



WINCHESTER COMMON COUNCIL
FEBRUARY 10, 2015
AGENDA
6:00 P.M.

CALL TO ORDER AND ROLL CALL

MOMENT OF SILENCE

PLEDGE OF ALLEGIANCE

APPROVAL OF MINUTES – January 27, 2015 Regular Meeting and January 27, 2015 Work Session

REPORT OF THE MAYOR

Essay Award Winner for “If I were Mayor” – Mac Gordon
Charles Rouss Day Proclamation

REPORT OF THE CITY MANAGER

REPORT OF THE CITY ATTORNEY

PUBLIC HEARINGS

- 1.1 O-2014-46:** Second Reading – AN ORDINANCE TO REZONE 0.064 ACRES OF LAND AT 116 W. LEICESTER STREET (*Map Number 192-01-S-12*) & 118 W. LEICESTER STREET (*Map Number 192-01-S-13*) FROM MEDIUM DENSITY RESIDENTIAL DISTRICT (MR) ZONING WITH HISTORIC WINCHESTER DISTRICT (HW) OVERLAY TO RESIDENTIAL BUSINESS DISTRICT (RB-1) ZONING WITH HISTORIC WINCHESTER DISTRICT (HW) OVERLAY. (RZ-14-625)(*The proposed rezoning would permit up to 2 units.*) **(REQUIRES ROLL-CALL VOTE)(pages 3-12)**
- 1.2 O-2014-47:** Second Reading – AN ORDINANCE TO REZONE 0.736 ACRES OF LAND AT 2508 PAPERMILL ROAD (*Map Number 291-03- -1*) FROM INTENSIVE INDUSTRIAL DISTRICT (M-2) ZONING TO COMMERCIAL INDUSTRIAL DISTRICT (CM-1) ZONING. (RZ-14-639) (*The rezoning would permit retail development in conjunction with the adjoining property to the south.*)**(REQUIRES ROLL-CALL VOTE)(pages 12-21)**
- 1.3 O-2015-01:** Second Reading – AN ORDINANCE AMENDING AND REENACT ARTICLES 1, 18, 21 AND 23 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO MOBILE FOOD ESTABLISHMENT DEFINITIONS, PERMITS, AND FEES. TA-14-698 (*Proposal will establish basic permitting and operational standards for food trucks on private property.*) **(REQUIRES ROLL-CALL VOTE)(pages 22-26)**

- 1.4 CU-14-640:** Conditional Use Permit – Request of Joshua Schakola on behalf of Verizon Wireless for a conditional use permit for modifications to a telecommunication tower at 799 Fairmont Ave (Map Number 153-01- -2-A) zoned Limited Industrial (M-1) (pages 27-33)

2.0 PUBLIC COMMENTS

3.0 CONSENT AGENDA

- 3.1 O-2015-02:** First Reading – AN ORDINANCE TO REZONE 5.1674 ACRES OF LAND AT 380 MILLWOOD AVENUE (*Map Number 233-01- -3*) FROM MEDIUM DENSITY RESIDENTIAL DISTRICT (MR) ZONING TO MEDIUM DENSITY RESIDENTIAL DISTRICT (MR) ZONING WITH PLANNED UNIT DEVELOPMENT (PUD) OVERLAY RZ-14-628 (pages 34-44)
- 3.2 R-2015-05:** Resolution – Support of the Handley Board of Trustees’ resolution that revises and updates their term structure within their by-laws (pages 45-51)
- 3.3 R-2015-04:** Resolution – Expression of Support for the Goals of the Addiction Action Committee (pages 52-58)

4.0 AGENDA

- 4.1 O-2014-29:** First Reading – AN ORDINANCE TO AMEND SECTION 16-5 OF THE WINCHESTER CITY CODE PERTAINING TO CURFEW VIOLATIONS (pages 59-64)

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 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)(1) OF THE CODE OF VIRGINIA FOR THE PURPOSE OF DISCUSSION AND CONSIDERATION OF INFORMATION REGARDING THE SUBJECT OF THE EMPLOYMENT, ASSIGNMENT, PERFORMANCE AND APPOINTMENT OF SPECIFIC PUBLIC OFFICERS APPOINTEES, AND EMPLOYEES OF THE CITY OF WINCHESTER.**

6.0 ADJOURNMENT

CITY OF WINCHESTER, VIRGINIA

PROPOSED CITY COUNCIL AGENDA ITEM

CITY COUNCIL MEETING OF: 11/25/14 (work session) CUT OFF DATE: 11/19/14
12/9/14 (1st reading) 1/13/15 (2nd reading/Public Hearing)

RESOLUTION ___ ORDINANCE X PUBLIC HEARING X

ITEM TITLE:

RZ-14-625 AN ORDINANCE TO REZONE 0.064 ACRES OF LAND AT 116 W. LEICESTER STREET (Map Number 192-01-S-12) & 118 W. LEICESTER STREET (Map Number 192-01-S-13) FROM MEDIUM DENSITY RESIDENTIAL DISTRICT (MR) ZONING WITH HISTORIC WINCHESTER DISTRICT (HW) OVERLAY TO RESIDENTIAL BUSINESS DISTRICT (RB-1) ZONING WITH HISTORIC WINCHESTER DISTRICT (HW) OVERLAY.

STAFF RECOMMENDATION:

Approval

PUBLIC NOTICE AND HEARING:

Public hearing for 1/13/15 Council mtg

ADVISORY BOARD RECOMMENDATION:

Planning Commission recommended approval subject to proffers.

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.

Table with 4 columns: DEPARTMENT, INITIALS FOR APPROVAL, INITIALS FOR DISAPPROVAL, DATE. Rows include Zoning & Inspections, City Attorney, City Manager, and Clerk of Council.

Initiating Department Director's Signature: (Planning Dept) [Signature] 11/19/14



APPROVED AS TO FORM: [Signature] 11/19/2014 CITY ATTORNEY

CITY COUNCIL ACTION MEMO

To: Honorable Mayor and Members of City Council

From: Tim Youmans, Planning Director

Date: November 19, 2014

Re: **RZ-14-625** AN ORDINANCE TO REZONE 0.064 ACRES OF LAND AT 116 W. LEICESTER STREET (*Map Number 192-01-S-12*) & 118 W. LEICESTER STREET (*Map Number 192-01-S-13*) FROM MEDIUM DENSITY RESIDENTIAL DISTRICT (MR) ZONING WITH HISTORIC WINCHESTER DISTRICT (HW) OVERLAY TO RESIDENTIAL BUSINESS DISTRICT (RB-1) ZONING WITH HISTORIC WINCHESTER DISTRICT (HW) OVERLAY.

THE ISSUE:

Conditionally rezone two adjoining vacant lots along the north side of W. Leicester Street to allow for reconstruction of two townhouses similar in scale to the two blighted dwelling units that were demolished on the properties in recent years. A proffer would prohibit any commercial use of the properties.

RELATIONSHIP TO STRATEGIC PLAN:

Create A More Livable City for All

BACKGROUND:

See attached staff report

BUDGET IMPACT:

None

OPTIONS:

1. Approve with proffer as recommended by Planning Commission
2. Table request
3. Deny request

RECOMMENDATIONS:

Recommend Option 1

RZ-14-625 AN ORDINANCE TO REZONE 0.064 ACRES OF LAND AT 116 W. LEICESTER STREET (*Map Number 192-01-S-12*) & 118 W. LEICESTER STREET (*Map Number 192-01-S-13*) FROM MEDIUM DENSITY RESIDENTIAL DISTRICT (MR) ZONING WITH HISTORIC WINCHESTER DISTRICT (HW) OVERLAY TO RESIDENTIAL BUSINESS DISTRICT (RB-1) ZONING WITH HISTORIC WINCHESTER DISTRICT (HW) OVERLAY.

REQUEST DESCRIPTION

The request is to conditionally rezone two adjoining vacant lots along the north side of W. Leicester Street midway between S. Braddock Street and S. Washington Street to allow for reconstruction of two townhouses similar in scale to the two blighted dwelling units that were demolished on the properties in recent years. The attached letter received on October 2, 2014 from Mr. Brent Markee explains the request and notes their intent to include proffers that would prohibit any commercial use of the properties.

AREA DESCRIPTION

The alley that runs in a north-south direction midway between S. Braddock Street and S. Washington Street is the interface of the Residential-Business (RB-1) district to the east and the Medium Density Residential (MR) district to the west. The historical pattern of development along the north side of W. Leicester St in this area is different than exists along most of the other east-west grid streets in the southwest portion of the historic district such that the lots were platted much smaller and narrower than the lots on the other cross streets.

The MR-zoned land to the west includes some other narrow lots with attached homes on them to the immediate west and larger detached single-family dwellings further to the west along S. Washington Street. The RB-1-zoned land to the east includes small and mid-sized dwellings, including duplexes and apartments on narrow lots along W. Leicester Street and S. Braddock Street. S. Braddock Street includes some commercial uses as well.



STAFF COMMENTS

The Comprehensive Plan calls for Neighborhood Stabilization in this area. The conditional rezoning would support appropriately scaled redevelopment of two townhouse dwellings (one dwelling per lot) on an infill basis. The two attached dwellings that previously existed on the two lots were demolished a couple of years ago due to their blighted condition. The current MR zoning would not permit any reasonable use of the property. The proposed RB-1 zoning would allow for replacement of the former two units with no increase in density. The rezoning does not affect the Historic Winchester (HW) overlay zoning. Any construction on the lots would need to comply with historic district standards and a certificate of appropriateness would need to be issued by the Board of Architectural Review.

Four adjoining property owners along W. Leicester Street spoke at the Planning Commission public hearing on this item. Concerns were expressed about whether or not new townhouse construction would fit the neighborhood, whether rebuilding on the east lot would create safety concerns along the alley, whether the new unit on the west lot would be set back from the side line where the former structure had been attached to the structure on the adjoining lot, and whether there would be an impact on available parking.

RECOMMENDATION

At its November 18, 2014 meeting, the Planning Commission unanimously forwarded **RZ-14-625** to City Council recommending approval as depicted on an exhibit entitled "*Rezoning Exhibit RZ-14-625, Prepared by Winchester Planning Department, 10-3-2014*" because the request is consistent with the Comprehensive Plan which calls for Neighborhood Stabilization in the site. The approval is subject to the proffers in the proffer statement titled "Rezoning Request Proffer" dated October 31, 2014.

AN ORDINANCE TO REZONE 0.064 ACRES OF LAND AT 116 W. LEICESTER STREET & 118 W. LEICESTER STREET FROM MEDIUM DENSITY RESIDENTIAL DISTRICT (MR) ZONING WITH HISTORIC WINCHESTER DISTRICT (HW) OVERLAY TO RESIDENTIAL BUSINESS DISTRICT (RB-1) ZONING WITH HISTORIC WINCHESTER DISTRICT (HW) OVERLAY
RZ-14-625

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

WHEREAS, the adopted Comprehensive Plan calls for Neighborhood Stabilization in the subject area; and,

WHEREAS, the current Medium Density Residential (MR) zoning of the two lots does not support reasonable redevelopment; and,

WHEREAS, the Planning Commission forwarded the request to Council on November 18, 2014 recommending approval of the rezoning as depicted on an exhibit entitled "*Rezoning Exhibit RZ-14-625, Prepared by Winchester Planning Department, 10-3-2014*" because the request is consistent with the Comprehensive Plan which calls for Neighborhood Stabilization in the area; and,

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

NOW, THEREFORE, BE IT ORDAINED by the Common Council of the City of Winchester, Virginia that the following land is hereby rezoned from the existing zoning designation of Medium Density Residential (MR) District to Residential-Business (RB-1) District:

Approximately 0.064 acres of land at 116 and 118 W. Leicester Street as depicted on an exhibit entitled "*Rezoning Exhibit RZ-14-625, Prepared by Winchester Planning Department 10-3-2014*". The rezoning is subject to the proffers in the proffer statement titled "*Rezoning Request Proffer*" dated October 31, 2014.

*Triple T Construction and Plumbing LLC
563 Priscilla Street Hedgesville, WV 25427
540-550-3076*

To whom it may concern,

I am writing in reference to property, 116 and 118 Leicester Street, owned by Mr. Agnaldo DeSouza of Inwood, WV. I have been hired by Mr. DeSouza to try and develop the property so he may recover some of his investment into the property. When the property was purchased a few years ago, there were two houses on the two lots attached together to another house on the next lot. The plan was to renovate the houses and rent them, but after consulting with the city, they were required to be torn down. Not only was the cost of demolition high but the third house had to be closed in where the previous houses had been attached. We assumed we would be grandfathered in to build two houses on these lots, and improve the city of Winchester's streets, but upon inquiry with the city we were told the current zoning wouldn't allow us to build ANYTHING on these two lots. The lots adjoin an alley where the RB-1 zoning ends, which allows multi family building, and is currently located in MR zoning which allows single family only. We cannot build a single family home on the lots, even if they are combined, because the lot would still be too small for the MR zoning requirements. Also I don't think we can recover even the original investment with one house, due to the deteriorated condition of many of the houses on that particular block. We are asking for a conditional rezoning to build two townhouses on these two lots, as we are not interested in anything commercial there. Most of the lots are large in the MR zoning area, but these lot are very small, only 45' wide combined and 175' deep, so they definitely fit better in the RB-1 zoning. Also the next four lots are the same with row houses on two of them, so we believe townhouses would blend in well there. So we respectfully ask that these lots be placed into the RB-1 zoning so we may proceed to build there, and recover the investment made into these two lots.



Sincerely,
Brent Markee Owner/Manager

116 & 118 W. LEICESTER STREET
REZONING REQUEST PROFFER

Tax Map Number: **192-01-S-12 & 192-01-S-13**
Owner: **Aginaldo Silva De Souza**
Applicant: **Brent Markee**



Date: October 31, 2014

Property Information

The undersigned applicant hereby proffers that in the event the Common Council of Winchester (Council) shall approve the rezoning of *116 W. Leicester Street and 118 W. Leicester Street* from *Medium Density Residential District (MR)* into *Residential Business District (RB1)*, then development of the subject property shall be done in conformity with the terms and conditions as set forth herein, except to the extent that such terms and conditions maybe subsequently amended or revised by the applicant and such be approved by the Council in accordance with the Virginia law. In the event that such rezoning is not granted, then these proffers shall be deemed withdrawn and have no effect whatsoever. These proffers shall be binding upon the applicant and their legal successor or assigns.

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

Site Plan Improvements

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

1. Proposed Use:

- If this rezoning is accepted, the proposed use shall be limited to two (02) Townhouses.

RZ-14-625

The conditions proffered above shall be binding upon the heirs, executors, administrators, assigns, and successors in interest of the Applicant and Owner. In the event the Council grants said rezoning and accepts these conditions, the proffered conditions shall apply to the land rezoned in addition to other requirements set forth in the City of Winchester Code.

