

Signature:

Once completed mail or deliver in person the entire form along with your check or money order to:

City of Winchester  
Zoning & Inspections Department  
15 N. Cameron Street  
Winchester, VA 22601

**U.S. Postal Service™**  
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|   |    |
|---|----|
| Postage   | \$ |
| Certified Fee                                     |    |
| Return Receipt Fee<br>(Endorsement Required)      |    |
| Restricted Delivery Fee<br>(Endorsement Required) |    |
| Total Postage & Fees                              | \$ |



Sent To  
 Maddox Samuel London  
 Street Apt No.  
 or PO Box No. New Manmouth St.  
 City, State, ZIP+4 Winchester VA 22601  
 PS Form 3800, August 2006 See Reverse for Instructions

2013 1090 0002 4748 5470

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Maddox Samuel Landon  
 16 W. Monmouth St  
 Winchester VA 22601

2. 7013 1090 0001 4748 6470

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-15-K

COMPLETE THIS SECTION ON DELIVERY

A. Signature *[Signature]*  Agent  
 Addressee

B. Received by (Printed Name) *KLADU MADDOX* Date of Delivery *1/28/04*

D. Is delivery address different from item 1?  Yes  No  
 If YES, enter delivery address below:

3. Service Type  
 Certified Mail  Express Mail  
 Registered  Return Receipt for Merchandise  
 Insured Mail  C.O.D.

4. Restricted Delivery? (Extra Fee)  Yes  No

132548

# CITY OF WINCHESTER, VIRGINIA



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

## APPLICATION

### BOARD OF ARCHITECTURAL REVIEW CERTIFICATE OF APPROPRIATENESS

Please print or type all information

540 662-7061  
Telephone

FAMOUS LIMO @ YAHOO.COM  
E-mail address

SAMUEL LAMON MADDOX  
Applicant (use reverse to list additional applicants)

16 W MONMOUTH ST  
Street Address

WINCHESTER VA 22601  
City State Zip

Samuel Lamon Maddox  
Owner's Signature (use reverse to list additional owners)

540 662-7061  
Telephone

FAMOUS LIMO @ YAHOO.COM  
E-mail address

SAMUEL LAMON MADDOX  
Owner Name (as appears in Land Records)

16 W MONMOUTH ST  
Street Address

WINCHESTER VA 22601  
City State Zip

PROPERTY LOCATION  
Current Street Address(es) 16 WEST MONMOUTH ST Use \_\_\_\_\_

Zoning: \_\_\_\_\_ Year Constructed: \_\_\_\_\_ Historic Plaque? Y ( ) N (X) Number: \_\_\_\_\_

TYPE OF REQUEST - Submit required materials (on reverse side) and any additional information with this form.

|                  |                                  |                 |
|------------------|----------------------------------|-----------------|
| Demolition       | Sign (specific type) and # _____ | Exterior Change |
| New Construction | Freestanding                     | Siding          |
| Addition         | Wall                             | Roofing         |
| Fence            | Projecting                       | Windows/Doors   |
| Wall             | Other (specify)                  | Paint           |
| Other (specify)  |                                  | Other (specify) |

#### FOR OFFICIAL USE ONLY

Hearing Date(s) 10/3/13 (tabled) 10/17/13

CERTIFICATE OF APPROPRIATENESS IS: \_\_\_\_\_ APPROVED \_\_\_\_\_ DISAPPROVED \_\_\_\_\_ TABLED \_\_\_\_\_ WITHDRAWN

SIGNATURE \_\_\_\_\_ DATE \_\_\_\_\_  
Secretary, Board of Architectural Review

I AM A PROPERTY OWNER IN WINCHESTER.

I USED TO OWN THREE HOUSES - 22, 18 AND 16 WEST MONMOUTH STREET. MY GOAL WAS TO OWN THE WHOLE BLOCK.

I GOT DIVORCED AND HAD TO SELL 22. I GAVE 18 TO MY EXWIFE AND KEPT 16 FOR MYSELF. BECAUSE OF CHILD SUPPORT AND MENTAL INSURANCE AND OTHER EXPENSES I WAS NOT ABLE TO PROPERLY MAINTAIN MY PROPERTY FOR OVER 10 YEARS.

MY HOUSE WAS COVERED IN IN RED BRICK VENEER PLASTER BOARD SIDING THAT WAS DETERIORATING AND BEYOND REPAIR. ALSO MY KITCHEN WINDOW ON THE BACK NORTH SIDE WAS ROTTEN AND NEEDED TO BE REPLACED.

I HAD ONLY PLANNED TO REPLACE THE KITCHEN WINDOW (SEE PHOTO #1) BUT THE SIDING WAS NOT FIXABLE AROUND THAT WINDOW. THIS SMALL JOB TURNED IN TO A COMPLETE HOUSE MAKE OVER. I USE VINYL SIDING ON THE BACK AND SIDE (SEE PHOTOS #1, 2, 3).

THE FRONT OF THE HOUSE I HAVE USED WHITE CEDAR. (PHOTO 4)

I AM NOW FINISHING THE FRONT PORCH AND  
AND STEPS (PHOTO 5)

**CITY OF WINCHESTER  
ARCHITECTURAL INVENTORY**

**1976**

Address: 16 West Monmouth Street Present Use: Residential  
 Map & Parcel: 193-(1) Assessed Value: \$14,100  
 Tract & Block: I-9  
 Present Owner: Winton B. Pope Historic Name: \_\_\_\_\_  
 Address: \_\_\_\_\_ Original Owner: \_\_\_\_\_  
 Original Use: \_\_\_\_\_

Date: 17\_\_ 80 90 1800 10 20 30 40 50 60 70 80 <sup>Est 1885</sup> 90 1900 19\_\_

Style: Vern. L.Geor. Grk.Rev. Ital. 2ndEmp. Rom. Goth. Q.A. Col.Rev.  
 B.Arts None+ None-

Stories: B 1 1½ 2 2½ 3 3½ 4 Stone Foundation

Material: Stone Log <sup>possibly</sup> Clapbrd. Wd.Fr. Brk. Plas. Asphalt  
 brick siding

Modifications: Minor Moderate Extensive

Physical Condition: Standard Deteriorated Dilapidated

Environmental Context: Strong Moderate Weak

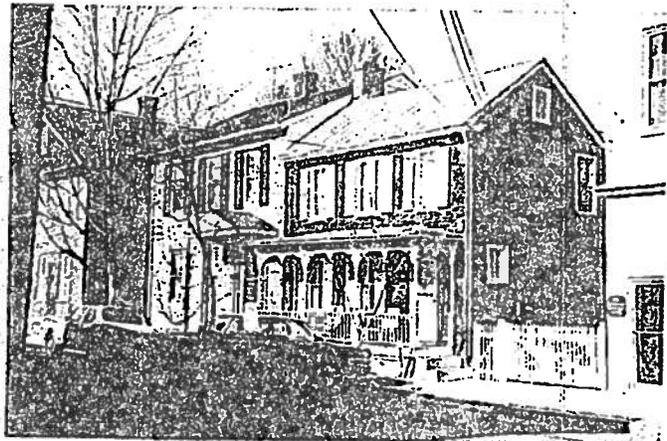
Architectural Significance:  
 Outstanding Excellent Good Average None  
 Architectural Description

This two story, three bay house is covered in asphalt "brick" siding. The windows are two over two, and the right end door has a transom light. The full facade, hip roof porch has beautiful carved brackets, corner braces, drops, and turned posts and balusters. The roof is tin, and there is a large left end chimney.

