



WINCHESTER COMMON COUNCIL

September 8, 2015

AGENDA

6:00 P.M.

CALL TO ORDER AND ROLL CALL

MOMENT OF SILENCE

PLEDGE OF ALLEGIANCE

APPROVAL OF MINUTES – August 25, 2015 Special Meeting, August 25, 2015 Regular Meeting and August 25, 2015 Work Session

REPORT OF THE MAYOR

REPORT OF THE CITY MANAGER

REPORT OF THE CITY ATTORNEY

- MOTION TO ACCEPT THE RESIGNATION OF THE VICE PRESIDENT OF COUNCIL
- CALL FOR NOMINATIONS AND ELECTION – VICE PRESIDENT OF COUNCIL

1.0 PUBLIC HEARINGS

- 1.1 CUP-15-383:** Conditional Use Permit – Request of ANS Property LLC. for a Conditional Use Permit for extended stay lodging at 2649 Valley Avenue (Map Number 290-06- -1) zoned Highway Commercial District (B-2) with Corridor Enhancement (CE) District Overlay zoning. (pages 4-19)
- 1.2 CUP-15-388:** Conditional Use Permit – Request of Peter S. Grasso Jr. of Grasso & Sons Development LLC. for a Conditional Use Permit for a single-family detached dwelling at 2413 Valley Avenue (Map Number 270-03- -13) zoned Highway Commercial District (B-2) with Corridor Enhancement (CE) District Overlay zoning. (pages 20-28)
- 1.3 Public Hearing:** Appeal of the decision by the Board of Architectural Review (BAR-15-336) regarding the replacement of windows for the property located at 210 South Washington Street (**POSTPONED TO SEPTEMBER 22, 2015 – ITEM HELD BACK IN WORK SESSION ON AUGUST 25, 2015**)

2.0 PUBLIC COMMENTS

3.0 CONSENT AGENDA

- 3.1 O-2015-18:** First Reading – AN ORDINANCE TO VACATE A PORTION OF AN ALLEY RIGHT OF WAY BETWEEN 328 AND 400 HIGHLAND AVENUE AND CONVEY IT TO THE OWNER(S) OF 400 HIGHLAND AVENUE. SV-15-406 (pages 29-36)
- 3.2 O-2015-17:** First Reading – AN ORDINANCE TO AMEND AND REENACT ARTICLES 1, 17, 18, AND 21 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO DEFINITIONS; NONCONFORMING STRUCTURES; PERMIT REQUIREMENTS FOR FAMILY DAY HOMES; POWERS, PROCEDURES AND EX PARTE COMMUNICATIONS OF THE BOARD OF ZONING APPEALS; AND VIOLATIONS AND PENALTY. TA-15-376 (pages 37-46)
- 3.3 Motion to approve SD-15-384:** Request of Pennoni Associates Inc. on behalf of Oakcrest Builders Inc. for subdivision approval for a 10-lot subdivision at 715 South Braddock Street (Map Number 212-1-C-8) zoned Central Business (B-1) District. (pages 47-51)

4.0 AGENDA

- 4.1 O-2015-20:** First Reading – AN ORDINANCE TO AMEND SECTION 2-1 AND 2-2 OF THE WINCHESTER CITY CODE PERTAINING TO THE CITY SEAL AND DUTIES OF THE CLERK OF COUNCIL (pages 52-57)
- 4.2 MOTION TO APPOINT _____ AS A MEMBER OF THE PARKS AND RECREATION BOARD**
- 4.3 MOTION TO APPOINT _____ AS A MEMBER OF THE SHENANDOAH AREA AGENCY ON AGING**
- 4.4 MOTION TO APPOINT _____ AS A MEMBER OF THE LOCAL BUILDING CODE BOARD OF APPEALS**
- 4.5 MOTION TO APPOINT _____ AS A MEMBER OF THE NORTHWESTERN COMMUNITY SERVICES BOARD**
- 4.6 MOTION TO NOMINATE _____ AS A MEMBER OF THE WINCHESTER SCHOOL BOARD**

5.0 EXECUTIVE SESSION

- 5.1 MOTION TO CONVENE IN EXECUTIVE SESSION PURSUANT TO §2.2-3711(A)(7) OF THE CODE OF VIRGINIA FOR THE PURPOSE OF RECEIVING LEGAL ADVICE AND STATUS UPDATE FROM THE CITY ATTORNEY AND LEGAL CONSULTATION REGARDING THE SUBJECT OF SPECIFIC LEGAL MATTERS REQUIRING THE PROVISION OF LEGAL ADVICE BY THE CITY ATTORNEY AND MATTERS OF ACTUAL OR PROBABLE LITIGATION specifically**

including but not limited to current Winchester Circuit Court case Henschel et. al. v. City of Winchester, AND

- 5.2** 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, APPOINTMENT, AND PERFORMANCE OF SPECIFIC PUBLIC OFFICERS APPOINTEES, AND EMPLOYEES OF THE CITY OF WINCHESTER INCLUDING THE APPOINTMENT OF OR PROSPECTIVE APPOINTMENT OF MEMBERS TO CERTAIN BOARDS AND COMMISSIONS, specifically including but not limited to the consideration of the possible appointments/reappointments to the Frederick-Winchester Service Authority and Airport Authority and the employment and performance of a specific employee.