Respectfully submitted,

PROPERTY OWNER

By: Agnaldo De Souza Date: 11-03-14

STATE OF VIRGINIA, AT LARGE

COUNTY /CITY OF Winchester, To Wit:

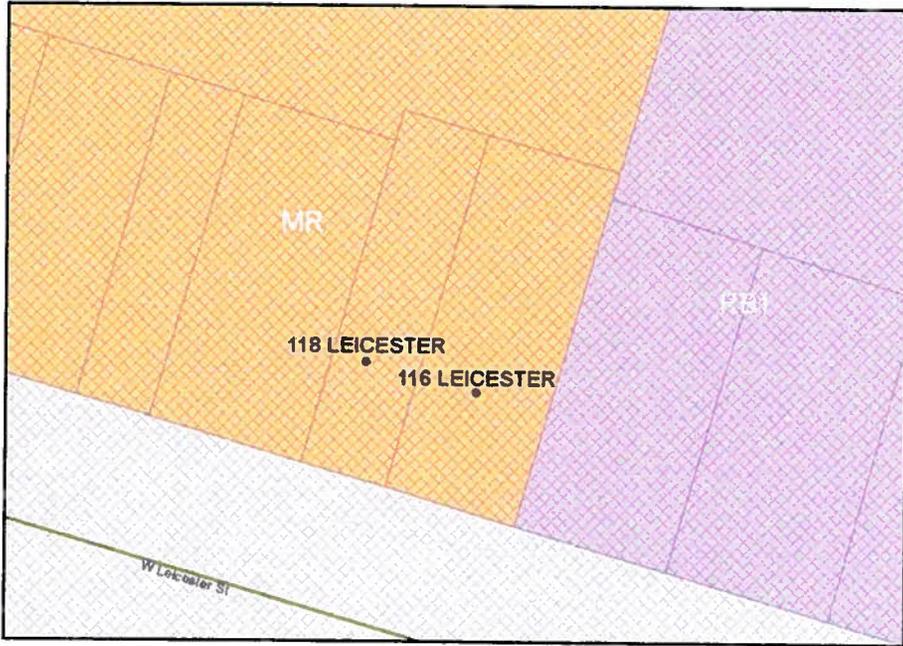
The foregoing instrument was acknowledged before me this 3 day of November, 2014
by Agnaldo De Souza.

My commission expires 09/30/2016.

Notary Public Jose Elias Martinez

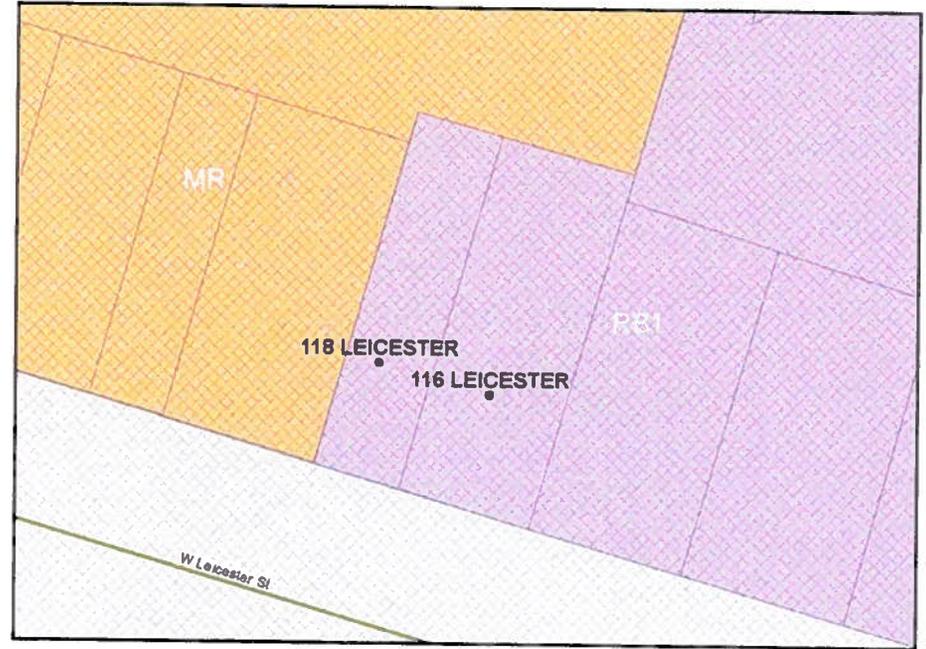
JOSE ELIAS MARTINEZ
NOTARY PUBLIC 7527577
COMMONWEALTH OF VIRGINIA
MY COMMISSION EXPIRES 09-30-2016

REZONING EXHIBIT
RZ-14-625
PREPARED BY WINCHESTER PLANNING DEPARTMENT
10-03-2014



EXISTING

MEDIUM DENSITY RESIDENTIAL DISTRICT (MR) ZONING
 WITH HISTORIC WINCHESTER DISTRICT (HW) OVERLAY
 FOR 116 & 118 WEST LEICESTER STREET



PROPOSED

RESIDENTIAL BUSINESS DISTRICT (RB-1) ZONING
 WITH HISTORIC WINCHESTER DISTRICT (HW) OVERLAY
 FOR 116 & 118 WEST LEICESTER STREET



Zoning

MZONE

- MR Medium Density Residential
- RB1 Residential Business
- Historic District Overlay

CITY OF WINCHESTER, VIRGINIA

PROPOSED CITY COUNCIL AGENDA ITEM

CITY COUNCIL MEETING OF: 11/25/14 (work session) CUT OFF DATE: 11/19/14
12/9/14 (1st reading) 1/13/15 (2nd reading/Public Hearing)

RESOLUTION __ ORDINANCE X PUBLIC HEARING X

ITEM TITLE:

RZ-14-639 AN ORDINANCE TO REZONE 0.736 ACRES OF LAND AT 2508 PAPERMILL ROAD (Map Number 291-03-1) FROM INTENSIVE INDUSTRIAL DISTRICT (M-2) ZONING TO COMMERCIAL INDUSTRIAL DISTRICT (CM-1) ZONING

STAFF RECOMMENDATION:

Approval

PUBLIC NOTICE AND HEARING:

Public hearing for 1/13/15 Council mtg

ADVISORY BOARD RECOMMENDATION:

Planning Commission recommended approval subject to proffers.

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.

Table with 4 columns: DEPARTMENT, INITIALS FOR APPROVAL, INITIALS FOR DISAPPROVAL, DATE. Rows include Zoning & Inspections, City Attorney, City Manager, and Clerk of Council.

Initiating Department Director's Signature: (Planning Dept)

Handwritten signature of the initiating department director.

11/19/14



APPROVED AS TO FORM:

Handwritten signature and date 11/19/2014, CITY ATTORNEY

CITY COUNCIL ACTION MEMO

To: Honorable Mayor and Members of City Council

From: Tim Youmans, Planning Director

Date: November 19, 2014

Re: **RZ-14-639** AN ORDINANCE TO REZONE 0.736 ACRES OF LAND AT 2508 PAPERMILL ROAD (*Map Number 291-03- -1*) FROM INTENSIVE INDUSTRIAL DISTRICT (M-2) ZONING TO COMMERCIAL INDUSTRIAL DISTRICT (CM-1) ZONING

THE ISSUE:

Conditionally rezone from M-2 to CM-1 the southerly 70-foot wide portion of the Silver Lake LLC property currently housing Noland to allow for this 0.736-acre area to be assembled in with the adjoining vacant lot owned by Silver Lake that is already zoned CM-1 so that it can be enlarged to accommodate a grocery store.

RELATIONSHIP TO STRATEGIC PLAN:

Grow the Economy

BACKGROUND:

See attached staff report

BUDGET IMPACT:

Positive sales tax revenue

OPTIONS:

1. Approve with proffers as recommended by Planning Commission
2. Table request
3. Deny request

RECOMMENDATIONS:

Recommend Option 1

Council Work Session
November 25, 2014

RZ-14-639 AN ORDINANCE TO REZONE 0.736 ACRES OF LAND AT 2508 PAPERMILL ROAD (Map Number 291-03- -1) FROM INTENSIVE INDUSTRIAL DISTRICT (M-2) ZONING TO COMMERCIAL INDUSTRIAL DISTRICT (CM-1) ZONING

REQUEST DESCRIPTION

The request is to conditionally rezone from M-2 to CM-1 the southerly 70-foot wide portion of the Silver Lake LLC property currently housing Noland as outlined in the letter (see attached) from Mr. Tyron S. Powers dated October 6, 2014. The rezoning would allow for this 0.736-acre area to be assembled in with the adjoining vacant lot owned by Silver Lake that is already zoned CM-1 so that it can be enlarged to accommodate a grocery store. The request includes proffers (see attached proffer statement dated October 14, 2014) which would limit use to retail and would only take effect if the related boundary line adjustment between the two parcels is recorded.

AREA DESCRIPTION

The subject portion of the Noland site is zoned M-2 and contains wholesale and warehouse use. Federal Mogul land further to the north was rezoned from M-2 to B-2 in September of 2013 to support commercial revitalization/infill on that 44-acre redevelopment site.

Land to the south and the east is zoned CM-1 and has been developed with retail, restaurant, and service uses. This includes the Bank of Clarke County site which shares access to S. Pleasant Valley Rd and Papermill Rd with the vacant site proposed for grocery store development. Land to the west is zoned M-2 and includes the Cavalier Kitchens site.



STAFF COMMENTS

The Comprehensive Plan calls for Commerce Area Revitalization/Infill in this area. The rezoning to CM-1 is consistent with this vision. The Plan advocates proactively redeveloping property where needed to achieve maximum sustainable potential. The subject portion of the industrial site housing Noland Company is underutilized and is enclosed by an unattractive chain link fence with strands of barbed wire on top that detracts from the emerging national chain retail and restaurant area to the east and south.

The proffer linking the effectuation of the rezoning to the related boundary line adjustment ensures that the rezoning action will not result in split zoning on the existing M-2 property.

RECOMMENDATION

At its November 18, 2014 meeting, the Planning Commission forwarded **RZ-14-639** to City Council unanimously recommending approval as depicted on an exhibit entitled "*Rezoning Exhibit RZ-14-639, Prepared by Winchester Planning Department, 10-7-2014*" because the request is consistent with the Comprehensive Plan which calls for Commerce Area Revitalization/Infill on the site. The approval is subject to the proffers in the proffer statement titled "2508 Papermill Road, Winchester, Virginia 22601 Rezoning Request Proffer" dated October 14, 2014.

AN ORDINANCE TO REZONE 0.736 ACRES OF LAND AT 2508 PAPERMILL ROAD FROM INTENSIVE INDUSTRIAL DISTRICT (M-2) ZONING TO COMMERCIAL INDUSTRIAL DISTRICT (CM-1) ZONING
RZ-14-639

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

WHEREAS, the adopted Comprehensive Plan calls for Commerce Area Revitalization/Infill on the site and the Winchester Strategic Plan includes as a goal to grow the economy as part of the long term vision for the City of Winchester; and,

WHEREAS, Intensive Industrial (M-2) zoning of the site is inconsistent with the predominant commercial land use along South Pleasant Valley; and,

WHEREAS, the Planning Commission forwarded the request to Council on November 18, 2014 recommending approval of the rezoning as depicted on an exhibit entitled "*Rezoning Exhibit RZ-14-639, Prepared by Winchester Planning Department, 10-7-2014*" because the request is consistent with the Comprehensive Plan which calls for Commerce Area Revitalization/Infill on the site; and,

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

NOW, THEREFORE, BE IT ORDAINED by the Common Council of the City of Winchester, Virginia that the following land is hereby rezoned from the existing zoning designation of Intensive Industrial (M-2) District to Commercial-Industrial (CM-1) District:

Approximately 0.736 acres of land at 2508 Papermill Road as depicted on an exhibit entitled "*Rezoning Exhibit RZ-14-639, Prepared by Winchester Planning Department 10-7-2014*". The rezoning is subject to the proffers in the proffer statement titled "2508 Papermill Road, Winchester, Virginia 22601 Rezoning Request Proffer" dated October 14, 2014.

October 6, 2014

City of Winchester, Virginia
Zoning Administrator
15 North Cameron Street
Winchester, VA 22601

Re: Rezoning of Property
2508 Papermill Rd
Winchester, VA 226010
Tax Map 301((5)) Parcel 3 Deed Book 316 Pg. 429
291

To Whom It May Concern,

On behalf of MGP Retail Consulting please find the attached Rezoning Application and supporting documents requesting rezoning of the referenced property. MGP is in the process of developing this property with construction of a grocery store (Concept Site Plan and ALTA survey attached). The property is currently zoned CM-1 (which is preferred). However, the development also requires a boundary line adjustment which has been agreed upon with the adjacent property owner and will be adjusted with approval through the City of Winchester at a later date. The adjacent lot is currently zoned M-2 and requires rezoning to CM-1 to match the zoning of the development lot. Therefore, this rezoning will be based on a proffer condition that the boundary line adjustment has been accepted and recorded by the City of Winchester.

Sincerely,
AECOM

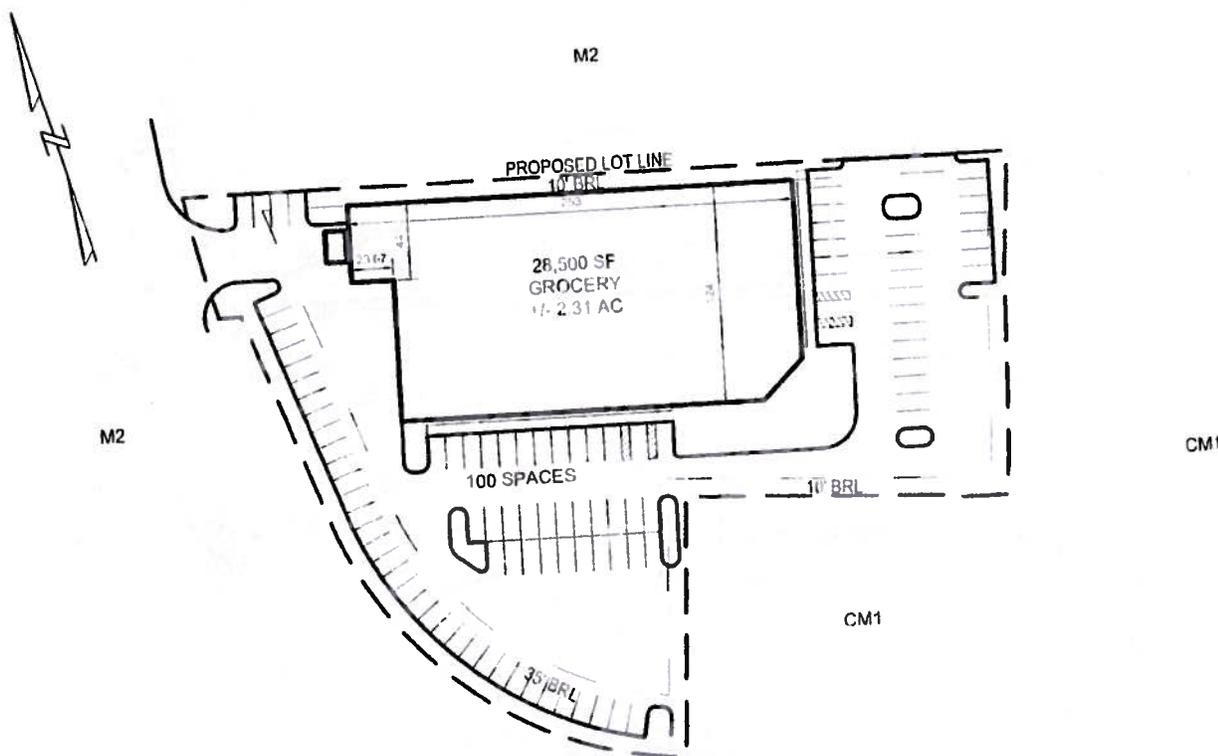


Tyron S Powers
Project Manager

Enclosures: Rezoning Application
List of adjacent property owners
ALTA Survey
Concept Site Plan
Application Fee (\$1,600)

Copy to: Victor Guerrero, MGP
Richie Wilkins
AECOM
Correspondence File

RZ-14-639

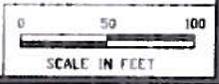


BRL = BUILDING RESTRICTION LINE
 SWM = STORMWATER MANAGEMENT
 TO CONSIST OF AN UNDERGROUND
 PIPE STORAGE SYSTEM

WINCHESTER
 CONCEPT SITE PLAN
 CITY OF WINCHESTER, VA
 10-08-14



RZ-14-639



**2508 PAPERMILL ROAD, WINCHESTER, VIRGINIA 22601
REZONING REQUEST PROFFER
(Conditions for this Rezoning Request)**

**Tax Map Number: Tax Map 291 ((3)) Parcel 1
Owner: Silver Lake LLC – James R. Wilkins III
Applicant: MGP Retail Consulting**

October 14, 2014

Property Information

The undersigned applicant hereby proffers that in the event the Common Council of Winchester (Council) shall approve the rezoning of ± 0.736 acres of 2508 Papermill Road, Winchester, VA 22601 from M-2 into CM-1, then development of the subject property shall be done in conformity with the terms and conditions as set forth herein, except to the extent that such terms and conditions may be subsequently amended or revised by the applicant and such be approved by the Council in accordance with Virginia law. In the event that such rezoning is not granted, then these proffers shall be deemed withdrawn and have no effect whatsoever. These proffers shall be binding upon the applicant and their legal successor or assigns.