Historical Significance:  
 National State/Regional Local None  
 Historical Description

\_\_\_\_\_

References:





# City of Winchester

## 16 West Monmouth Street

Tax Map Number: 193-1-I-9-

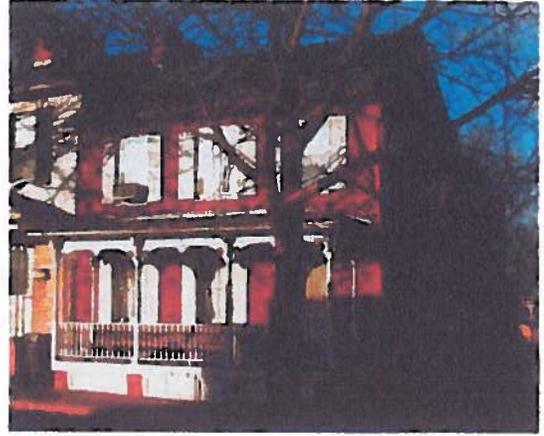
DHR Resource Number: 138-0042-0842

Resources: 1 single dwelling; 1 garage

Date/Period: ca. 1905

Style: Queen Anne

Sources: Sanborn Fire Insurance Company Maps; Quarles, *The Story of One Hundred Old Homes*



### Architectural Description

**Site Description:** This two-story, single-family dwelling is located on the north side of West Monmouth Street and abuts the concrete sidewalk. A concrete walkway runs parallel to the east (side) elevation of the building. The backyard of the property is marked by mature shrubs.

**Secondary Resource Summary:** A one-story garage is located north of the main dwelling.

**Primary Resource Description:** Constructed circa 1905, this two-story, three-bay single-family dwelling is set on a solid foundation faced with stretcher-bond brick. This wood-frame building is clad with Bricktex siding. Standing-seam metal covers the side-gabled roof, which is accented by ogee-molded cornice returns and overhanging eaves. An interior-end brick chimney rises from the west (side) elevation and has a plain cap.

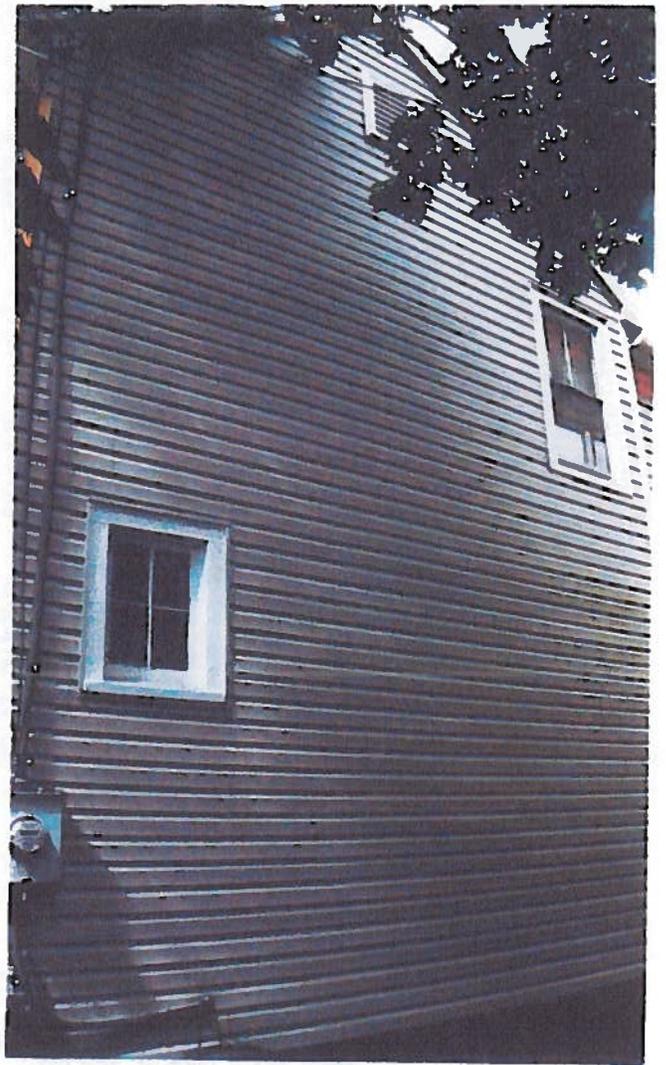
A single-leaf, paneled wood door with lights, surmounted by a single-light transom, is located in the easternmost bay of the façade (south elevation). Additional window openings on the façade hold 2/2, double-hung, wood-sash. The central bay of the second story holds paired 1/1, double-hung, wood-sash windows. Each window opening is finished with a wood sill and operable louvered wood shutters. A one-story, full-width porch extends from the façade and is set on a brick pier foundation with paneled wood infill. Constructed circa 1910, this Queen Anne-style porch is capped by a half-hipped roof of standing-seam metal. Turned wood posts support the roof, which is embellished with scrolled brackets, spindlework, and pendants. Turned wood balusters finish the porch.

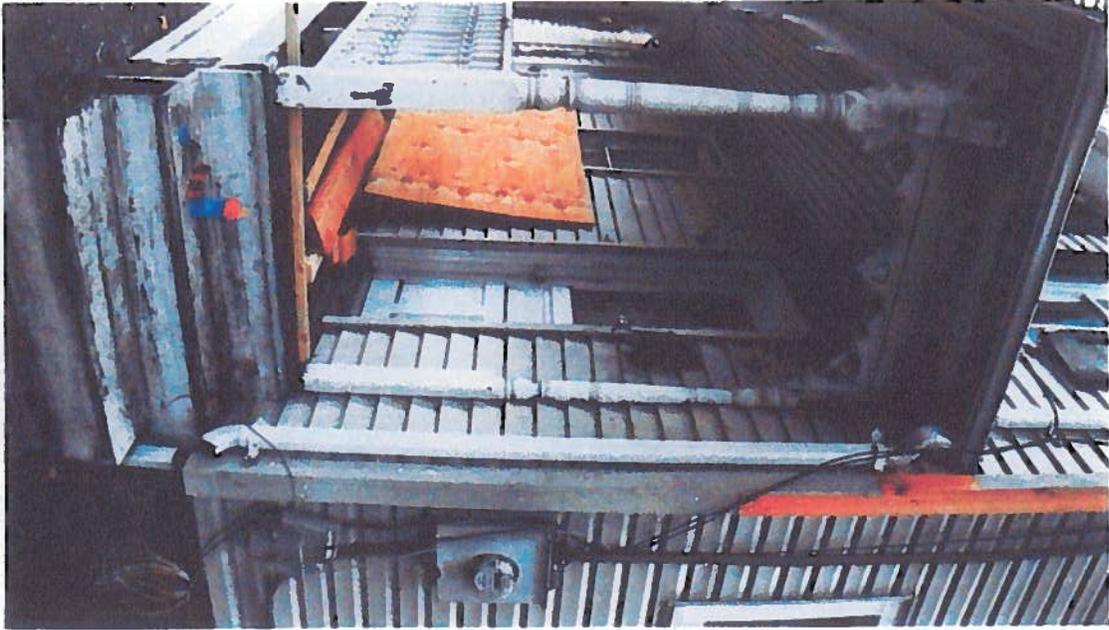
Fenestration on the east (side) elevation is limited to a four-light fixed wood window and a 2/2, double-hung, wood-sash. Wood sills and surrounds finish the openings. A louvered vent is located in the upper gable end.