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

Site Plan Improvements

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

1. **Proposed Use:**
 - If this rezoning is accepted, the proposed use shall be limited to retail development.
2. **The proposed rezoning of the approximately 0.736 acres of Tax Parcel 291-3-1 from M-2 into CM-1 shall only be considered valid upon the acceptance and recordation of a minor subdivision (boundary line adjustment) plat showing the combination of the 0.736 acres and Tax Parcel 291-5-3.**

The conditions proffered above shall be binding upon the heirs, executors, administrators, assigns, and successors in interest of the Applicant and Owner. In the event the Council grants said rezoning and accepts these conditions, the proffered conditions shall apply to the land rezoned in addition to other requirements set forth in the City of Winchester Code.

Respectfully submitted,

PROPERTY OWNER

By: [Signature] Date: 1/10/14

STATE OF VIRGINIA, AT LARGE

COUNTY/CITY OF Winchester, To Wit:

The foregoing instrument was acknowledged before me this 11th day of October, 2014 by JAMES R. WILKINS, III

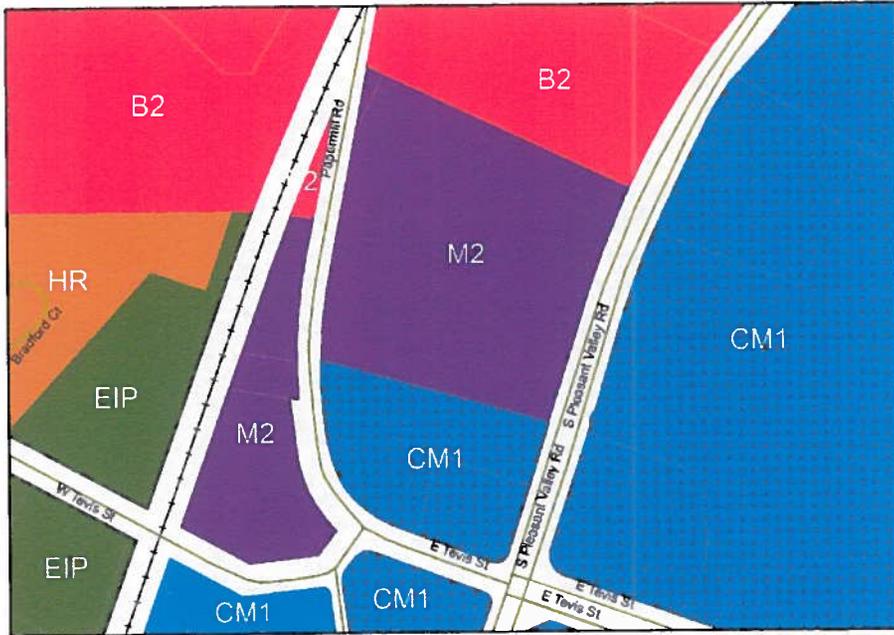
My Commission expires Mar 30, 2017

Notary Public Cindy Grove

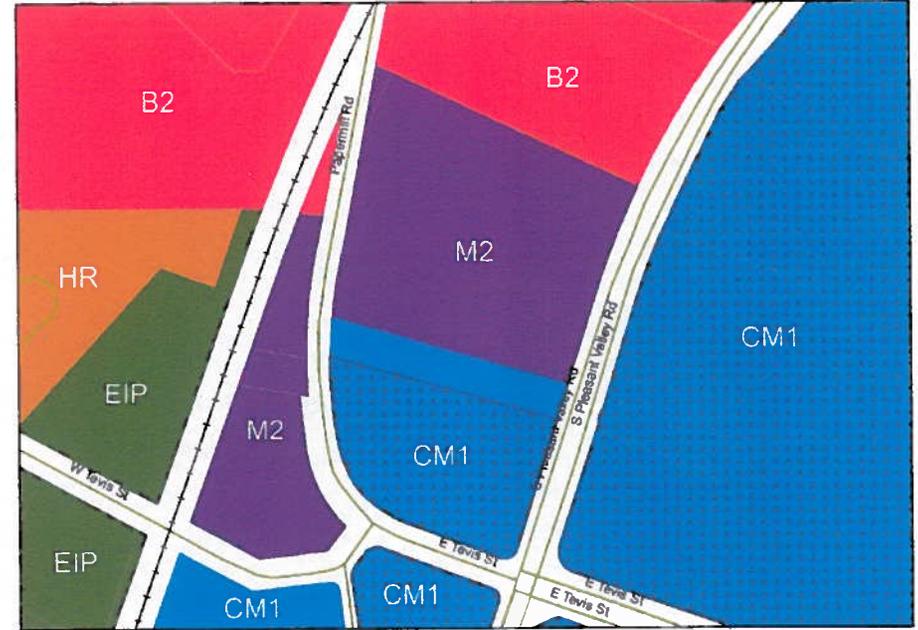
CINDY GROVE
NOTARY PUBLIC
Commonwealth of Virginia
Reg. #184054

RZ-14-639

REZONING EXHIBIT
RZ-14-639
 PREPARED BY WINCHESTER PLANNING DEPARTMENT
 10-07-2014



EXISTING
 INTENSIVE INDUSTRIAL DISTRICT (M-2) ZONING
 FOR 2508 PAPERMILL ROAD



PROPOSED
 COMMERCIAL INDUSTRIAL DISTRICT (CM-1) ZONING
 FOR 2508 PAPERMILL ROAD



Zoning Overlay
Overlay
 Conditional
 Railroad

Zoning
MZONE

-  B2 Highway Commercial District
-  CM1 Commercial Industrial District
-  EIP Education, Institution and Public Use District
-  HR High Density Residential District
-  M2 Intensive Industrial District

CITY OF WINCHESTER, VIRGINIA

PROPOSED CITY COUNCIL AGENDA ITEM

CITY COUNCIL MEETING OF: 1/27/15 **CUT OFF DATE:** 1/21/15
1/27/15 (1st Reading) 2/10/15 (2nd Reading/Public Hearing)

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

ITEM TITLE:

TA-14-698 - AN ORDINANCE AMENDING AND REENACT ARTICLES 1, 18, 21 AND 23 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO MOBILE FOOD ESTABLISHMENT DEFINITIONS, PERMITS, AND FEES. (Proposal will establish basic permitting and operational standards for food trucks on private property.)

STAFF RECOMMENDATION:

Adopt the text amendment.

PUBLIC NOTICE AND HEARING:

Public hearing required with 2nd reading on 2/10/2015.

ADVISORY BOARD RECOMMENDATION:

Planning Commission unanimously forwarded with favorable recommendation.

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 Director			<u>1/21/15</u>
2. City Attorney			<u>1/21/2015</u>
3. City Manager			<u>21 Jan 15</u>
4. Clerk of Council			

Initiating Department Director's Signature:  1/21/2015
(Zoning and Inspections)



APPROVED AS TO FORM:

 1/21/2015
CITY ATTORNEY

CITY COUNCIL ACTION MEMO

To: Honorable Mayor and Members of City Council
From: Aaron Grisdale, Director of Zoning and Inspections *AMB*
Date: January 27, 2015
Re: TA-14-698 - AN ORDINANCE AMENDING AND REENACT ARTICLES 1, 18, 21 AND 23 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO MOBILE FOOD ESTABLISHMENT DEFINITIONS, PERMITS, AND FEES. *(Proposal will establish basic permitting and operational standards for food trucks on private property.)*

THE ISSUE:

This zoning ordinance text amendment was sponsored by Planning Commission to establish basic permitting and operational standards for mobile food establishments/food trucks on private property in the City. Presently, there are not clear standards in the ordinance to address this trending business movement.

RELATIONSHIP TO STRATEGIC PLAN:

Goal 1 – Grow the Economy, Objective 4 – Increase number of startup businesses; Objective 5 – More diverse local economy.

Goal 2 – Create a More Livable City for All, Objective 3 – Manage future growth, development and redevelopment consistent with City’s vision, comprehensive plan and development standards and policies

BACKGROUND:

In recent months, staff has received an increasing number of inquiries of potential food truck vendors desiring to operate within the City. However, our present zoning ordinance provisions do not directly nor adequately address this issue. Staff organized a working group consisting of the Chamber of Commerce, a local restaurateur, a food truck operator, and a previous Planning Commissioner to study the issue and present an ordinance recommendation. This proposal under review is a result of this working group.

****January 27, 2015 Update****

Following discussion at the 1/13/15 Council Work Session, staff developed three changes to the proposed ordinance in line with Council’s requests:

1. Expand the permit revocation considerations to include applicable federal, state, and local laws in Section 18-25-1F.
2. Include language to clarify that no permit authorized under the mobile food establishment standards shall authorize a mobile vendor to operate on a public street in Section 18-25-1G.
3. Eliminate the hours of operation standard in Section 18-25-3

(Full staff report attached).

BUDGET IMPACT:

No funding is required.

OPTIONS:

- Adopt the text amendment
- Adopt the text amendment with modifications
- Decline to adopt the text amendment

RECOMMENDATIONS:

The Planning Commission unanimously recommended approval.

AN ORDINANCE AMENDING AND REENACT ARTICLES 1, 18, 21 AND 23 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO MOBILE FOOD ESTABLISHMENT DEFINITIONS, PERMITS, AND FEES.

14-698

Draft 3 - 1/15/2015

Deleted: 2
Deleted: 12
Deleted: 2
Deleted: 2014

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

ARTICLE 1
DEFINITIONS

SECTION 1-2. DEFINITIONS.

1-2-65.1 **MOBILE FOOD ESTABLISHMENT: A readily movable wheeled vehicle or towed vehicle designed and equipped for the preparation, service and/or sale of food. This term includes mobile food units, food trucks, and similar apparatuses.**

SECTION 18-25 **MOBILE FOOD ESTABLISHMENTS**

The intent of this section is to establish basic operational standards for mobile food establishments as well as appropriate protections of public health, safety and welfare for their operation on private property. Mobile food establishments are by definition itinerant and not permanent fixtures to a specific property.

18-25-1 **GENERAL REQUIREMENTS**

- A. **For the purposes of this Section, the terms permittee, operator, and vendor all shall mean a licensed mobile food establishment, as defined in Section 1-2-65.1.**
- B. **A mobile food establishment permit authorized by the Administrator shall be required prior to the operation of a mobile food establishment on a privately owned parcel.**
- C. **A mobile food establishment permit allows the permittee to operate at up to ten (10) different properties. An applicant may apply for more than one (1) such permit. A fee as provided in Section 23-8 of this Ordinance shall be required for each permit.**
- D. **A mobile food establishment permit is valid through December 31 of the year upon which the permit was issued.**
- E. **A mobile food establishment does not include outside vendors permitted pursuant to Section 18-7 of this Ordinance pertaining to uses on the public sidewalk in the Primary and Secondary Assessment districts.**
- F. **A mobile food establishment permit may be revoked by the Zoning Administrator at any time, due to the failure of the permit holder to comply with all requirements of this Article and**

other applicable federal, state and local laws. Notice of revocation shall be made in writing to the permit holder. Any person aggrieved by such notice may appeal the revocation in accordance with Article 21 of this Ordinance.

- G. No permit authorized by this Section and issued by the Administrator shall authorize a mobile food establishment to operate on or from a public street.

18-25-2 APPLICATION REQUIREMENTS

- A. Applicants for a mobile food establishment permit authorizing the operation on private property must provide:
- 1) A City business license (or a statement from the Commissioner of Revenue that no City business license is required);
 - 2) A valid permit from the Virginia Department of Health stating that the mobile unit meets all applicable standards. A valid health permit must be maintained for the duration of the mobile food establishment permit;
 - 3) Written permission from the owner(s) of the private properties upon which the permittee will operate;
 - 4) Description of the days of the week and hours of operation for proposed vending at each proposed property; and,
 - 5) A sketch to be approved by the Zoning Administrator for each property, illustrating access to the site, all parking areas, routes for ingress and egress, placement of the mobile food unit, distance from property lines, garbage receptacles and any other feature associated with the mobile food unit;
- B. A permit shall not be required for the location or setup of a mobile food establishment on private property for the catering or providing of food service to a closed private event (such as weddings, birthdays, picnics, etc.). During such an event no public vending shall be permitted.
- C. A permit and fee shall not be required for individual mobile food establishments if the operator is participating in an approved fair, festival, or similar event on private property, approved by a temporary event permit pursuant to Section 18-17-3 of this Ordinance.

18-25-3 OPERATIONAL REQUIREMENTS

- A. No vendor shall remain on site at one property for more than forty-eight (48) consecutive hours.
- B. Vendors shall comply with Article 17 of City Code pertaining to noise control.
- C. Only food and non-alcoholic beverages incidental to the permitted vendor shall be sold from the mobile unit. Retail sales of merchandise are permitted as an accessory use to the primary use of food sales.
- D. One 10'x10' tent and a table that fits underneath may be utilized to provide condiments to patrons.

Deleted: ~~Operation of a mobile food establishment may take place between the hours of 7:00 a.m. and 10:00 p.m.~~

- E. Portable receptacles for the disposal of waste materials or other litter shall be provided. All waste shall be removed and disposed of daily by the mobile food establishment operator. Public trash receptacles shall not be used for compliance with this section.
- F. No liquid or solid wastes may be discharged from the mobile unit.
- G. Signage:
 - 1) Signage may be imprinted on the exterior body of a licensed mobile food establishment and include the use of an attached or detached menu board.
 - 2) Advertisements for businesses other than the mobile food establishment may not be utilized.
- H. No tables or chairs for patron's use may be set up in association with the mobile food establishment.
- I. The operator of a permitted mobile food establishment must conspicuously display the approved permit for public inspection.
- J. All required taxes must be paid and in conformance with Article 27 of City Code.
- K. A three-foot wide clearance area must be maintained around the mobile food establishment.

18-25-4 LOCATION REQUIREMENTS

- A. Mobile food establishments shall only be permitted in districts that permit a restaurant by-right.
- B. Mobile units may be located in any off-street parking lot in a location that does not block any drive aisles, ingress and egress from the property, or designated fire lanes. In no situation shall vendors be permitted to operate on grass, dirt or other non-improved parking surfaces.
- C. No parking space that satisfies a Zoning Ordinance parking requirement shall be converted into a parking space or vending area to accommodate a mobile food establishment.

21-2-2 The appeal period for violations of this Ordinance pertaining to the following uses shall be ten (10) days, pursuant to §15.2-2286 (12/10/13, Case TA-13-138, Ord. No. 2013-14):

- a. Any violation of Sections 18-8-12.1 through 18-8-12.3, pertaining to temporary signs.
- b. Any violation of Sections 18-9-5 through 18-9-5.4, pertaining to yard sales.
- c. Any violation of Section 18-12, pertaining to visual obstructions.
- d. Any violation of Section 18-17, pertaining to mobile storage units and temporary events.
- e. Any violation of Section 18-25, pertaining to mobile food establishments.

SECTION 23-8. FEES.

23-8-19	<u>Mobile Food Establishment Permit</u>	<u>\$500</u>
----------------	--	---------------------

CITY OF WINCHESTER, VIRGINIA

PROPOSED CITY COUNCIL AGENDA ITEM

CITY COUNCIL MEETING OF: 1/13/15 (work session) **CUT OFF DATE:** 01/06/15
1/27/15 (Regular meeting)

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

ITEM TITLE:

CU-14-640 Request of Joshua Schakola on behalf of Verizon Wireless for a Conditional Use Permit for modifications to a telecommunications tower at 799 Fairmont Avenue (Map Number 153-01- -2-A) zoned Limited Industrial (M-1) District. *(Request to add three new antennas to existing tower facility).*

STAFF RECOMMENDATION:

Approval with conditions.

PUBLIC NOTICE AND HEARING:

Public hearing for 1/27/15 Council meeting

ADVISORY BOARD RECOMMENDATION:

Planning Commission unanimously recommended approval with conditions

FUNDING DATA: N/A

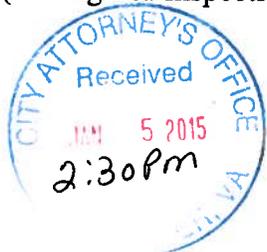
INSURANCE: N/A

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 Director	<i>JS</i>		<u>12/30/14</u>
2. City Attorney	<i>[Signature]</i>		<u>1/6/2015</u>
3. City Manager	<i>MS</i>		<u>7 Jan 2015</u>
4. Clerk of Council			

Initiating Department Director's Signature: *[Signature]*
(Zoning and Inspections)

12/30/14



APPROVED AS TO FORM:

[Signature]
27
CITY ATTORNEY

CITY COUNCIL ACTION MEMO

To: Honorable Mayor and Members of City Council
From: Aaron Grisdale, Director of Zoning and Inspections
Date: January 13, 2015
Re: CU-14-640 Request of Joshua Schakola on behalf of Verizon Wireless for a Conditional Use Permit for modifications to a telecommunications tower at 799 Fairmont Avenue (Map Number 153-01- -2-A) zoned Limited Industrial (M-1) District. *(Request to add three new antennas to existing tower facility).*

THE ISSUE:

Request to add three antennas and a GPS antenna to the existing tower facility.

RELATIONSHIP TO STRATEGIC PLAN:

Goal 4 – Create a More Livable City for All, Objective 3 – Manage future growth, development and redevelopment consistent with City’s vision, comprehensive plan and development standards and policies

BACKGROUND:

The applicant is proposing to add three new antennas behind existing antennas on the existing tower facility behind National Fruit at 799 Fairmont Avenue. No antenna removals are associated with this request. There will be no increase to the height of the facility.

(Full staff report attached).

BUDGET IMPACT:

No funding is required.

OPTIONS:

- Approve conditional use permit with recommended conditions
- Decline to approve the CUP.
-

RECOMMENDATIONS:

The Planning Commission unanimously recommended approval with conditions.

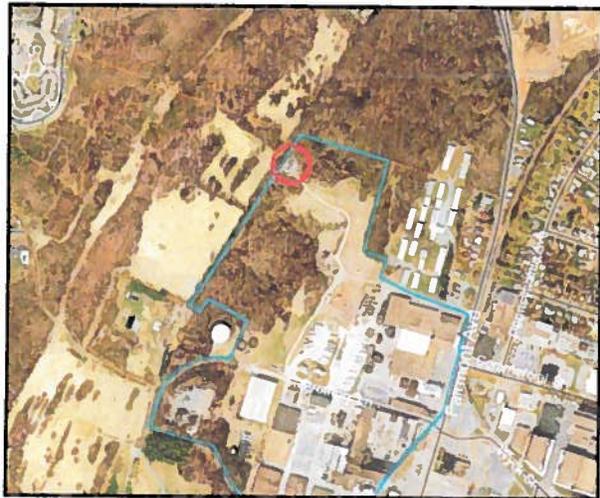
CU-14-640 Request of Joshua Schakola on behalf of Verizon Wireless for a Conditional Use Permit for modifications to a telecommunications tower at 799 Fairmont Avenue (Map Number 153-01- -2-A) zoned Limited Industrial (M-1) District. *(Request to add three new antennas to existing tower facility).*

REQUEST DESCRIPTION

The applicant is proposing to add three (3) new antennas and install one GPS antenna 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 add three antennas mounted to the pre-existing lattice tower behind existing antennas. The additional antennas are proposed in order to additional capacity and uninterrupted coverage in response to increasing demand for streaming and data usage. 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.

RECOMMENDATION

At their December 16, 2014 meeting, the Commission forwarded **CU-14-640** 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.

VERIZON WIRELESS
Winchester

Statement of Compliance

Verizon Wireless at 799 Fairmont Ave

Winchester, VA 22601

(Proposal is for minor alteration to the Verizon installation on Tower)

Description of Proposed Use.

The Applicant is submitting this application to modify its antennas installation on the tower. The alteration consists of adding three (3) Remote Radio Heads (RRH), one (1) per sector, behind an existing antenna. There will also be an addition of three (3) Distribution Boxes, one (1) per sector, behind an existing antenna. One (1) GPS antenna will be added to the existing cable ice bridge. One (1) existing hybrid cable will be removed from the tower and replaced with three (3) new hybrid cables.

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

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

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

Requirement for Proposed Use

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

**VERIZON WIRELESS
Winchester**

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

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

Conformance with the General Provisions of the Conditional Use Permit

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

18-2-1 Conditional Use Permit

18-2-1.1

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

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

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

18-2-1.2

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

**VERIZON WIRELESS
Winchester**

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

COMPLIANCE: The proposed alteration is to an existing telecommunications tower shared by other wireless telecommunications carriers thereby eliminating the need to locate on other structures which do not support existing telecommunications facilities or the need to erect a new tower.

18-2-3 Procedures

18-2-3.1

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

18-2-3.2

The applicant, who shall be a record owner, or contract owner with written approval of the owner, of the land involved (if a contract owner, copy of said contract shall be filled with and made a part of application), shall make application for the use permit to the Administrator on the form provided for that purpose, giving all information required by such form, including such other information which the Administrator may deem necessary for an intelligent consideration of the project for which a permit is desired. The application shall be accompanied by the fee as per Section 23-8, evidence of delinquent tax payment per Section 23-9, and disclosure of real party interest per Section 23-10 for this Ordinance and ten (10) copies of the following: (10/13/92, Case TA-92-02, Ord. No. 016-92; 8/16/02, Case TA-02-04, Ord. No. 014-2002)

VERIZON WIRELESS
Winchester

COMPLIANCE: The applicable applications have been signed by the property owner who is engaged in an amendment to the current leased space with Verizon Wireless for the alterations of the space.

18-2-3.3

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

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

18-2-3.4

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

COMPLIANCE: No new building is proposed, the alteration is on an existing Tower.

18-2-3.5

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

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

18-2-3.6

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

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

X

Joshua Schakola
Zoning Specialist

0-2015-02

CITY OF WINCHESTER, VIRGINIA

PROPOSED CITY COUNCIL AGENDA ITEM

CITY COUNCIL MEETING OF: 1/27/15 (work session) **CUT OFF DATE:** 01/22/15
2/10/15 (1st reading)
2/24/15 (2nd reading/Public Hearing)

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

ITEM TITLE:

RZ 14-628 AN ORDINANCE TO REZONE 5.1674 ACRES OF LAND AT 380 MILLWOOD AVENUE (*Map Number 233-01- -3*) FROM MEDIUM DENSITY RESIDENTIAL DISTRICT (MR) ZONING TO MEDIUM DENSITY RESIDENTIAL DISTRICT (MR) ZONING WITH PLANNED UNIT DEVELOPMENT (PUD) OVERLAY.

STAFF RECOMMENDATION:

Approval.

PUBLIC NOTICE AND HEARING:

Public hearing for 2/24/2015 Council meeting.

ADVISORY BOARD RECOMMENDATION:

Planning Commission unanimously recommended approval.

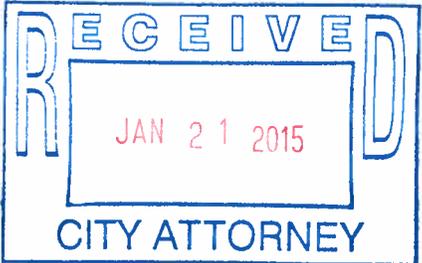
FUNDING DATA: N/A

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. Zoning & Inspections	AMG		1/21/15
2. City Attorney	<i>[Signature]</i>		1/21/2015
3. City Manager	<i>[Signature]</i>		21 Jan 2015
4. Clerk of Council			

Initiating Department Director's Signature: *[Signature]* 1/21/15
(Planning Dept)



APPROVED AS TO FORM:
[Signature] 1/21/2015
CITY ATTORNEY

CITY COUNCIL ACTION MEMO

To: Honorable Mayor and Members of City Council

From: Tim Youmans, Planning Director

Date: January 21, 2015

Re: **RZ 14-628** AN ORDINANCE TO REZONE 5.1674 ACRES OF LAND AT 380 MILLWOOD AVENUE (Map Number 233-01- -3) FROM MEDIUM DENSITY RESIDENTIAL DISTRICT (MR) ZONING TO MEDIUM DENSITY RESIDENTIAL DISTRICT (MR) ZONING WITH PLANNED UNIT DEVELOPMENT (PUD) OVERLAY.

THE ISSUE:

Conventional rezoning from medium density residential district zoning to medium density residential district zoning with Planned Unit Development overlay which would allow for expansion/renovation on the property.

RELATIONSHIP TO STRATEGIC PLAN:

Goal 2: More Livable City for All

BACKGROUND:

See attached staff report

BUDGET IMPACT:

None

OPTIONS:

1. Approve as recommended by Planning Commission
2. Table request
3. Deny request

RECOMMENDATIONS:

Recommend Option 1

City Council Work Session
January 27, 2015

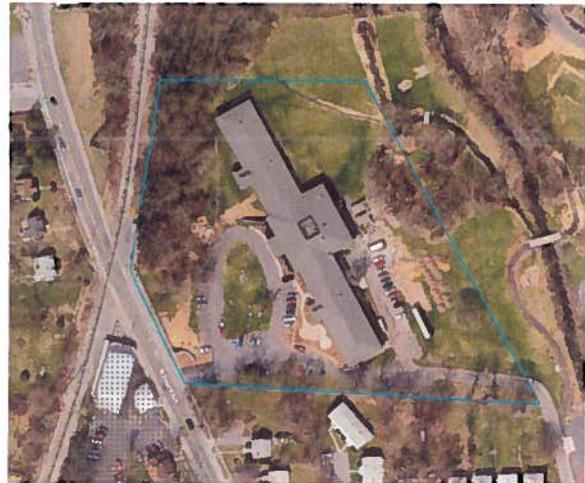
RZ 14-628 AN ORDINANCE TO REZONE 5.1674 ACRES OF LAND AT 380 MILLWOOD AVENUE (*Map Number 233-01- -3*) FROM MEDIUM DENSITY RESIDENTIAL DISTRICT (MR) ZONING TO MEDIUM DENSITY RESIDENTIAL DISTRICT (MR) ZONING WITH PLANNED UNIT DEVELOPMENT (PUD) OVERLAY.

REQUEST DESCRIPTION

The request is to rezone from MR to MR with a PUD overlay which would permit enlarging the existing nursing home without increasing the number of beds as outlined in the letter (see attached) from the applicant dated October 3, 2014.

AREA DESCRIPTION

The property currently contains the existing business Evergreen Health & Rehab, an assisted living/nursing home facility. To the north and east is City owned land zoned Education, Institution and Public Use District (EIP) which includes parts of the Green Circle Trail and Shawnee Springs Preserve. To the south is a residential area zoned MR. The adjacent parcels to the west are zoned Central Business District (B-1) buffered by Millwood Ave and the CSX Railroad line. Portions of the property lie within the 100-year floodplain and a variance was granted by the Board of Zoning Appeals on November 12, 2014 for expansion of the structure and use of the facility.



STAFF COMMENTS

In a letter (see attached) to the Planning Director dated October 3, 2014, Mr. Donald Crigler of DFC Architects, PC, applicant for the owner (Long Term Care Properties, LLC), states that the rezoning will bring the Nursing Home/Assisted Living Facility use back to a by-right use. The use was established in 1968 and was a by-right use until 1990 when the property was rezoned MR, thus establishing a “non-conforming use” and preventing the opportunity for expansion. The proposed site plan and elevations shows a 3,000 sq. ft. footprint for a 6,000 sq. ft. two story addition. The expansion is intended to improve the operation of the facility itself and does not increase the number of patient beds or staff. Consequently, this expansion and improvements should have no impact on the City, fiscally or in terms of traffic. The expansion is also in line with the City’s Comprehensive Plan for the area, which calls for proactive redevelopment of property where needed to achieve maximum sustainable potential.

RECOMMENDATION

At their January 20, 2015 meeting, the Planning Commission forwarded **RZ-14-490** to City Council recommending approval as depicted on an exhibit entitled “Rezoning Exhibit RZ-14-628, Prepared by Winchester Planning Department, 10-03-2014” because the request is consistent with the Comprehensive Plan which calls for Redevelopment in the site.