A two-story ell extends from the westernmost bay of the rear (north) elevation and is original. The wood-frame ell, clad with Bricktex siding, is capped by a front-gabled roof of standing-seam metal. A two-story, full-width enclosed porch is located on the east (side) elevation and is marked by paired 1/1, double-hung, wood-sash and a band of 1/1, double-hung, wood-sash. Additional fenestration was not visible from the public right-of-way.

**Secondary Resource Description:** A one-story garage, constructed circa 1930, is located north of the dwelling. Set on a solid foundation, this garage is clad with German wood siding. A gabled roof, covered with standing-seam metal, caps the building. A roll-up, paneled metal door with lights marks the façade (east elevation). Additional fenestration was not visible from the public right-of-way.

**Significance Statement:** This two-story, vernacular single-family dwelling is representative of the domestic architecture constructed in the City of Winchester during the first quarter of the twentieth century. Judging by the form and materials, as well as by using Sanborn maps, this dwelling can be given a circa 1905 date of construction. This single-family dwelling retains integrity of materials, workmanship, and design, despite the use of replacement siding and addition of the Queen Anne-style porch. Further, this dwelling retains integrity of location and setting. All of these aspects contribute to integrity of feeling and association. This single-family dwelling is a contributing resource to the Winchester Historic District under Criteria A and C.





# Winchester

zoning & inspections *Virginia*



Rouss City Hall  
15 North Cameron Street  
Winchester, VA 22601

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

October 4, 2013

Samuel L. Maddox  
16 W. Monmouth Street  
Winchester, VA 22601

Dear Mr. Maddox:

On Thursday, October 3, 2013, the Board of Architectural Review acted on the following request:

**BAR-13-524** Request of Samuel Maddox, property owner, for a certificate of appropriateness to replace windows and siding and exterior paint for the property at 16 W. Monmouth Street, zoned Residential Business (RB-1) District with Historic Winchester (HW) District overlay.

On a vote of 5-0, the Board tabled **BAR-13-524** until the October 17, 2013, meeting.

The decision of the Board may be appealed to the Common Council of the City of Winchester within 30 days of the Board's decision. Please do not hesitate to contact me should you have any questions at 667-1815, ext. 1492.

Sincerely yours,

Aaron M. Gridale, CZA  
Director of Zoning and Inspections

*"To provide a safe, vibrant, sustainable community while striving to constantly improve the quality of life for our citizens and economic partners."*

I HAVE AN APPLICATION FOR MY PROPERTY AT  
16 W. MONMOUTH ST.

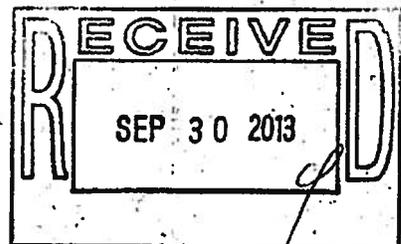
I HAD PLANNED ON BEING AT THE MEETING  
ON OCT 3RD

HOWEVER I WILL BE OUT OF TOWN THAT  
AFTERNOON.

WOULD YOU PLEASE TABLE MY APPLICATION  
UNTIL YOUR NEXT MEETING ON OCT 17TH.

I WILL BE THERE ON THE 17TH OF OCT.

London Priddy  
540.662-7061



**BOARD OF ARCHITECTURAL REVIEW**  
**Thursday, October 3, 2013, at 4:00 p.m.**  
**Council Chambers, Rouss City Hall**

**1. POINTS OF ORDER**

- A. Roll Call
- B. Approval of Minutes – September 19, 2013

**2. CONSENT AGENDA**

**3. NEW BUSINESS**

**BAR-13-510** Request of Oakcrest Properties, LLC, on behalf of Cameron Street Properties, LLC, for a certificate of appropriateness to install a fence at the property located at 11 S. Cameron Street (*Map Number 193-01-M-19-A-01*), zoned Central Business (B-1) District with Historic Winchester (HW) District overlay.

**BAR-13-524** Request of Samuel Maddox, property owner, for a certificate of appropriateness to replace windows and siding and for exterior paint for the property located at 16 W. Monmouth Street (*Map Number 193-01-I-9-01*), zoned Residential Business (RB-1) District with Historic Winchester (HW) District overlay. **TABLED - PER APPLICANT'S REQUEST – SEPTEMBER 30, 2013**

**BAR-13-526** Request of Reader & Swartz, Architects, on behalf of Shenandoah University, for a certificate of appropriateness to change the existing siding at the property located at 186 N. Loudoun Street (*Map Number 173-02-A-T-01*), zoned Central Business (B-1) District with Historic Winchester (HW) District overlay.

**BAR-13-527** Request of Reader & Swartz, Architects, on behalf of the Shenandoah Valley Discovery Museum, for a certificate of appropriateness for exterior paint colors for the property located at 19 W. Cork Street (*Map Number 193-01-F-23-A-01*), zoned Central Business (B-1) District with Historic Winchester (HW) District overlay.

**4. OLD BUSINESS**

**BAR-13-462** Request of Tom Anderson, on behalf of Winchester Capital Group, Inc., for a certificate of appropriateness to construct a roof over the side door at the property located at 525 Amherst Street (*Map Number 172-01-7-B-01*), zoned Central Business (B-1) District with Historic Winchester (HW) District overlay.

**BAR-13-499** Request of John P. Chesson, MD, for a certificate of appropriateness to construct a shed, install a condenser surround, gate, and a gated enclosure at the property located at 101 W. Cork Street (*Map Number 192-01-Q-1-01*), zoned Central Business (B-1) District with Historic Winchester (HW) District overlay.

**BAR-13-424** Request of CCAP for a certificate of appropriateness to construct a handicap ramp and to remove shutters at the property located at 106 S. Kent Street (*Map Number 193-01-V-4-01*), zoned Central Business (B-1) District with Historic Winchester (HW) District overlay.

**5. OTHER DISCUSSION**

**6. ADJOURN**

**\*\*\*APPLICANT OR REPRESENTATIVE MUST BE PRESENT  
AT THE MEETING**



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October 17, 2013

Samuel L. Maddox  
16 W. Monmouth Street  
Winchester, VA 22601

Dear Mr. Maddox:

On Thursday, October 17, 2013, the Board of Architectural Review acted on the following request:

**BAR-13-524** Request of Samuel Maddox, property owner, for a certificate of appropriateness to replace windows and siding and exterior paint for the property at 16 W. Monmouth Street, zoned Residential Business (RB-1) District with Historic Winchester (HW) District overlay.

On a vote of 5-0, the Board approved a certificate of appropriateness to **BAR-13-524** with the following conditions:

- The coal chute that was removed must be restored to its original place
- The windows on the back side of the house can be replaced as desired
- The vinyl siding must be removed and wood siding put back or existing wood siding reused and painted
- All wood siding must match in size and design with what is existing
- Paint must match the paint used on the second story

The decision of the Board may be appealed to the Common Council of the City of Winchester within 30 days of the Board's decision. Please do not hesitate to contact me should you have any questions at 667-1815, ext. 1492.