DFC Architects, PC

October 3, 2014

RE: Rezoning for a Planned Unit Development Overlay for
Evergreen Health & Rehab
380 Millwood Ave.
Winchester, Va 22601

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

Dear Tim,

I have enclosed an application for a re-zoning to place a Planned Unit Development overlay on the above referenced site. As you are aware the site is 5.1674 acres and therefore qualifies for a PUD overlay. The PUD will bring the use back to a "by-right" use for this site. It was brought to our attention that the current Zoning of MR which was done in 1990, actually made the existing use a "non-conforming use" and therefore eliminates the opportunity to expand the existing facilities. This use was established in 1968 and was a by right use from 1968 until the rezoning in 1990. I am submitting a site plan showing a new 3,000 square foot footprint for a 6,000 square foot, two story addition. I have included architectural plans and elevations of the proposed addition, since the project was ready to be started in September, until we discovered this zoning issue. I would appreciate any assistance that you can provide in expediting this process, since this rezoning was done prior to the current owners purchase of the facility in 2005. I would note that this expansion is designed to improve the care of the existing residents and does not add any additional beds, or staff. The rooms will be enlarged to accommodate the rehabilitation function on one wing and the long term care done on the other wing. It is also designed to meet the current HC accessibility standards for a Nursing facility.

As you may be aware this facility is the largest Nursing Home in the City of Winchester and provides more than 3 times as many licensed beds as any other facility in the City. Evergreen provides 65% of the total licensed Nursing home beds within the City of Winchester. If you have any further questions or need any additional information please feel free to contact me.

Sincerely,



Donald F. Crigler
President
DFC Architects, PC

Attachment: Planning Statements

29 E. Rosehaven Street PH: (540) 673-0560 Winchester, Virginia 22601



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

November 13, 2014

DFC Architects, PC
Attention: Don Crigler
29 E. Boscawen Street
Winchester, VA 22601

Dear Mr. Crigler:

On Wednesday, November 12, 2014, the Board of Zoning Appeals acted on the following request:

BZA-14-517 Request of DFC Architects, PC, on behalf of the property owner, Long Term Care Properties, LLC, for variances pertaining to an expanded use and structure in the 100 year floodplain pursuant to Sections 14.1-15-3C, D, E, and J and Section 14.1-15-6A of the Winchester Zoning Ordinance, for the property located at 380 Millwood Avenue (Map Number 233-01- -3 - > <01), zoned Medium Density Residential (MR) District with Floodplain (FP) District overlay. The applicant is requesting these variances to obtain relief from required flood proofing and building elevation requirements for a proposed building expansion.

On a vote of 4-0, the Board approved a variance to DFC Architects, PC, on behalf of the property owner, Long Term Care Properties, LLC, for variances pertaining to an expanded use and structure in the 100 year floodplain pursuant to Section 14.1-15-6A of the Winchester Zoning Ordinance, for the property located at 380 Millwood Avenue (Map Number 233-01- -3 - > <01), zoned Medium Density Residential (MR) District with Floodplain (FP) District overlay, with the following conditions:

- a. The issuance of this variance is approved only for the expansion as proposed within the application materials, including those materials that were presented to the Board today, November 12, 2014.
- b. The issuance of a variance to construct a structure below the one hundred (100)-year flood elevation (a) increases the risks to life and property and (b) will result in increased premium rates for flood insurance.

This variance is approved because:

- a. The strict application of this Ordinance would produce a clearly demonstrable hardship.
- b. That such hardship is not shared generally by other properties in the same zoning district and the same vicinity.
- c. That the authorization of such variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance.

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."

DFC Architects, PC
 29 East Boscawen Street (540) 678-0560
 Winchester, VA 22601

PROJECT NUMBER:
1302
 DRAWN BY: TWN
 CHECKED BY: DC

REVISIONS: 
 1)
 2)

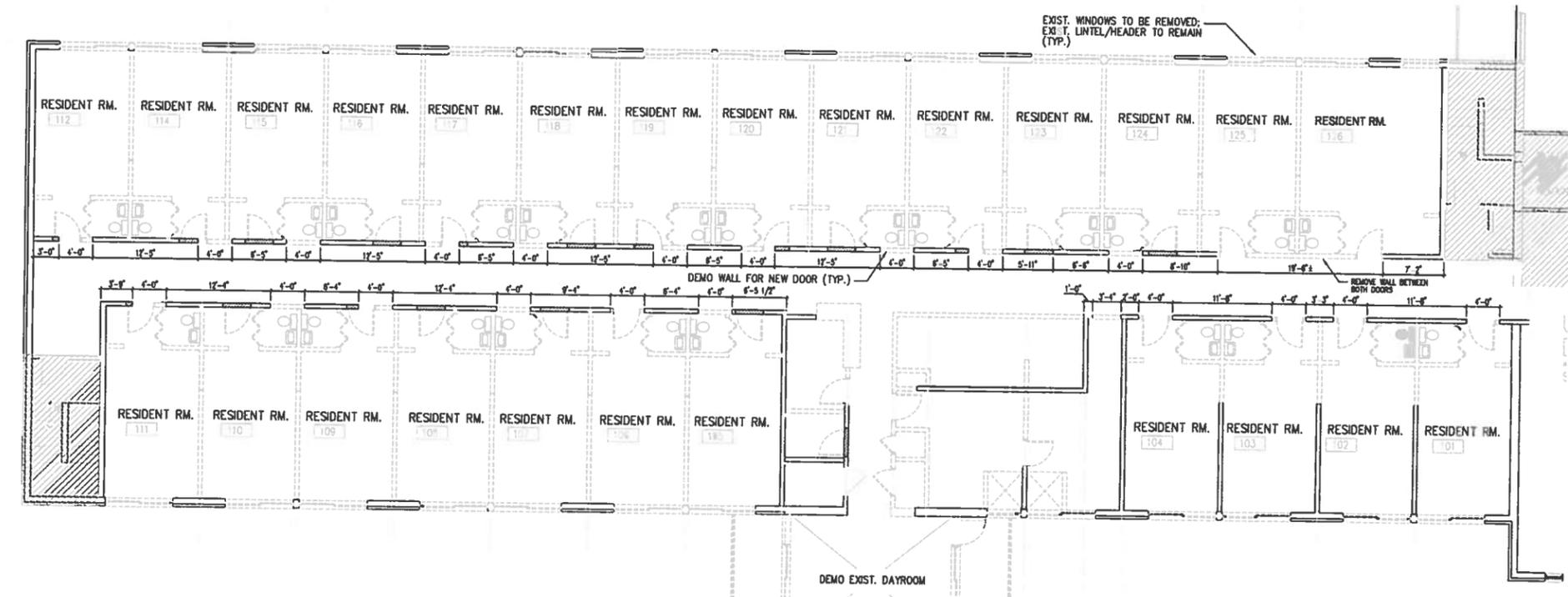
EXISTING / DEMO PLANS
EVERGREEN
 Renovation of Wing 1 & 3

SHEET TITLE:
PROJECT NAME:

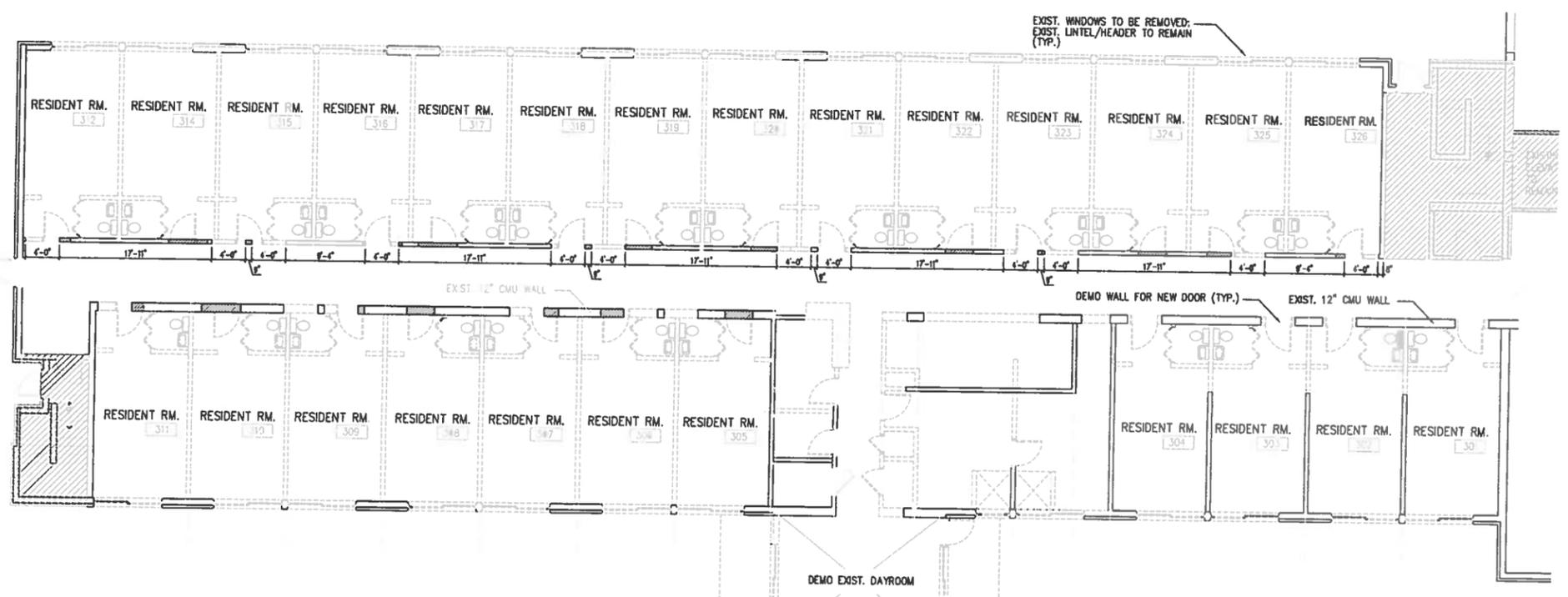
CLIENT INFORMATION:
EVERGREEN HEALTH & REHABILITATION CENTER
 ADDRESS:
 380 MILL WOOD AVENUE
 WINCHESTER, VA 22601

07.17.2014
 SHEET No.

D1.00



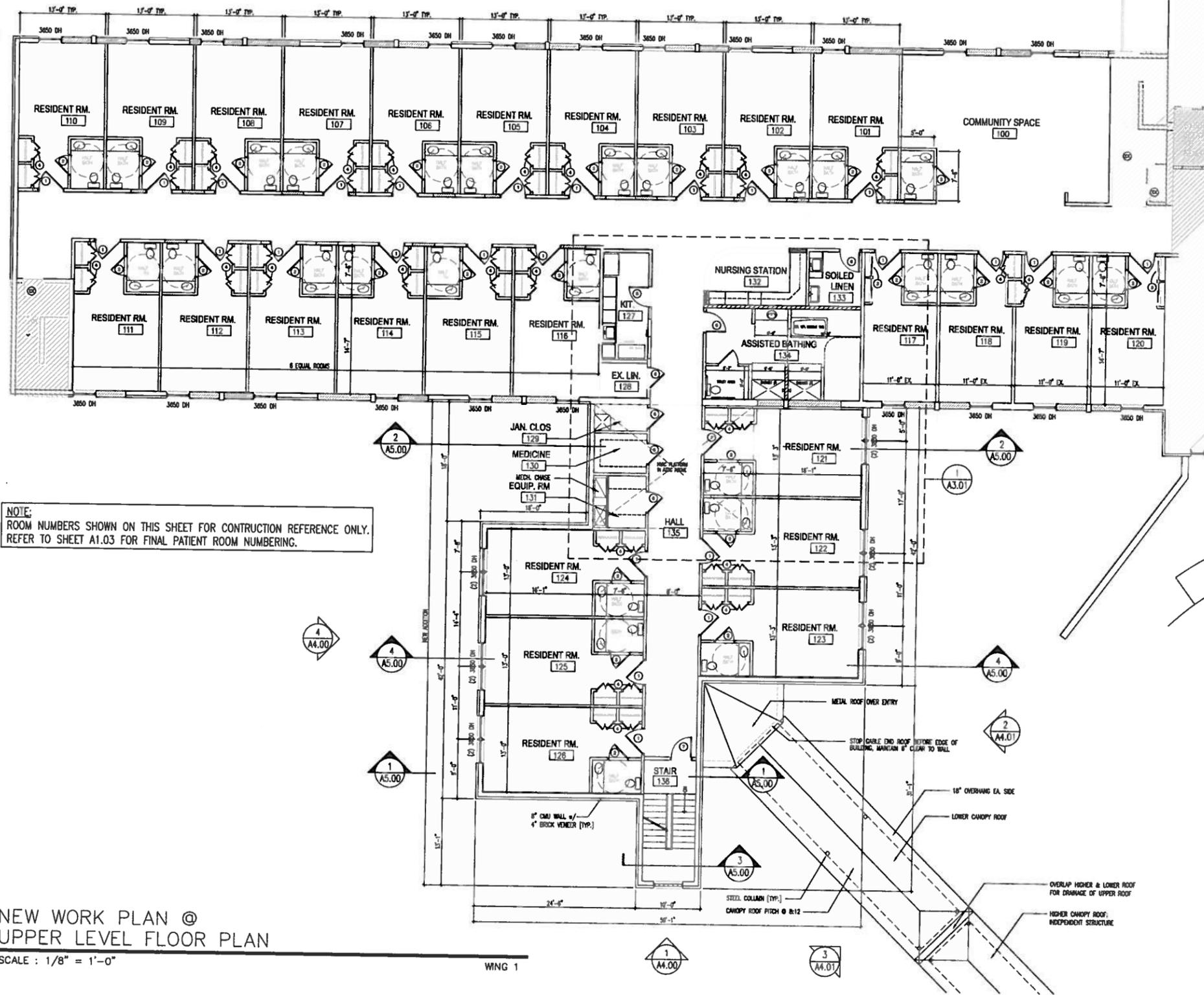
UPPER LEVEL FLOOR EXISTING / DEMOLITION PLAN
 SCALE : 1/8" = 1'-0"
 WING 1



LOWER LEVEL FLOOR EXISTING / DEMOLITION PLAN
 SCALE : 1/8" = 1'-0"
 WING 3

LEGEND

-  DEMOLITION
-  EXISTING CONSTRUCTION TO REMAIN
-  INFILL @ EX. WALL / OPENING
-  EXISTING DOORS TO REMAIN
-  DOORS TO BE REMOVED
-  WINDOWS TO BE REMOVED
-  ROOMS AND AREAS NOT IN CONTRACT



NOTE:
ROOM NUMBERS SHOWN ON THIS SHEET FOR CONSTRUCTION REFERENCE ONLY.
REFER TO SHEET A1.03 FOR FINAL PATIENT ROOM NUMBERING.

1
A2.00 NEW WORK PLAN @ UPPER LEVEL FLOOR PLAN
SCALE: 1/8" = 1'-0"

FINISH SCHEDULE:												
FLOOR												
1. COMMERCIAL CARPET 2. VINYL TILE 3. CERAMIC TILE 4. QUARRY TILE 5. MARBLE TILE 6. CONCRETE (PAINTED) 7. LAMINATED HARDWOOD												
BASE												
1. MATCH EXIST. BASE 2. WOOD BASE 3. CERAMIC BASE 4. CARPET BASE 5. VINYL BASE												
WALL												
1. MATCH EXIST. WALL 2. EXPOSED BRICK 3. CONCRETE BLOCK (PTD.) 4. DRYWALL (PTD.) 5. DRYWALL (WALL COVERING) 6. CERAMIC TILE												
CEILING												
1. MATCH EXIST. CEILING 2. 2X2 LAY-IN TILE 3. 2X4 LAY-IN TILE 4. LAY-IN TILESANITARY) 5. DRYWALL (PAINTED) 6. DRYWALL (TEXTURED)												
<table border="0"> <tr> <td>□</td> <td>FINISH SCHEDULE SYMBOL</td> </tr> <tr> <td>□</td> <td>CEILING HEIGHT</td> </tr> <tr> <td>□</td> <td>CEILING</td> </tr> <tr> <td>□</td> <td>WALL</td> </tr> <tr> <td>□</td> <td>BASE</td> </tr> <tr> <td>□</td> <td>FLOOR</td> </tr> </table>	□	FINISH SCHEDULE SYMBOL	□	CEILING HEIGHT	□	CEILING	□	WALL	□	BASE	□	FLOOR
□	FINISH SCHEDULE SYMBOL											
□	CEILING HEIGHT											
□	CEILING											
□	WALL											
□	BASE											
□	FLOOR											

DFC Architects, PC
29 East Boscawen Street (540) 678-0560
Winchester, VA 22601

PROJECT NUMBER:
1302

DRAWN BY: TWN
CHECKED BY: DC

REVISIONS: **A**

1)
2)

FLOOR PLAN @ UPPER LEVEL

PROJECT NAME:
EVERGREEN
Renovation of Wing 1 & 3

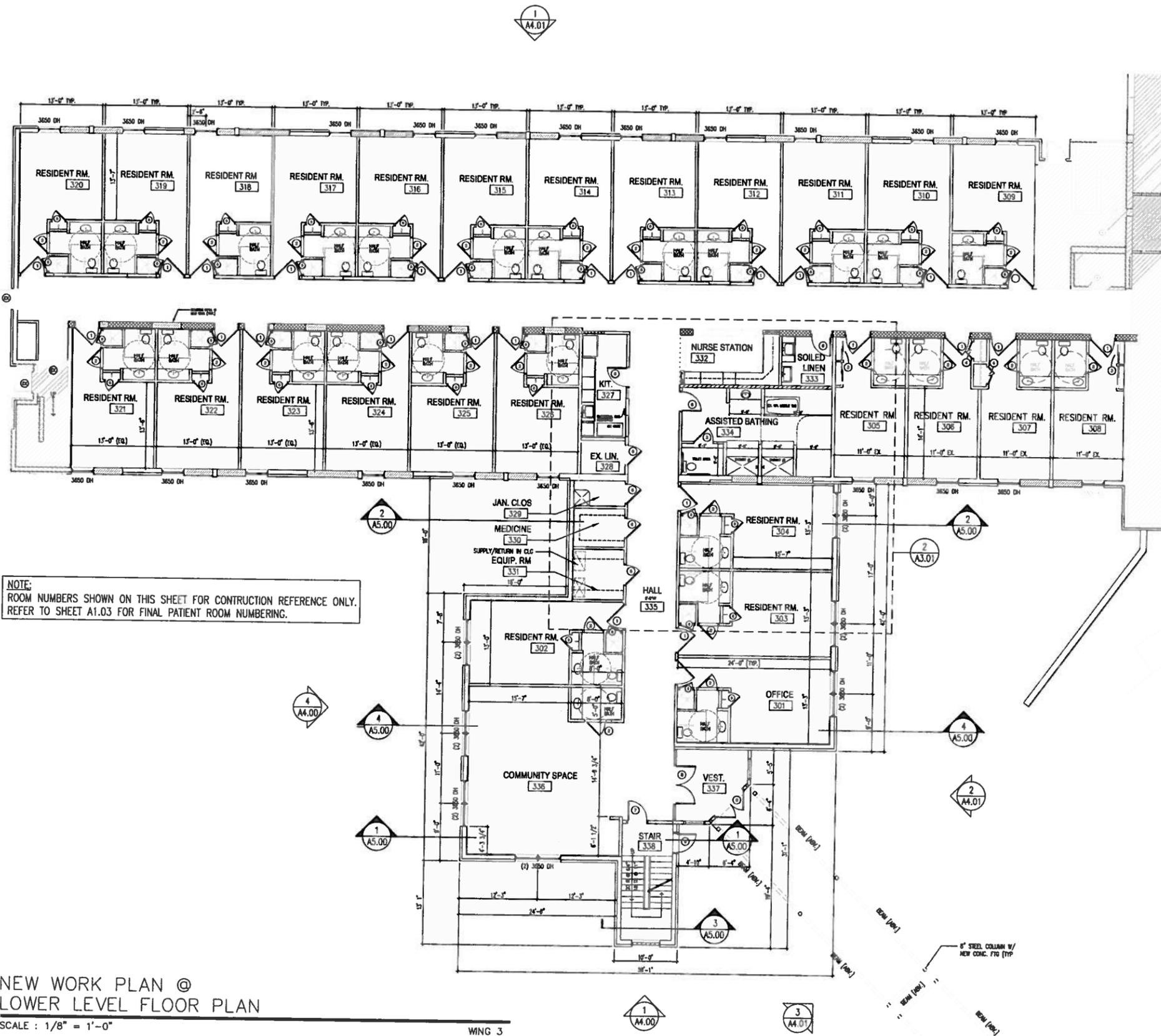
LEGEND

▨	EXIST. CMU WALL
—	EXIST. WALLS
—	NEW WALLS
▨	INFILL EXIST. OPC
▨	ROOMS AND AREAS NOT IN CONTRACT

CLIENT INFORMATION:
EVERGREEN HEALTH & REHABILITATION CENTER
ADDRESS
380 MILLWOOD AVENUE
WINCHESTER, VA 22601

07.17.2014

SHEET No.
A2.00



NOTE:
ROOM NUMBERS SHOWN ON THIS SHEET FOR CONSTRUCTION REFERENCE ONLY.
REFER TO SHEET A1.03 FOR FINAL PATIENT ROOM NUMBERING.

1
A2.01 NEW WORK PLAN @ LOWER LEVEL FLOOR PLAN
SCALE: 1/8" = 1'-0"

FINISH SCHEDULE:

FLOOR

1. COMMERCIAL CARPET
2. VINYL TILE
3. CERAMIC TILE
4. QUARRY TILE
5. MARBLE TILE
6. CONCRETE (PAINTED)
7. LAMINATED HARDWOOD

BASE

1. MATCH EXIST. BASE
2. WOOD BASE
3. CERAMIC BASE
4. CARPET BASE
5. VINYL BASE

WALL

1. MATCH EXIST. WALL
2. EXPOSED BRICK
3. CONCRETE BLOCK (PTD.)
4. DRYWALL (PTD.)
5. DRYWALL (WALL COVERING)
6. CERAMIC TILE

CEILING

1. MATCH EXIST. CEILING
2. 2X2 LAY-IN TILE
3. 2X4 LAY-IN TILE
4. LAY-IN TILE (SANITARY)
5. DRYWALL (PAINTED)
6. DRYWALL (TEXTURED)

FINISH SCHEDULE SYMBOL
 CEILING HEIGHT
 CEILING
 WALL
 BASE
 FLOOR

LEGEND

- EXIST. CMU WALL
- EXIST. WALLS
- NEW WALLS
- INFILL EXIST. OPC
- ROOMS AND AREAS NOT IN CONTRACT

DFC Architects, PC
29 East Boscawen Street (540) 678-0560
Winchester, VA 22601

PROJECT NUMBER: 1302
DRAWN BY: TWN
CHECKED BY: DC

REVISIONS: 1)
2)

FLOOR PLAN @ LOWER LEVEL

EVERGREEN
Renovation of Wing 1 & 3

CLIENT INFORMATION:
EVERGREEN HEALTH & REHABILITATION CENTER
ADDRESS: 380 MILL WOOD AVENUE
WINCHESTER, VA 22601

07.17.2014
SHEET No.

A2.01

DFC Architects, PC
 29 East Boscawen Street (540) 678-0560
 Winchester, VA 22601

PROJECT NUMBER:
1302

DRAWN BY: TWN
 CHECKED BY: DC

REVISIONS: Δ
 1)
 2)

BUILDING ELEVATIONS
EVERGREEN
 Renovation of Wing 1 & 3

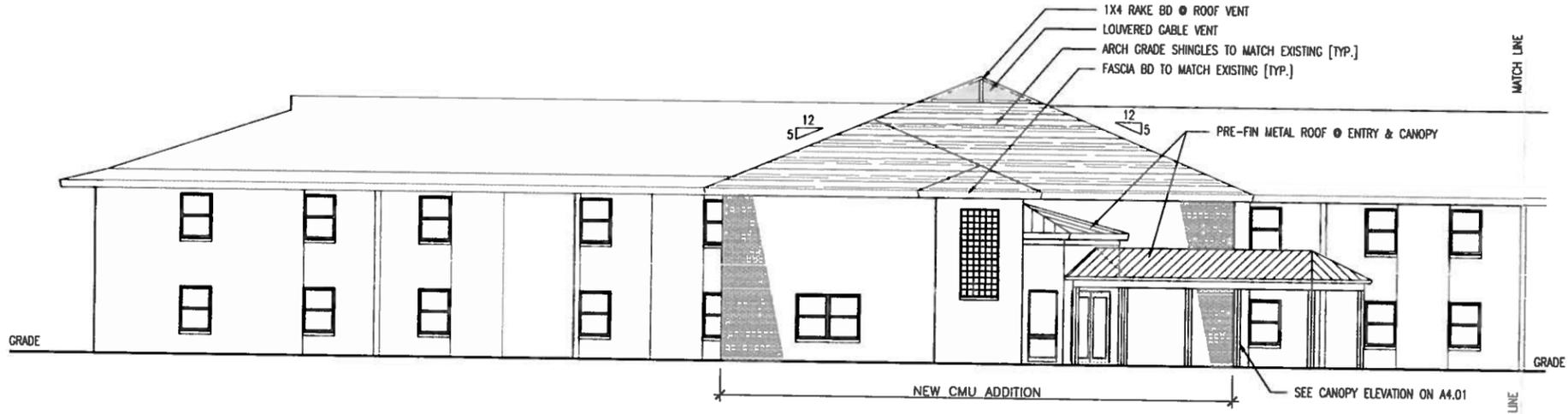
SHEET TITLE:
PROJECT NAME:

CLIENT INFORMATION:
EVERGREEN HEALTH & REHABILITATION CENTER
 ADDRESS:
 380 MILL WOOD AVENUE
 WINCHESTER, VA 22601

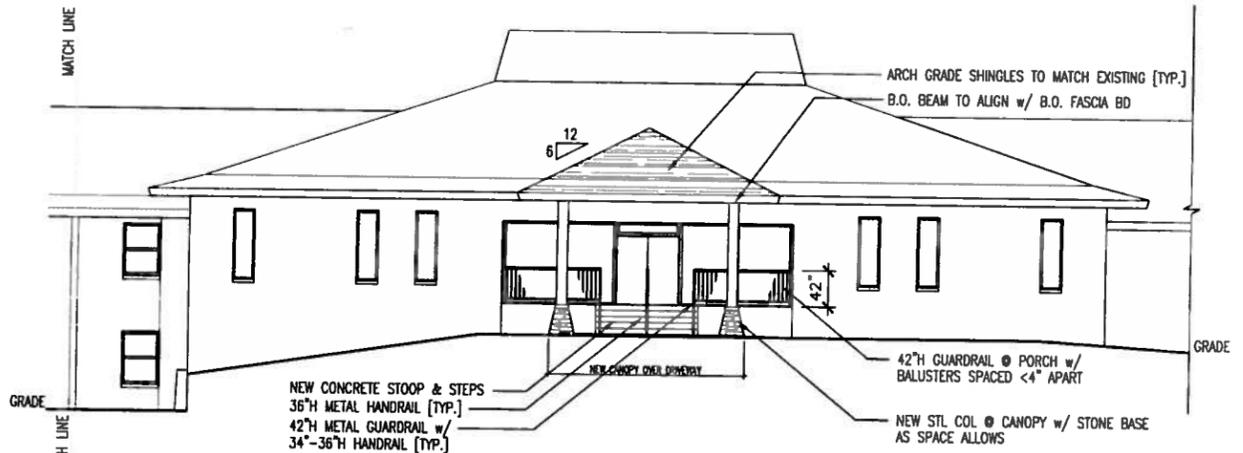
07.17.2014

SHEET No.

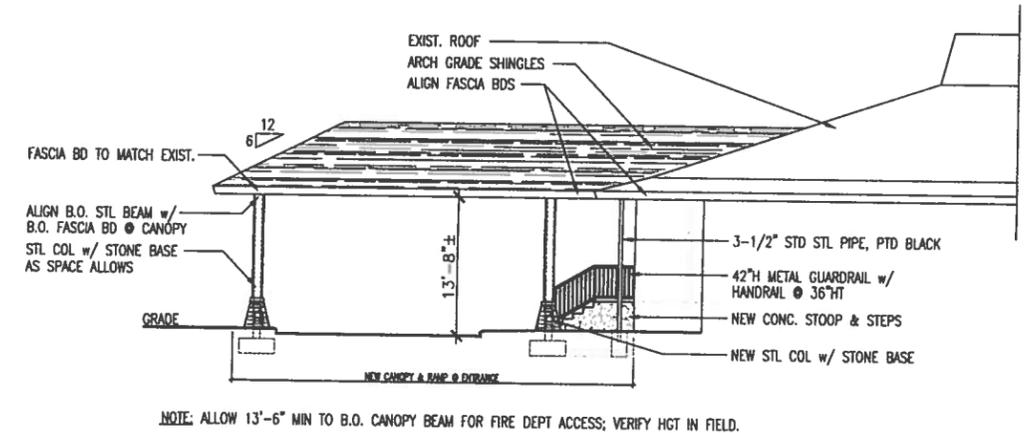
A4.00



1 FRONT ELEVATION W/ ADDITION [MILLWOOD AVENUE]
 A4.00 SCALE: 1/8" = 1'-0"



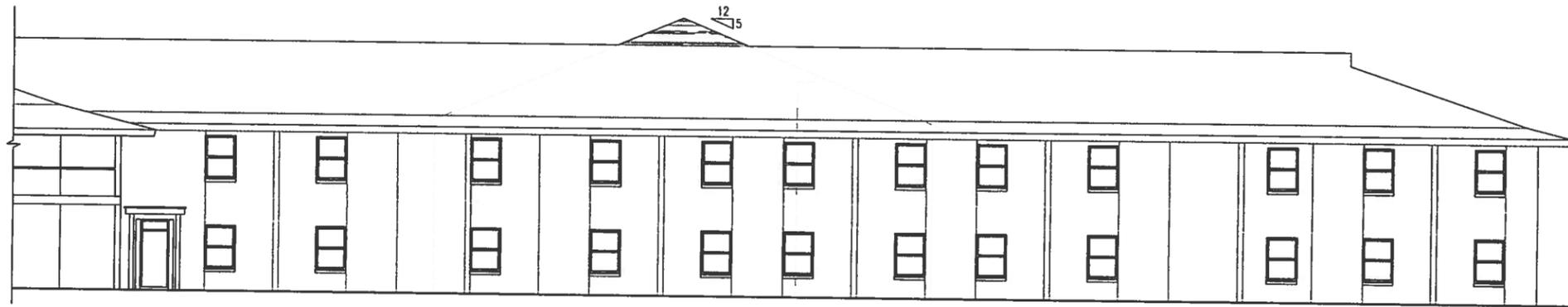
2 FRONT ELEVATION @ NEW MAIN ENTRANCE CANOPY [MILLWOOD AVENUE]
 A4.00 SCALE: 1/8" = 1'-0"