Sincerely yours,

Aaron M. Grisdale, CZA  
Director of Zoning and Inspections

*"To provide a safe, vibrant, sustainable community while striving to constantly improve the quality of life for our citizens and economic partners."*

**BOARD OF ARCHITECTURAL REVIEW**  
**Thursday, October 17, 2013, at 4:00 p.m.**  
**Council Chambers, Rouss City Hall**

**1. POINTS OF ORDER**

- A. Roll Call
- B. Approval of Minutes – October 9, 2013

**2. CONSENT AGENDA**

**3. NEW BUSINESS**

**BAR-13-550** Request of Roman Jenkins for a Certificate of Appropriateness to extend brick walkway at the property located at 415 North Braddock Street (Map Number 173-01-A-15-01) zoned Medium Density Residential (MR) District with Historic Winchester (HW) District overlay.

**4. OLD BUSINESS**

**BAR-13-462** Request of Tom Anderson, on behalf of Winchester Capital Group, Inc., for a certificate of appropriateness to construct a roof over the side door at the property located at 525 Amherst Street (*Map Number 172-01-7-B-01*), zoned Central Business (B-1) District with Historic Winchester (HW) District overlay.

**BAR-13-499** Request of John P. Chesson, MD, for a certificate of appropriateness to construct a shed, install a condenser surround, gate, and a gated enclosure at the property located at 101 W. Cork Street (*Map Number 192-01-Q-1-01*), zoned Central Business (B-1) District with Historic Winchester (HW) District overlay.

**BAR-13-524** Request of Maddox Samuel, property owner, for a certificate of appropriateness to replace windows and siding and exterior paint for the property at 16 W. Monmouth Street, zoned Residential Business (RB-1) district with Historic Winchester (HW) District overlay.

**5. OTHER DISCUSSION**

**6. ADJOURN**

**\*\*\*APPLICANT OR REPRESENTATIVE MUST BE PRESENT  
AT THE MEETING**

## BOARD OF ARCHITECTURAL REVIEW

The Board of Architectural Review held its regularly scheduled meeting on Thursday, October 17, 2013, at 4:00 p.m. in Council Chambers, Rouss City Hall, 15 N. Cameron Street, Winchester, Virginia.

### POINTS OF ORDER:

**PRESENT:** Chairman Rockwood, Mr. Bandyke, Mr. Walker, Ms. Jackson, Mr. Serafin

**ABSENT:** None

**STAFF:** Aaron Grisdale, Nasser Rahimzadeh, Catherine Clayton

**VISITORS:** Samuel Maddox

### APPROVAL OF MINUTES:

Chairman Rockwood called for corrections to the minutes of October 9, 2013. Hearing none, he called for a motion. Ms. Jackson moved to approve the minutes as submitted. Mr. Serafin seconded the motion. Voice vote was taken and the motion passed 5-0.

### CONSENT AGENDA:

**BAR-13-550** Request of Roman Jenkins for a Certificate of Appropriateness to extend the brick walkway at the property located at 415 North Braddock Street (Map Number 173-01-A-15-01) zoned Medium Density Residential (MR) District with Historic Winchester (HW) District overlay. This is an Eagle Scout project at the Stonewall Jackson house.

Chairman Rockwood called for additional discussion. Hearing none, he called for a motion. Mr. Bandyke moved to approve and grant a Certificate of Appropriateness to BAR-13-550 stating that the bricks are to match the existing walkway as closely as possible. Mr. Walker seconded the motion. Voice vote was taken and the motion passed 5-0.

### PUBLIC HEARINGS:

None.

### NEW BUSINESS:

**BAR-13-550** Request of Roman Jenkins for a Certificate of Appropriateness to extend the brick walkway at the property located at 415 North Braddock Street (Map Number 173-01-A-15-01) zoned Medium Density Residential (MR) District with Historic Winchester (HW) District overlay.

Chairman Rockwood stated that as the drawing indicates, the request is to extend the existing walkway around the corner to the back entrance where handicap access can be attained. He then stated that this work cannot be seen from the street.

Mr. Bandyke moved to have BAR-13-550 moved to the consent agenda stating the following:

1. the work will not be seen
2. it is brick on sand, the brick is designated on the application
3. provides handicap access

Mr. Serafin seconded the motion. Voice vote was taken and the motion passed 5-0.

### **OLD BUSINESS:**

**BAR-13-462** Request of Tom Anderson, on behalf of Winchester Capital Group, Inc., for a Certificate of Appropriateness to construct a roof over the side door at the property located at 525 Amherst Street (Map Number 172-01-7-B-01) zoned Central Business (B-1) District with Historic Winchester (HW) District overlay.

Mr. Grisdale advised that it was his understanding that there were going to be some revisions to the application to come back before the Board but to date none has been received.

Chairman Rockwood suggested that the Board move to table.

Mr. Bandyke moved to table BAR-13-462 until the next meeting. Ms. Jackson seconded the motion. Voice vote was taken and the motion to table passed 5-0.

**BAR-13-499** Request of John P. Chesson, MD, for a Certificate of Appropriateness to construct a shed, install a condenser surround, gate, and a gated enclosure at the property located at 101 W. Cork Street (Map Number 192-01-Q-1-01) zoned Central Business (B-1) District with Historic Winchester (HW) District overlay.

Mr. Grisdale stated that he did follow-up with the applicant after the last meeting to advise him of the Board's thoughts and request regarding a sample or photograph of the material to be used; however, there has been no contact from the applicant since this email.

Chairman Rockwood suggested that the Board move to table.

Mr. Bandyke stated that the screening should not only subdue the units on the roof but the logo on them as well.

Chairman Rockwood called for any additional discussion. Hearing none, he called for a motion.

Mr. Bandyke moved to table BAR-13-499 until the next meeting. Ms. Jackson seconded the motion. Voice vote was taken and the motion to table passed 5-0.

**BAR-13-524** Request of Samuel Maddox, property owner, for a Certificate of Appropriateness to replace windows and siding and for exterior paint for the property at 16 W. Monmouth Street (Map Number 193-01-I-9-01) zoned Residential Business (RB-1) District with Historic Winchester (HW) District overlay.

Chairman Rockwood questioned whether the applicant has been told to stop work to which Mr. Maddox responded that no one has advised him of such. Mr. Maddox then explained that he was unaware that he had to come before the Board. Chairman Rockwood explained that in the past the Board has approved Hardy plank on side elevations but not vinyl siding. Chairman Rockwood then asked the applicant for some insight in to the project that he is proposing so that the Board can address the concerns, especially the vinyl siding.

Mr. Maddox advised the Board that he is trying to make some improvements on his house and that he did not realize that the work had to come before the Board. He stated that he started at the back of the house and worked forward and that he does have siding on the side. He added that there is a tree out front that blocks most of the view at the driveway and, as a possible to solution to the siding; he could possibly put up a gate across the driveway which would block most of the view of his driveway and the side of the house. Mr. Maddox further advised that there previously was a gate there and he took it down because it was rotted.

Chairman Rockwood then stated that the photographs of the front of the house do not indicate the new board that was used to enclose the underside of the front porch area. He added that the photograph seems to indicate an old coal chute and asked if it was still functional. Mr. Maddox responded that it is not functional but that he does still have the original door from it. He added that he removed the door and was planning to use it on the side of the house. Chairman Rockwood then asked if the applicant used vertical 1x4s as the skirt part underneath the porch. Mr. Maddox stated yes and also that he installed new front porch steps as well.