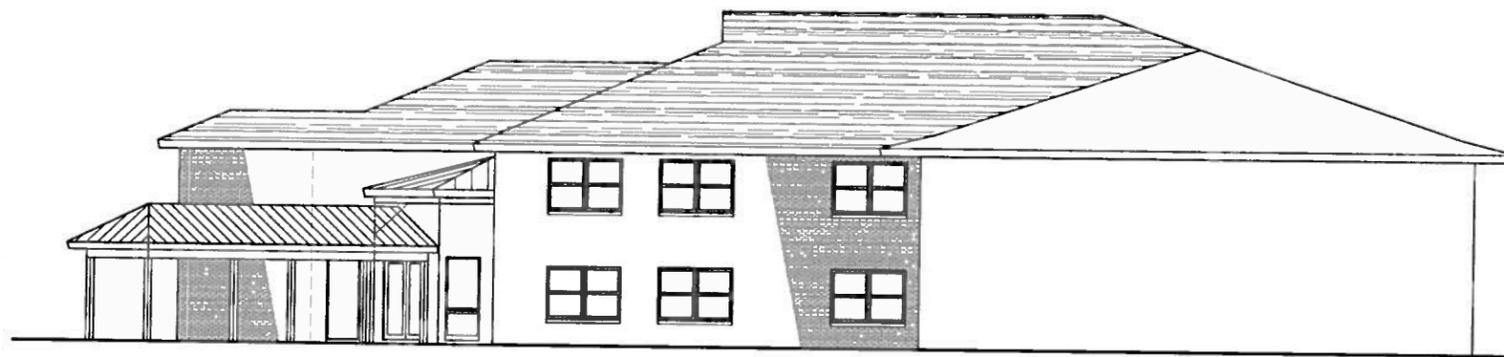
3 SIDE ELEVATION @ NEW MAIN ENTRANCE CANOPY [MILLWOOD AVENUE]
 A4.00 SCALE: 1/8" = 1'-0"



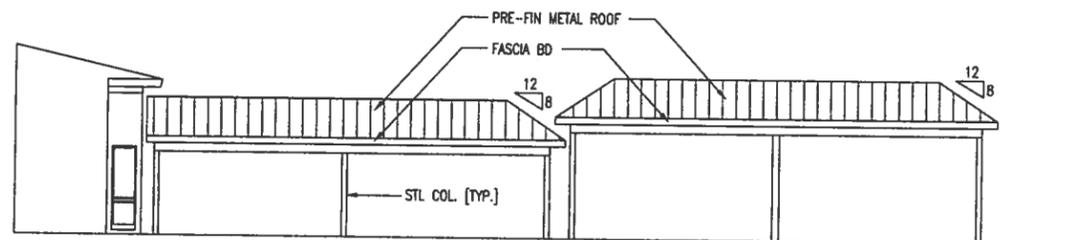
4 LEFT SIDE ELEVATION [NORTH]
 A4.00 SCALE: 1/8" = 1'-0"



1 REAR ELEVATION [EAST]
 A4.01 SCALE: 1/8" = 1'-0"



2 LEFT-SIDE ELEVATION @ ADDITION [SOUTH]
 A4.01 SCALE: 1/8" = 1'-0"



3 ELEVATION @ NEW WALKWAY CANOPY
 A4.01 SCALE: 1/8" = 1'-0"

DFC Architects, PC
 29 East Boscawen Street (540) 678-0560
 Winchester, VA 22601

PROJECT NUMBER:
 1302

DRAWN BY: TWN
 CHECKED BY: DC

REVISIONS: **A**
 1)
 2)

SHEET TITLE: **BUILDING ELEVATIONS**
 PROJECT NAME: **EVERGREEN**
 Renovation of Wing 1 & 3

CLIENT INFORMATION:
EVERGREEN HEALTH & REHABILITATION CENTER
 ADDRESS: 380 MILL WOOD AVENUE
 WINCHESTER, VA 22601

07.17.2014

SHEET No.

A4.01

CITY OF WINCHESTER, VIRGINIA

PROPOSED CITY COUNCIL AGENDA ITEM

CITY COUNCIL/COMMITTEE MEETING OF: January 13, 2015 **CUT OFF DATE:** __

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

ITEM TITLE: Adoption of Resolution that Implements the Revised and Updated Term Structure in the Handley Board of Trustees' By-Laws

STAFF RECOMMENDATION: Approval

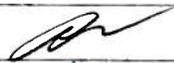
PUBLIC NOTICE AND HEARING: N/A

ADVISORY BOARD RECOMMENDATION: The Handley Board of Trustees recommends the adoption of this resolution.

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. _____	_____	_____	_____
2. _____	_____	_____	_____
3. _____	_____	_____	_____
4. _____	_____	_____	_____
5. City Attorney		_____	1/21/2015
6. City Manager		_____	2 Jan 2015
7. Clerk of Council	_____	_____	_____

Initiating Department Director's Signature:  _____ Date: 6 Jan 2015

City Manager Date



APPROVED AS TO FORM:

 CITY ATTORNEY 1/21/2015

CITY COUNCIL ACTION MEMO

To: Honorable Mayor and Members of City Council
From: Eden Freeman, City Manager
Date: 1/13/15
Re: Adoption of Resolution that Implements the Revised and Updated Term Structure in the Handley Board of Trustees' By-Laws

THE ISSUE:

Does the Winchester Common Council concur with the Handley Board of Trustees' adopted resolution that revises and updates their term structure?

RELATIONSHIP TO STRATEGIC PLAN:

Goal Three: Develop a High Performing Organization

BACKGROUND:

The Handley Board of Trustees adopted a resolution with a proposed implementation date of July 1, 2014 that revised and updated the term structure for their board. However, the Winchester Common Council is required to adopt any resolution that amends the Handley Board of Trustees' by-laws prior to their implementation.

The adopted Handley Board of Trustees' resolution amended their By-Laws as followed:

Section 2. Selection of Trustees. Trustees shall serve for a term of six years each, with staggered terms. At the expiration of each term, the Trustees whose terms are expiring shall either be reappointed or be replaced by a new Trustee who will be appointed by the Common Council of the City of Winchester to serve for a six-year term. Each Trustee shall continue to serve until his successor is duly elected, notwithstanding the expiration of his term. Trustees may serve a maximum of two successive terms in addition to any unexpired term to which the Trustee may have been appointed in the event of a vacancy. It is intended that the term of the replacement Trustee so elected shall expire so that the staggered terms of Trustees shall remain unaffected.

BUDGET IMPACT:

None

OPTIONS:

1. Approve the enclosed resolution
2. Provide additional direction to staff, and/or take no action at this time.

RECOMMENDATIONS:

City Staff recommends the adoption of the enclosed resolution

**A RESOLUTION SUPPORTING THE HANDLEY BOARD OF TRUSTEES' RESOLUTION THAT REVISES AND
UPDATES THEIR TERM STRUCTURE WITHIN THEIR BY-LAWS**

WHEREAS, at the request of the Winchester City Council in 1896, the State Legislature created the Handley Board of Trustees to receive and manage the assets bequeathed by Judge John Handley and to fulfill the terms of his will, and;

WHEREAS, the Handley Board of Trustees is governed by its by-laws, and;

WHEREAS, the Handley Board of Trustees has the authority to amend its by-laws, and;

WHEREAS, the Winchester City Council is required to adopt a resolution that supports any proposed alterations to the Handley Board of Trustees' by-laws before they are implemented.

NOW THEREFORE BE IT RESOLVED, that the Winchester City Council supports the Handley Board of Trustees' resolution that revises and updates their term structure within their by-laws.

CERTIFICATE OF RESOLUTION

HANDLEY BOARD OF TRUSTEES

The Handley Board of Trustees has approved, consistent with approval by the Common Council of the City of Winchester, the revised and updated term structure for The Handley Board of Trustees. Effective July 1, 2014, the By-Laws have been amended as follows:

Section 2. Selection of Trustees. Trustees shall serve for a term of six years each, with staggered terms. At the expiration of each term, the Trustees whose terms are expiring shall either be reappointed or be replaced by a new Trustee who will be approved by the Common Council of the City of Winchester to serve for a six-year term. Each Trustee shall continue to serve until his successor is duly elected, notwithstanding the expiration of his term. Trustees may serve a maximum of two successive terms in addition to any unexpired term to which the Trustee may have been appointed in the event of a vacancy. It is intended that the term of the replacement Trustee so elected shall expire so that the staggered terms of Trustees shall remain unaffected.

The current terms, and eligibility for reappointment, are as follows:

John W. Truban	-	Second term expires June 30, 2016
Harry S. Smith	-	First term expires June 30, 2016
Mary S. Riley	-	Second term expires June 30, 2019
John S. Campbell	-	First term expires June 30, 2016
John B. Schroth	-	Second term expires June 30, 2017
R. William Bayliss, III	-	First term expires June 30, 2016
Jeffrey Webber	-	First term expires June 30, 2016
Dennis J. McLoughlin, Sr.	-	First term expires June 30, 2019
Nate L. Adams	-	First term expires June 30, 2019

The following terms are to be extended in order to coordinate with three classes of six-year staggered terms of three Board members each, per the By-Laws as amended:

John W. Truban	-	Current term extended to June 30, 2018
Mary S. Riley	-	Current term extended to June 30, 2020
John S. Campbell	-	Current term extended to June 30, 2018
John B. Schroth	-	Current term extended to June 30, 2018
Dennis J. McLoughlin, Sr.	-	Current term extended to June 30, 2020
Nate L. Adams	-	Current term extended to June 30, 2020

Following these restructurings, the classes are as follows:

Class of 2018

John W. Truban
John S. Campbell
John B. Schroth

Class of 2020

Mary S. Riley
Dennis J. McLoughlin, Sr.
Nate L. Adams

Class of 2022

Harry S. Smith
R. William Bayliss, III
Jeffrey Webber

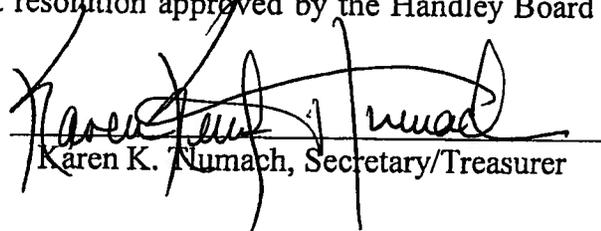
Class of 2024

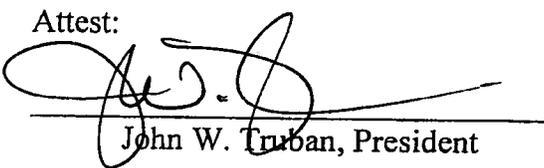
Truban Replacement
John S. Campbell
Schroth Replacement

Class of 2026

Riley Replacement
Dennis J. McLoughlin, Sr.
Nate L. Adams

I certify that this is a true and correct resolution approved by the Handley Board of Trustees to be effective July 1, 2014.


Karen K. Numach, Secretary/Treasurer

Attest:

John W. Truban, President

Board of Trustees July 1, 2014

8/27/2014 3.46

Last Name	First Name	MI	Appointed	Fill Initial Unexpired	First Full Term	Old Bylaws Second Full Term	New Bylaws New Current Terms	Class of 2022	Class of 2024	Class of 2026
Truban	John	W.	11/10/1987	6/30/1992	6/30/2004	6/30/2016	6/30/2018			
Truban Replacement									X	
Smith	Harry	S.	2/9/1999	6/30/2004	6/30/2016	6/30/2022	6/30/2022	X		
Riley	Mary	S.	7/1/2001		6/30/2013	6/30/2019	6/30/2020			
Riley Replacement										
Campbell	John (Shep)	S.	4/9/2002	6/30/2010	6/30/2016	6/30/2022	6/30/2018		X	
Schroth	John	B.	10/11/2005		6/30/2011	6/30/2017	6/30/2018			
Schroth Replacement									X	
Bayliss III	R.	William	7/1/2010		6/30/2016	6/30/2022	6/30/2022	X		
Webber	Jeffrey		7/1/2010		6/30/2016	6/30/2022	6/30/2022	X		
McLoughlin, Sr.	Dennis	J.	7/1/2013		6/30/2019	6/30/2025	6/30/2020			
Adams III	Nate	L.	7/1/2013		6/30/2019	6/30/2025	6/30/2020			X
										X

R-2015-04

CITY OF WINCHESTER, VIRGINIA

PROPOSED CITY COUNCIL AGENDA ITEM

CITY COUNCIL/COMMITTEE MEETING OF: 1/27/15 CUT OFF DATE: 1/8/15

RESOLUTION XX ORDINANCE PUBLIC HEARING

ITEM TITLE: Resolution in support of addiction reduction efforts

STAFF RECOMMENDATION: The staff and supporters request Council action.

PUBLIC NOTICE AND HEARING: N/A

ADVISORY BOARD RECOMMENDATION: N/A

FUNDING DATA: N/A

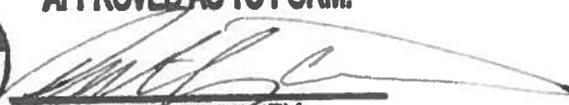
INSURANCE:N/A

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.	_____	_____	_____
2.	_____	_____	_____
3.	_____	_____	_____
4.	_____	_____	_____
5. City Attorney		_____	20150108
6. City Manager		_____	19 Jan 2015
7. Clerk of Council	_____	_____	_____

Initiating Department Director's Signature:  Date: 1/5/15



APPROVED AS TO FORM:

CITY ATTORNEY

CITY COUNCIL ACTION MEMO

To: Honorable Mayor and Members of City Council
From: Chief Kevin L. Sanzenbacher, Honorable Elizabeth Kellas, Timothy Coyne, esq.,
Dr. Nicholas Restrepo, Vice President Valley Health
Date: 12/15/2014
Re: Addiction Action Committee

THE ISSUE: Over the last several years the number of heroin related deaths have increased significantly. In 2014 there were 33 deaths. In order to attack this problem members of the community representing law enforcement agencies, Valley Health, Shenandoah University, the judicial systems, educators, treatment providers, social services agencies and concerned citizens have been meeting regularly in an attempt to address the public health crisis of addiction in our community. This group has become known as the Addiction Action Committee. This committee has identified the following goals:

By January 1, 2017, have a comprehensive coordinated approach to the prevention, treatment and adverse societal impact of addiction, as evidenced by:

- * A decrease in mortality from overdoses
- * A decrease in the incidence of substance exposed infants
- * A decrease in the incidence of children needing social services intervention due to parental/caregiver addiction
- * A decrease in the incidence of crimes attributable to addiction

The leadership of the Addiction Action Committee is asking the Common Council to affirm these goals and commit to supporting the mission of the committee.

RELATIONSHIP TO STRATEGIC PLAN: More livable City for all.

BACKGROUND: In 2012, one (1) person died from an opioid/heroin overdose death in the northern Shenandoah Valley, the catchment area for the Northwest VA Regional Drug Task Force (NWRDTF). In 2013, twenty one (21) people were dead from heroin overdoses in the same geographic area. In 2014, an additional thirty three (33) were dead from the same cause. The community, law enforcement, the medical profession, educators, service providers and family members, have come together to fight **this** disease and it's many and varied underlying causes in a group that has become known as the Addiction Action Committee. This committee has discovered:

- The current national issue with heroin is related to:
 - The over prescribing of opioid based pain killers.
 - Local data shows of 23 overdose victims studied, 14 (60%) had prior history of prescription drug abuse.
 - The US consumes 99% of the world's supply of OxyContin.
 - In 2010, **38,329** unintentional drug overdose deaths occurred in the United States, an increase for the 11th consecutive year; one person died every 14 minutes. 22,134 were prescription drug overdose deaths, of which opioid pain relievers were involved in 16,651 deaths (75.2 %).
 - Enough prescription pain relievers were prescribed in 2010 to medicate every American adult every four hours for a month.
 - Opioid pain relievers were involved in more overdose deaths than cocaine and heroin combined.
 - A reformulation of certain pain medications has made them more difficult to abuse.
 - Heroin has become increasing easier and cheaper to get than prescription opioid based medications.
- The heroin issue in the northern Shenandoah Valley is related to:
 - The close proximity to active drug markets in Washington, DC, Philadelphia and especially Baltimore, MD.
 - Addicts travel, usually to Baltimore, and purchase from varied sources, this leads to drugs of differing potency from day to day.
 - This varying in potency has led to the sharp increase in overdose injuries and deaths.

ACTIONS TO DATE

Since this problem was identified a number of activities have taken place to combat this problem. These have included:

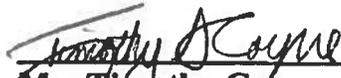
- Increased emphasis on the traditional undercover enforcement efforts for heroin.
- Greater cooperation and prosecutions by the US Attorney for the region.
- Increased effort to charge accomplices in overdose deaths with criminal responsibility for that death- this effort has been hampered by recent VA court decisions limiting the culpability of accomplices.
- Procedures to have NWRDTF members respond to each police call for an overdose to initiate an investigation into the source of the drug and develop leads and cooperation.
- Improved intelligence gathering when overdoses occur trying to determine the victim's drug involvement history.
- Increased information sharing between the medical profession and law enforcement.
- A drug take back box has been obtained from the CVS Pharmacy chain to encourage citizens to turn in unused drugs.
- Physician and dentist education sessions have been sponsored by Valley Health.
- Valley Health has changed their policy on prescribing pain relief medications.
- Four education/information sharing session have been held.
- Valley Health has made medication lock boxes available to the public.

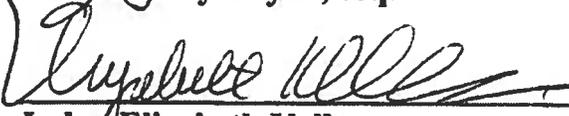
- A comprehensive website has been developed to identify resources available.
- Grants are being pursued.
- A number of best practice programs have been identified to provide the region with models that may be emulated and reproduced.

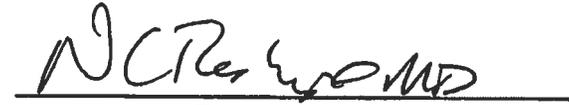
Despite these efforts much needs to be done. In order to develop a truly effective long-term program more resources need to be identified and developed. These resources will have to be developed with the help of the private sector in coordination with Federal, state and local government. The commitment of the Common Council to these solutions is vital for the overall success.

BUDGET IMPACT: Any implications for future budgets will be submitted to the Common Council through the annual budget process. Since the Committee is still examining needs and available resources from many sources to fulfill those needs a concrete budget cannot be developed. However, since Winchester is dedicated to its Strategic Plan, the Committee feels it is important at this point for the Common Council to recognize the importance to the City of ridding itself of this terrible blight by committing to this resolution at this time.

RECOMMENDATIONS: The following signatories of the Addiction Action Committee urge the Common Council to adopt this resolution.


Mr. Timothy Coyne, esq.


Judge Elizabeth Kellas


Dr. Nicolas Restrepo


Chief Kevin L. Sanzenbacher



RESOLUTION OF SUPPORT FOR CALL TO ACTION TO ADDRESS THE OPIOID ADDICTION CRISIS

WHEREAS the City of Winchester and surrounding jurisdictions in the Northern Shenandoah Valley have experienced an unprecedented increase in the number of opioid overdose deaths from 2012 to 2014, with 33 opioid overdose deaths in 2014; and

WHEREAS the City of Winchester and surrounding jurisdictions in the Northern Shenandoah Valley have also experienced a significant increase in criminal activity and arrests for drug-related offenses from 2012 to 2014; and

WHEREAS the number of children in foster care in the City of Winchester due to the drug addiction of parents or guardians has risen from 5 children in 2012 to 21 children in 2014; and

WHEREAS there has been a significant increase in the number of opioid and heroin overdose patients treated at and admitted to the Winchester Medical Center from 2012 to 2014; and

WHEREAS from 2012 to 2014 there have been 34 infants treated in the Neo-Natal Intensive Unit at the Winchester Medical Center for opioid exposure, with an average length of treatment of nearly 28 days and an average cost for treatment of more than \$47,000 per infant; and

WHEREAS the costs to the community in terms of actual expenditures, resources and human life caused by substance abuse and addiction are extraordinarily significant, if not incalculable; and

WHEREAS members of the community representing the Northwest Regional Drug Task force and local law enforcement agencies, Valley Health, Shenandoah University, the judicial systems, educators, treatment providers, social services agencies and concerned citizens have been meeting regularly in an attempt to address this public health crisis of addiction in our community;

NOW THEREFORE BE IT RESOLVED that the Common Council of the City of Winchester expresses its full support for the goals of the Addiction Action Committee to, by January 1, 2017, have a comprehensive coordinated approach to the prevention, treatment and adverse societal impact of addiction, as evidenced by:

- * A decrease in mortality from overdoses
- * A decrease in the incidence of substance exposed infants
- * A decrease in the incidence of children needing social services intervention due to parental/caregiver addiction
- * A decrease in the incidence of crimes attributable to addiction"

ADOPTED this _____ day of _____, 2014.

CITY OF WINCHESTER, VIRGINIA

PROPOSED CITY COUNCIL AGENDA ITEM

CITY COUNCIL/COMMITTEE MEETING OF: 2/10/15 **CUT OFF DATE:** 1/27/15

RESOLUTION ORDINANCE XX PUBLIC HEARING ___

ITEM TITLE: Change in Ordinance 16-5 Curfew for Minors

STAFF RECOMMENDATION: The Chief of Police requests Council action.

PUBLIC NOTICE AND HEARING: N/A

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. _____	_____	_____	_____
2. _____	_____	_____	_____
3. _____	_____	_____	_____
4. _____	_____	_____	_____
5. City Attorney	<i>AW</i>	_____	8/21/2014
6. City Manager	<i>MS</i>	_____	21 Jan 2015
7. Clerk of Council	_____	_____	_____
Initiating Department Director's Signature: <i>Chip R L</i>	_____	_____	8/20/14 Date



APPROVED AS TO FORM:

 CITY ATTORNEY

CITY COUNCIL ACTION MEMO

To: Honorable Mayor and Members of City Council
From: Chief Kevin L. Sanzenbacher
Date: Updated 1/16/15-updates in BOLD
Work Session 1/27/15
Council Session 2/10/15
Re: Revisions to City Ordinance 16-5 Curfew For Minors

THE ISSUE: Although juveniles account for a small percentage of crime in the city, their behavior can be very disruptive to certain neighborhoods, especially late at night. In 2014, juveniles 15 and over accounted for 50% of the juveniles arrested for felonies. In a recent survey, 26% of 11th grade males in the city admitted to carrying a weapon in the last 30 days and only 33% of 11th graders of both sexes said they had never used alcohol. These statistics do not capture the number of contacts our officers have with juveniles, on a nightly basis, where no formal action is taken.

It is for these reasons that officers from our midnight shift and neighborhood groups have asked us to explore having the age limitations on the city curfew extended to cover a broader, older, group of children.

UPDATE: Following questions generated at the Council work session on 7/22/14 the WPD has developed some additional statistics dealing with juvenile activity and curfew violations.

Curfew Violations – 2013- 6 Calls for Service- 4 charges 2 warnings in 2013
Of those calls 2 were 15 YOA, 3 were under 15 YOA, 1 unknown
2014 – 0 calls or arrests
Total Juvenile Arrests last 2 years by age:
74 = 17 years old- 32%
65 = 16 years old- 28%
33 = 15 years old- 14%
57 = under 15- 24%

In addition, one Council member asked us to examine the Philadelphia curfew since they were supposed to have designated specific enforcement zones. Research indicated these zones were a temporary (two week duration) measure imposed after Philadelphia experienced several violent mob incidents.

Staff, working with Council, has also developed a community action committee to look at alternative activities for youth. This group has scheduled a teen dance/party for February 13, 2015 in partnership with the Boys and Girls Club. If this event is well attended and is received in a positive manner we plan on sponsoring three additional events to provide alternative activities for youth in the community.

RELATIONSHIP TO STRATEGIC PLAN: Create a more livable city for all.

BACKGROUND: Current City Ordinance 16-5 sets the age for juveniles who are subject to curfew at under the age of 15. Persons under 15 are prohibited from being out on week nights (Sunday through

Thursday) from 11:00 PM to 5:00 AM and on weekends from 12:00 AM to 5:00 AM. There are exceptions built into the ordinance to allow for work, school and family events.

Officers on our midnight shift and citizens groups have asked that the curfew be changed to expand the age limit to which the curfew would apply. There is a feeling that young persons are allowed to roam the streets at night without supervision. By expanding the age controlled by the curfew from under 15 to under 17, officers and citizens feel they will have a better tool to control juvenile criminal/disruptive activity.

BUDGET IMPACT: There should be no budget impact.

DISCUSSION: Opposition to this plan may come from parents and teenagers who believe this is restrictive to the segment of the population that is not causing problems. However, staff believes that the exceptions included in the ordinance cover any legitimate reason that a young person would have for being out past the allowed times. We believe it is important to a stable community environment that the police have the ability to control the late night activity of the youthful population. It has been our experience that when it comes to young people nothing good happens after midnight. We believe this proposed ordinance change will help provide even more protection to the community, especially the youthful population that has not yet developed the ability to make good decisions for themselves.

Staff has also looked at other similar ordinances in jurisdictions, close in either geographic proximity or in demographic make-up to Winchester. Those cities included Fredericksburg, Charlottesville, Danville, Leesburg and Berryville. Of those five jurisdictions only Fredericksburg did not have a curfew ordinance. The others all made 17 and under as the ages falling under the curfew ordinance.

Update

Following the 7/22/14 work session the Council indicated that they would like to see more options available. As a result staff has outlined several alternatives as described below:

- I. Do nothing and leave the ordinance as it stands today.**
- II. Adopt the ordinance as proposed, thus raising the ages impacted by the curfew from under 15 to under 17 years old.**
- III. Modify the amended ordinance to make the curfew apply to anyone under the age of 18.**
- IV. Adopt any combination of the above options and add provisions that require a warning upon first offense as Culpeper, VA requires (see table).**

In addition, Council expressed interest in having parents held more accountable for the actions of their children, who may be violating the curfew law. Under current law, if the PD believes that parents are willfully allowing their children to be out in violation of the curfew there are two remedies. The first is to charge the parent with Contributing to the Delinquency of a Minor under VA Code 18.2-371.1. The second remedy, which is not exclusive of the other, is to have the Juvenile authorities declare the child in need of supervision. This would give Juvenile Services the ability to look at the family situation to make sure the welfare of the child is protected.

RECOMMENDATION: Staff would recommend the applicable age limit be extended for violations of the city curfew law. We will defer to Council on which option of alternative II, III or IV would be best for the community.

CITY	CURFEW ORDINANCE	AGES	COMMENTS	POPULATION
Harrisonburg	NO			52,157
Roanoke	YES	16 and younger		98,913
Staunton	NO			24,577
Spotsylvania	NO			125,555
Strasburg	YES	Under 18		6,489
Culpeper	YES	Under 18	Ordinance requires warning	16,633
Fredericksburg	NO			27,945
Charlottesville	YES	Under 18		46,632
Danville	YES	Under 18		43,912
Leesburg	YES	Under 18		45,936
Berryville	YES	Under 18		4,265
Warrenton	NO			9,803
Frederick County	NO			78,036
Front Royal	YES	Under18	11 PM start	14,666

AN ORDINANCE TO AMEND SECTION 16-5 OF THE WINCHESTER CITY CODE PERTAINING TO CURFEW VIOLATIONS

WHEREAS, Winchester Police Department recognizes that current ordinance 16-5 may not be adequate to deal with juveniles disrupting communities; and

WHEREAS, it is the belief of the WPD and community groups that modifying 16-5 to expand the segment of the population controlled by this ordinance will be beneficial to policing the community; and

WHEREAS, implementation of the proposed changes will make the City curfew ordinance consistent with other Virginia jurisdictions; and

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

NOW therefore be it ORDAINED that Section 16-5 of the Winchester City Code is hereby adopted as follows:

SECTION 16-5. CURFEW FOR MINORS.

Purpose: The goal of this section is to inhibit juvenile crime, to prevent the victimization of children, to promote the health and safety of children, and to increase parental responsibility for their children.

- (a) It shall be unlawful for any minor under the age of ~~fifteen (15)~~ seventeen (17) years to be in or upon any street, park or other public place in the City, on Sunday through Thursday between the hours of 11:00 P.M. and 5:00 A.M. of the following day, or Friday or Saturday from the hours of 12:00 A.M. and 5:00 A.M. of the following day unless, in either case, one of the following exceptions apply:
1. the minor is accompanied by his parent, guardian or other adult person having the legal care, custody, or control of such minor,
 2. the minor is engaged in, traveling in direct route to, or returning home from legal employment,
 3. the minor is attending, traveling in direct route to, or returning directly home from a school, religious or adult supervised activity sponsored by the City or a school, religious or civic group that takes responsibility for the minor,
 4. the minor is involved in an emergency,
 5. the minor is in a motor vehicle engaged in interstate travel, or
 6. the minor is or has been married or the minor has been lawfully emancipated.
- (b) It shall be unlawful for the proprietor, manager or other person having charge or control of any public place to permit or encourage any minor under the age of ~~fifteen (15)~~ seventeen (17) to violate this section.

(c) It shall be unlawful for a parent, guardian, or other adult person having the care, custody or control of a minor under the age of ~~fifteen (15)~~ seventeen (17) years to permit or encourage such to violate this section.

(d) A first violation of any provision of this section shall constitute a Class 4 misdemeanor. A second violation of any provision of this section within 90 days of a first violation by any person shall constitute a Class 2 misdemeanor.

(Code 1959, §16.7)(Ord. No. 045-95, 9-12-95; Ord. No. 007-96, 04-09-96; Ord. No. 2011-21, 10-11-11)

State Law References - Authority of city to enact a curfew ordinance, Code of Virginia §15.1-~~33.4~~ 2-926; to regulate presence of minors in places of amusement, §18.2-432

STRIKEOUT - REMOVED
UNDERLINE - ADDED