Chairman Rockwood then advised Mr. Maddox that the other difficulty he has is that the vinyl is a German siding pattern with an indentation at each board and it is noticeably different than the siding on the front which is wood. He then asked if the applicant considered using wood in the places where he has installed the vinyl to which Mr. Maddox responded that he did not consider it. Chairman Rockwood stated that it appears that the siding is covering clapboard siding and asked what kind of shape it is in. Mr. Maddox responded that it is in pretty bad shape. Most of the planks were rotted and broken and covered with brick.

Mr. Serafin then asked the Board that if Mr. Maddox had come to the Board first, what they would suggest. Chairman Rockwood stated that the Board has in the past approved Hardy plank on the non-front façade of projects such as this but not vinyl and that the Board would expect that the dimensions and style of the siding would match front and side.

Mr. Serafin then asked about the back. Mr. Bandyke stated that what they are trying to say is that they treat the back like it is Hardy plank because vinyl is not in the vernacular. He then said that Hardy plank on the back and possibly on the sides but only if it cannot be seen from a public right-of-way. Mr. Serafin then stated that clearly the corner is right there at the sidewalk. Chairman Rockwood stated that the Board has approved Hardy plank which is technically visible

from the street but it was not a primary façade. He added that it can be painted and it can be sized to match the wood in the front. It is a pretty good duplication, if you will, of the wood siding. It is a tough call and with the cost factor it might even be cheaper. Ms. Jackson stated that that might be the coefficient.

Chairman Rockwood stated that the applicant mentioned windows but stated that he has not seen which windows the applicant is referring to. Mr. Maddox stated just the window on the back of the house. Chairman Rockwood then asked if that is the only window that the applicant is seeking to replace. Mr. Bandyke asked if it would be the picture window to which Mr. Maddox responded yes. Mr. Bandyke then asked about the two windows up above the picture window to which Mr. Maddox responded that one has been replaced and that he hopes to do the other one. Chairman Rockwood then stated that given they are not visible from the street, we should encourage saving those windows or at least putting back windows of similar design but if Mr. Maddox wants to use the windows that he described, he is within his right to do so but only on the back façade.

Chairman Rockwood then added that they did have a house about a year ago that had the fake brick on it and that the Board suggested that they remove it to determine what condition their siding was in and it turned out to be in pretty good condition. The applicant painted the siding and it looks good. He then stated that it looks like there are some spots where the siding is just missing and not knowing to what extent the other siding is sound or what, maybe if it is not too bad you could maybe patch or infill with siding to match and then just paint the back. This is just a suggestion, not a requirement.

Mr. Maddox then stated that the way the Board was speaking about the vinyl siding, they were making it sound like it doesn't match but it does match the wood to the length, the width, and the color. Ms. Jackson then stated that the style is different. Chairman Rockwood stated that the vinyl siding has a little curve at the top and it is German siding, so called. The siding on the front is just straight with no indentation, no profile and if this had come to us before you began work, they would expect that all of the siding would be identical in specification.

Mr. Bandyke stated that even if the applicant puts up a fence, you are still going to see this side of the house with the vinyl on it. He added that he does not know any way around this, adding that technically the applicant should have put wood on the side and then he could have used Hardy plank on the back. He then stated that their hands are tied and they cannot approve vinyl siding. Also, even the style of the skirting on the front porch needs to be approved by the Board. That is one of the things about the Historic District, you own the house but changing the house, you have to come before the Board. He added that even if Mr. Maddox would have shown the Board that design, he does not know if they would have approved it for the vertical skirting. Mr. Bandyke then asked if Mr. Maddox was planning to paint the skirting to which Mr. Maddox stated yes. Mr. Bandyke then stated that if he had to vote on this, he could not approve it and that the vinyl siding would have to be replaced on the side and the back. If you have vinyl windows in the back and we cannot see it from the right-of-way then there really is nothing that the Board can do about it. He added that the Board does encourage the use of wood windows but vinyl can be used back there. Mr. Serafin added that the Board would not suggest vinyl.

Chairman Rockwood then asked if there is a cost factor involved here and if vinyl is significantly cheaper to which Mr. Maddox stated yes. Chairman Rockwood stated that he appreciates that Mr. Maddox used wood on the front and then asked if applicant could give an indication of what the savings were by using the vinyl. Mr. Maddox stated that the white cedar is pretty expensive and is about double in price versus the vinyl but that he does not know the exact breakdown.

Mr. Bandyke asked what is the thickness of the bottom of the board on the front to which Mr. Maddox stated that he believes it is  $\frac{3}{4}$ -inches.

Mr. Serafin stated that what it sounds like is that the Board is saying that the vinyl siding on the side of the house has to come off. Ms. Jackson said that it does sound that way. Chairman Rockwood said that that would be his suggestion. Mr. Serafin said that this seems to be a consensus.

Mr. Bandyke asked if the applicant could use another white cedar on the front and that it is a protected area there because it is underneath the porch. He then asked if Mr. Maddox could use another species of wood, which would be fine with the Board, for the side and use either a yellow pine lap siding or the Hardy plank in the back.

Chairman Rockwood then stated that the vinyl cannot be painted and it will not weather the same. He then asked to what extent the existing siding could be repaired or patched in the areas where the boards have split or rotted. It might be a matter of replacing a few boards rather than the whole side and then you (applicant) would have the original siding patched with siding to match.

Chairman Rockwood stated that there is some kind of covering, some kind of asphalt sheeting on top of this so that the wood was protected to some degree. Mr. Maddox stated that he thinks it is because it is bad. Chairman Rockwood said that if Mr. Maddox approaches this project with the idea that maybe the siding is in good enough shape to keep rather than deciding right away that you (applicant) are going to cover it up, maybe that is not such bad siding. There may be some problem areas but you might be able to salvage the bulk of it. Ms. Jackson then asked about the compromising of what is underneath the vinyl now with nail holes from the installation. Mr. Bandyke stated that the nails are not that big so it really is not a problem. Ms. Jackson then asked when weighing the cost, wouldn't it be less expensive than doing the whole project over in wood.

Chairman Rockwood then asked Mr. Maddox if he is doing the labor himself to which he advised that he is doing most of it but that he does have a helper who is giving him technical advice. Chairman Rockwood stated that he would recommend repairing what is there, repairing holes, and replacing the boards that need to be replaced and that the vinyl has to come off. He then stated that he hates situations like this and that they do sympathize with Mr. Maddox because it is going to cost more money. He added that they have never approved vinyl in the historic district and probably never will. He recommends fixing what is there and painting it.

Chairman Rockwood then stated that he thinks the Board has approved Hardy plank for side elevations before to which Mr. Grisdale responded that there have been some limited instances

where Hardy plank has been approved on side elevations. It is has been limited but there have been a few and usually it is on newer construction like infill where the Board has been more forgiving. It is not an “always the case situation,” rather it has been on a situational-dependent decision by the Board and that it has not been consistent either way.

Mr. Bandyke stated that the applicant advised he would put up a fence but he believes that Mr. Maddox would have the fence a little too close and you would need to be able to open and close it for parking. Mr. Maddox stated that the driveway is not really necessary and that he is thinking of making it into a patio area.

Mr. Serafin then asked what other windows are going to be replaced. Mr. Maddox responded that he will only replace the three in the back.

Mr. Maddox then asked if he does want to put up a fence, will he need to put in a proposal before the Board to which Chairman Rockwood stated yes. Mr. Bandyke stated that he believes the fence can go up to six (6) feet to which Mr. Grisdale responded that it depends on the yard. He then added that if it is in a front yard it can only go up four (4) feet and it has to be at least 25% open, so it would depend where the fence is located in relation to the house. Mr. Bandyke then asked that if the applicant ran the fence across the driveway from his house to a post beside the neighbor’s house would it work. Mr. Grisdale stated that if it is behind the front plane of the house, it can be up to six (6) feet.

Chairman Rockwood advised that where they are is that the windows on the back can stay if Mr. Maddox wants them to. If he can patch the wood siding on the side, that would be good and it may not be too expensive but if he wants to replace the whole side, he guesses that they could approve Hardy plank but it may be more costly than doing wood. No vinyl on the back but can do Hardy plank but again, you can do wood. The front can stay like it is because it is fine. Mr. Maddox stated that he will take the siding down and leave the house like it is.

Mr. Walker stated that they have not talked about the paint but that he does not see any issues with it. Chairman Rockwood asked if they have colors to which Mr. Maddox stated that the top floor is what the paint will look like.

Mr. Bandyke then asked the applicant if he can use the old coal chute door on the front along with the new skirting to which Mr. Maddox responded that he thinks it was added. Mr. Bandyke stated that he would recommend putting it back even though it is only an architectural detail, it does add to the character of the house. Mr. Serafin added that it is a piece of the historic fabric of the building and it makes it look authentic and it gives it character.

Ms. Jackson asked if there is any compensation if the vinyl is removed carefully and can it be reused. Mr. Bandyke stated that they could give it to someone but that is about the only way.

Chairman Rockwood called for any additional comments or discussion. Hearing none, he called for a motion.

Mr. Bandyke moved to approve and grant a Certificate of Appropriateness to BAR-13-524 for the following:

- The coal chute needs to be remounted in the same location on the front skirting of the porch, and
- The windows in the back of the house can be replacement windows as applicant wants to install, and
- The vinyl siding on the side and the back of the house needs to be removed and wood siding either has to be put back or the existing wood siding utilized, and
- The paint for the side and the back of the house must match the second story paint on the house right now, and
- Any and all replacement siding must match in width, thickness, and style to what is currently on the house.

Mr. Serafin seconded the motion. Voice vote was taken and the motion passed 5-0.

Hearing the Board's decision, Mr. Maddox stated that he would like to appeal until such time as he put in an application for a fence. He added that the Board told him that the back of the house is not important and now he says that the Board is telling him that he has to take off the siding from the back and that the Board is a little worried about what can be seen from the right-of-way. He added that if he puts up a fence that will take care of some of the vision issues and so he asked if they can go back and revisit some of what can be seen after he gets a fence up.

Chairman Rockwood stated that the problem with a fence is that obviously it will not block the siding on the second story of the property and it is his hope that if Mr. Maddox takes a look at the siding underneath the vinyl, it may be repairable and useable as it is.

Mr. Bandyke then asked Mr. Maddox how long he has owned the property to which Mr. Maddox responded about twenty years. Mr. Bandyke then asked if he knew that it was in the historic district to which Mr. Maddox stated yes he did know. Mr. Bandyke stated that the Board's hands are tied and they cannot allow Mr. Maddox to have something different. This would set an adverse precedent but they do accept Hardy plank in some cases and in this case, it is a possibility. Mr. Grisdale advised Mr. Maddox that he will receive a letter stating the Board's decision and that there is a 30-day time period for appeal to Council.

#### **OTHER DISCUSSION:**

Mr. Grisdale stated that the applicant at the intersection of Braddock and Monmouth did get approval for paint but not to remove the metal siding. He will make a retroactive application to remove the metal siding but he also has some future work that he is planning to do for some brickwork and things like that so you will see an application come before the Board for his planned work in terms of doing some brick replacement with a stoop going up on the Braddock Street side and then also for the siding removal of the old aluminum siding.

#### **ADJOURN:**

Having no other business, the meeting adjourned at 4:45 p.m.

This is an appeal for the line item stating, "The vinyl siding must be removed and wood siding put back or existing wood siding reused and painted."

The reason for this appeal is because the city inspections office required me to repair or replace the decaying siding on my house. During all of my work to remove the old brick veneer siding and replace it with vinyl siding, the city inspected my work and never once said what I was doing was wrong.

The city never told me to stop the work I was doing. This work was extensive and took me more than several months over this spring. About halfway through the siding work someone came by and said, "When you do the work on the front of the house it has to be done with wood."

After I did all this work for the inspections department, the architectural board says what I did was wrong and must be removed.

My house has not weathered well over the years. The brick veneer particle board siding I removed was put over wood siding that was so worn and damaged, it had to be covered. I covered this siding with wood on the front and vinyl on the side and back. This new siding is basically holding my house together.

I am asking for an exemption for the work that has already been done. I am not looking forward to the time and labor and money in removing this existing siding. I want to quietly clean up my house and put all this work behind me.

I have looked through the past minutes of the architectural board and have not found any instances where required existing work had to be removed. If this exemption is denied, I will hire a lawyer to fight my case. If I lose this case, I will use it as a precedent to go after every other structure in the historic district that has vinyl siding.

I am not trying to get anything over on the city. I just want this to end.

Please approve this work that was required and supervised by the city.

*Samuel Landon Maddox*  
540-662-7061

NOV 15 2013



Rouss City Hall  
15 North Cameron Street  
Winchester, VA 22601

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

October 17, 2013

Samuel L. Maddox  
16 W. Monmouth Street  
Winchester, VA 22601

Dear Mr. Maddox:

On Thursday, October 17, 2013, the Board of Architectural Review acted on the following request:

**BAR-13-524** Request of Samuel Maddox, property owner, for a certificate of appropriateness to replace windows and siding and exterior paint for the property at 16 W. Monmouth Street, zoned Residential Business (RB-1) District with Historic Winchester (HW) District overlay.

On a vote of 5-0, the Board approved a certificate of appropriateness to **BAR-13-524** with the following conditions:

- The coal chute that was removed must be restored to its original place
- The windows on the back side of the house can be replaced as desired
- The vinyl siding must be removed and wood siding put back or existing wood siding reused and painted
- All wood siding must match in size and design with what is existing
- Paint must match the paint used on the second story

The decision of the Board may be appealed to the Common Council of the City of Winchester within 30 days of the Board's decision. Please do not hesitate to contact me should you have any questions at 667-1815, ext. 1492.

Sincerely yours,

Aaron M. Grisdale, CZA  
Director of Zoning and Inspections

# RESIDENTIAL REHABILITATION

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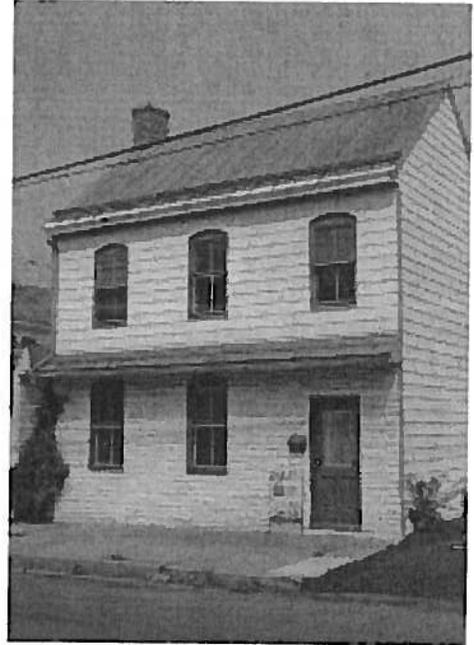
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## SUBSTITUTE MATERIALS

A building's historic character is a combination of its design, age, setting, and materials. The exterior walls of a building, because they are so visible, play a very important role in defining its historic appearance. Wood clapboards, wood shingles, wood board-and-batten, brick, stone, stucco or a combination of the above materials all have distinctive characteristics. Synthetic materials can never have the same patina, texture, or light-reflective qualities.

These modern materials have changed over time, but have included asbestos, asphalt, vinyl, aluminum, and EIFS (exterior insulation and finish system) and have been used to artificially create the appearance of brick, stone, shingle, stucco and wood siding surfaces.

Synthetic sidings are not appropriate in the district. In addition to changing the appearance of a historic building, synthetic sidings may make maintenance more difficult because they may cover up potential moisture problems that can become more serious. Artificial siding, once it dents or fades may need painting just as frequently as wood.



Frequently, the installation of artificial siding results in the removal of historic elements like brackets and porches.



- 1** Remove synthetic siding and restore original building material, if possible.
- 2** If you are unsure about using a substitute material, please contact the BAR or the Winchester Office of the Virginia Department of Historic Resources.

Artificial siding does not have the appearance or patina of real wood siding.

NOTE: Consult Preservation Brief #8 and 16. (Publications available at [www2.cr.nps.gov/tps/briefs/presbhom.htm](http://www2.cr.nps.gov/tps/briefs/presbhom.htm) or in the City Planning Office.)

CITY OF WINCHESTER, VIRGINIA

PROPOSED CITY COUNCIL AGENDA ITEM

CITY COUNCIL/COMMITTEE MEETING OF: 01/09/2013 CUT OFF DATE: 11/20/2013

RESOLUTION \_\_\_ ORDINANCE \_X\_ PUBLIC HEARING \_X\_

ITEM TITLE: Ordinance to Approve School Bus Video Monitoring and Adopt Sections 14-45 of the Winchester City Code.

STAFF RECOMMENDATION: Winchester Public Schools recommends approval of the proposed Ordinance.

PUBLIC NOTICE AND HEARING: Required

ADVISORY BOARD RECOMMENDATION: School Board supports Council's adoption of the proposed Ordinance.

FUNDING DATA: City's expenses in administering the program shall be reimbursed by fines imposed for violations. Remaining funds collected will be remitted to WPS.

INSURANCE: N/A

The initiating Department Director will place below, in sequence of transmittal, the names of each department that must initial their review in order for this item to be placed on the City Council agenda. The Director's initials for approval or disapproval address only the readiness of the issue for Council consideration. This does not address the Director's recommendation for approval or denial of the issue.

| <u>DEPARTMENT</u>   | <u>INITIALS FOR APPROVAL</u> | <u>INITIALS FOR DISAPPROVAL</u> | <u>DATE</u> |
|---|------------------------------|---------------------------------|-------------|
| 1. _____  | _____                        | _____                           | _____       |
| 2. Police   | <i>Chp/KL</i>                | _____                           | 12/19/13    |
| 3. _____  | _____                        | _____                           | _____       |
| 4. _____  | _____                        | _____                           | _____       |
| 5. City Attorney  | <i>[Signature]</i>           | _____                           | 12/20/2013  |
| 6. City Manager   | <i>[Signature]</i>           | _____                           | 12-20-13    |
| 7. Clerk of Council                                       | _____                        | _____                           | _____       |
| Initiating Department Director's Signature: <i>Chp/KL</i> | _____                        | _____                           | 12/24/13    |
| Kevin McKew, Executive Director WPS                       | _____                        | _____                           | Date        |

Revised: October 23, 2009



APPROVED AS TO FORM:

*[Signature]* 12/20/2013  
CITY ATTORNEY

# CITY COUNCIL ACTION MEMO

**To:** Honorable Mayor and Members of City Council  
**From:** Kevin McKew, Executive Director, Winchester Public Schools  
**Date:** November 18, 2013  
**Re:** School Bus Video Monitoring Systems

**THE ISSUE:** Based on reports from school bus drivers and law enforcement officials, motorists routinely disregard warning signals, and illegally pass stopped school buses each day thereby putting children in serious danger.

**RELATIONSHIP TO STRATEGIC PLAN:** Relates to WPS Comprehensive Plan Reference §3.1 *Providing a safe, clean, and appropriate environment for students.*

**BACKGROUND:** In 2011 the Virginia Legislature enacted a law allowing for consistent and continuous enforcement of vehicles illegally passing a stopped school bus through the use of photo enforcement technology. This law allows citations to be issued to registered owners of vehicles that illegally pass camera-equipped school buses. The video system must produce a recorded image of the license plate and the activation status of at least one warning device, and also must record time, date, and location of the violation. The civil penalty for a violation is \$250, and by city ordinance may be payable to the local school division to offset the cost of the program.

On October 14, 2013 the School Board passed a motion authorizing the Superintendent to finalize an agreement with American Traffic Systems, Incorporated (ATS); and following City Council approval of an ordinance change allowing school bus video monitoring systems (attached), and legal counsel review of the contract form, to submit the proposed contract to the Board for final approval.

**BUDGET IMPACT:** None. The cost of the equipment and service is paid for by revenues generated through citations.

**OPTIONS:**

- 1) Adopt the proposed ordinance change allowing the use of school bus video monitoring systems for the purpose of issuing citations to motorists illegally passing stopped school buses.
- 2) Do not adopt the proposed ordinance change.

**RECOMMENDATIONS:**

Adopt the proposed ordinance change allowing the use of school bus video monitoring systems for the purpose of issuing citations to motorists illegally passing stopped school buses.

## CODE OF VIRGINIA

### **§ 46.2-844. Passing stopped school buses; penalty; prima facie evidence.**

A. The driver of a motor vehicle approaching from any direction a clearly marked school bus which is stopped on any highway, private road or school driveway for the purpose of taking on or discharging children, the elderly, or mentally or physically handicapped persons, who, in violation of § 46.2-859, fails to stop and remain stopped until all such persons are clear of the highway, private road or school driveway, is subject to a civil penalty of \$250 and any prosecution shall be instituted and conducted in the same manner as prosecutions for traffic infractions.

A prosecution or proceeding under § 46.2-859 is a bar to a prosecution or proceeding under this section for the same act and a prosecution or proceeding under this section is a bar to a prosecution or proceeding under § 46.2-859 for the same act.

In any prosecution for which a summons charging a violation of this section was issued within ten days of the alleged violation, proof that the motor vehicle described in the summons was operated in violation of this section, together with proof that the defendant was at the time of such violation the registered owner of the vehicle, as required by Chapter 6 (§ 46.2-600 et seq.) of this title shall give rise to a rebuttable presumption that the registered owner of the vehicle was the person who operated the vehicle at the place where, and for the time during which, the violation occurred. The testimony of the school bus driver, the supervisor of school buses or a law-enforcement officer that the vehicle was yellow, conspicuously marked as a school bus, and equipped with warning devices as prescribed in § 46.2-1090 is prima facie evidence that the vehicle is a school bus.

B. A locality may, by ordinance, authorize the school division of the locality to install and operate a videomonitoring system in or on the school buses operated by the division or to contract with a private vendor to do so on behalf of the school division for the purpose of recording violations of subsection A. Such ordinance may direct that any civil penalty levied for a violation of subsection A shall be payable to the local school division.

For purposes of this subsection, "video-monitoring system" means a system with one or more camera sensors and computers installed and operated on a school bus that produces live digital and recorded video of motor vehicles being operated in violation of § 46.2-859. All such systems installed shall, at a minimum, produce a recorded image of the license plate and shall record the activation status of at least one warning device as prescribed in § 46.2-1090 and the time, date, and location of the vehicle when the image is recorded.

(1985, c. 511, § 46.1-212.1; 1987, c. 106; 1989, c. 727; 1997, cc. 622, 800, 908; 2001, c. 126; 2002, c. 541; 2011, cc. 787, 838.)

**AN ORDINANCE TO ADOPT SECTIONS 14-15 OF THE WINCHESTER CITY CODE PERTAINING TO USE OF PHOTO-MONITORING SYSTEMS TO ENFORCE LAW AGAINST PASSING STOPPED SCHOOL BUSES**

WHEREAS, Winchester Public Schools (“WPS”) is concerned regarding the safety of students boarding and exiting school buses; and

WHEREAS, it is the belief of WPS that vehicles unlawfully passing school buses while loading and unloading its passengers poses a significant danger; and

WHEREAS, the use of a photo-monitoring enforcement system on school buses is authorized under the Code of Virginia; and

WHEREAS, the implementation of such a system requires that Common Council adopt an Ordinance authorizing WPS to operate such a system; and

WHEREAS, Common Council for the City of Winchester believes that the implementation of such a system will be of benefit to the citizens of the City of Winchester.

NOW therefore be it ORDAINED that Section 14-45 of the Winchester City Code is hereby adopted as follows:

**14-15 USE OF PHOTO-MONITORING SYSTEMS TO ENFORCE LAW AGAINST PASSING STOPPED SCHOOL BUSES, PENALTY.**

(a) For purposes of this ordinance, “school division” means the Winchester City Public Schools. “Video-monitoring system” means a system with one or more camera sensors and computers installed and operated on a school bus that produces live digital and recorded video of motor vehicles being operated in violation of Code of Virginia, §46.2-859.

(b) All such video-monitoring systems installed shall, at a minimum, produce a recorded image of the license plate and shall record the activation status of at least one warning device as prescribed in Code of Virginia, § 46.2-1090, and the time, date, and location of the vehicle when the image is recorded.

(c) The operator of a vehicle shall be liable for a monetary civil penalty imposed in accordance with this ordinance, if such vehicle is found, as evidenced by information obtained from a videomonitoring system, to have failed to comply with Code of Virginia, § 46.2-859.

(d) The school division may install and operate a video-monitoring system on any school bus operated by the division for the purpose of recording violations of Code of Virginia, § 46.2-859 and imposing monetary liability in accordance with Code of Virginia, § 46.2-844.B and the provisions in this ordinance.

(e) The school division may also contract with a private vendor to install and operate such video-monitoring systems on behalf of the school division for the same purposes. Such agreement shall:

- (1) Ensure adequate and proper retrieval, storage, and disposal of video-monitoring system

recordings in accordance with this section;

(2) Specify the appropriate format, method and frequency of delivery of video recordings to designated and duly authorized law enforcement officers;

(3) Provide that the vendor shall on request of the City or the school division, submit a report to the City and the school division that includes, but is not limited to: (i) the total number of citations issued as a result of a violation detected and recorded by the monitoring system, and (ii) the total amount of funds collected.

(f) Information collected by a video-monitoring system installed and operated pursuant to this section shall be limited exclusively to that information that is necessary for the enforcement of school bus stopping violations. Notwithstanding any other provision of law, all images or video or other personal information recorded by a video- monitoring system shall be used exclusively for enforcing school bus stopping violations pursuant to this ordinance, and shall not (i) be open to the public; (ii) be sold or used for sales, solicitation, or marketing purposes; (iii) be disclosed to any other entity except as may be necessary for the enforcement of a school bus stopping violation or to a vehicle owner or operator as part of a challenge to the violation; or (iv) be used in a court in a pending action or proceeding unless the action or proceeding relates to a violation of §§46.2-859 or 46.2-844 of the Code of Virginia, or is requested upon order from a court of competent jurisdiction.

(g) Information collected under this ordinance pertaining to a specific violation shall be purged and not retained later than 60 days after the collection of civil penalties. If an authorized law enforcement officer does not issue a summons or notice of violation within 10 business days of the date on which the violation of this section was recorded, all information collected pertaining to that suspected violation shall be purged.

(h) The school division shall annually certify compliance with this ordinance, and shall make all records pertaining to such system available for inspection and audit by the Commonwealth Transportation Commissioner or the Commissioner of the Department of Motor Vehicles or his designee.

(i) Violations of the foregoing sections shall carry a civil penalty of \$250 and shall be prosecuted in the same manner as prosecutions for traffic infractions. Such violations shall not be deemed a conviction as an operator and shall not be made a part of the operating record of the person upon whom such liability is imposed, nor shall such violations be used for insurance purposes in the provision of motor vehicle insurance coverage.

(j) Whenever a violation of Code of Virginia, § 46.2-859 is detected and recorded by a videomonitoring system operated in accordance with this ordinance, the vendor or school division shall promptly submit the recorded video to a law enforcement officer employed by the city and authorized to impose penalties pursuant to this ordinance for review. If, after such review, such law enforcement officer determines that there are reasonable grounds to believe that a violation of Code of Virginia, §46.2-859 has occurred, the officer may issue a summons or notice of violation by first-class mail to the address of the registered owner of the vehicle involved as shown on the records of the Department of Motor Vehicles.

(k) Any person who receives a summons or notice of violation from a law enforcement officer pursuant to this ordinance may waive his right to appear and be formally tried for the offense pursuant to Code of Virginia, § 16.1-69.40:1.B. The waiver shall be effective when the person voluntarily pays \$250.00 to the city treasurer's office within 15 business days after receipt of the summons or notice of violation.

(l) In any prosecution pursuant to this ordinance, proof that the vehicle described in such summons or notice was operated in violation of this ordinance, together with proof that the defendant was at the time the registered owner of the vehicle, as required by Chapter 6 (§ 46.2-600 et seq.),

shall constitute in evidence a prima facie presumption that the registered owner of the vehicle was the person who committed the violation. A photographic or digital still or video image recorded by a videomonitoring system that clearly shows the license plate number of a vehicle violating Code of Virginia, § 46.2-859 shall be sufficient proof of the identity of such vehicle for purposes of this ordinance.

(m) Notwithstanding the exception in Code of Virginia, § 46.2-1308, all fines imposed for violations of this ordinance, shall be paid into the city treasury. The city treasurer shall remit to the school division all fine amounts received in respect to the violations of this section after crediting the city's general fund with amount equal to the costs incurred in administering the video enforcement measures under this ordinance.

(n) Prosecution under this ordinance, shall not be permitted where a prosecution or proceeding for the same act has otherwise been initiated under Code of Virginia, § 46.2-859.