6.0 ADJOURNMENT

CITY OF WINCHESTER, VIRGINIA

CITY COUNCIL AGENDA ITEM

CITY COUNCIL MEETING OF: September 8, 2015

ITEM TITLE: CUP-15-383 Request of ANS Property LLC. for a Conditional Use Permit for Extended Stay Lodging at 2649 Valley Avenue (Map Number 290-06- -1) Zoned Highway Commercial (B-2) District with Corridor Enhancement (CE) District Overlay Zoning.

PUBLIC HEARING DATE: September 8, 2015 at 6:00 PM

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

Review:

Josh Crump	Completed	09/02/2015 9:57 AM
Timothy A. Youmans	Completed	09/02/2015 3:44 PM
Aaron Grisdale	Completed	09/02/2015 4:54 PM
Kevin Sanzenbacher	Completed	09/03/2015 2:11 PM
Anthony Williams	Completed	09/03/2015 3:05 PM
Eden Freeman	Completed	09/03/2015 3:08 PM

Josh Crump

Josh Crump, Planner

9/2/2015



APPROVED AS TO FORM:

Anthony Williams

CITY ATTORNEY

Eden Freeman

Eden Freeman, City Manager

9/3/2015

CITY COUNCIL ACTION MEMO

To: Honorable Mayor and Members of City Council
From: Josh Crump, Planner
Date: September 8, 2015
Re: CUP-15-383 Request of ANS Property LLC. for a Conditional Use Permit for Extended Stay Lodging at 2649 Valley Avenue (Map Number 290-06- -1) Zoned Highway Commercial (B-2) District with Corridor Enhancement (CE) District Overlay Zoning.

THE ISSUE:

The applicant is requesting a conditional use permit (CUP) to allow for the use of extended stay lodging at 2649 Valley Ave.

RELATIONSHIP TO STRATEGIC PLAN:

Goal #2- Promote and accelerate revitalization of catalyst and other areas throughout the city

BACKGROUND:

See attached staff report

BUDGET IMPACT:

N/A

OPTIONS:

1. Approve with conditions as recommended by Planning Commission
2. Approve with modified conditions
3. Deny

RECOMMENDATIONS:

Recommend Option 2

CUP-15-383 Request of ANS Property LLC. for a Conditional Use Permit for extended stay lodging at 2649 Valley Avenue (Map Number 290-06- -1) zoned Highway Commercial (B-2) District with Corridor Enhancement (CE) District Overlay zoning.

REQUEST DESCRIPTION

The request is for Conditional Use Permit (CUP) approval under Section 8-2-19 of the Zoning Ordinance pertaining to extended stay lodging.

AREA DESCRIPTION

The subject property is located along the southern corridor of Valley Avenue where a hotel (formerly the Americas Best Value Inn) has existed on the property. This corridor where the subject property is located is majority zoned B-2 with Corridor Enhancement Overlay with predominately retail and commercial uses. To the rear of the subject property is a City park (Rolling Hills) zoned Low Density Residential serving as an open space for the Rolling Hills subdivision located further behind the subject property.



STAFF COMMENTS

The CUP request for conversion of the hotel to extended stay lodging use is outlined in a letter from the applicant to the City received on July 6, 2015 (see attached). The applicant also provided supporting materials in the packet including a guest policy, floor plan of the remodeled units, and photos of the buildings.

Hotel use at the site has existed since the 1970's when the current hotel was first constructed and has gone through various ownership and business names over the years. The hotel site is set back well over 300 feet from Valley Ave. and the site consists of three buildings encompassing 76 units. Parking at the site consists of approx. 90 spaces, sufficient for the previous use and proposed use. In her letter, the applicant notes their desire to focus on providing extended housing to corporate businesses in surrounding area. The applicant also notes there have been extensive renovations/upgrades to the property and units recently and have future plans to improve the site such as: repairing the asphalt parking lot, add extensive landscaping, and convert the former swimming pool area into a business center- all which will require a subsequent site plan revision to be submitted to the city.

The Zoning Ordinance defines 'EXTENDED STAY LODGING' as: *"One (1) or more buildings containing individual sleeping rooms, designed for and used primarily by business travelers for more than thirty (30) consecutive days, with garage or parking space conveniently located to each unit. Cooking facilities are provided for each unit."*

Units are not intended to be primary residences.” Staff reached out to the applicant asking for clarification of the floor plan and providing a kitchen facility. In an email (see attached), the applicant indicated that kitchenettes will be installed in each unit upon approval. At the Planning Commission regular meeting on August 18th, the applicant provided a mock up and details of the proposed cooking facilities. Staff would still wish to be provided a floor plan with the cooking facilities incorporated into the layout of the units for a favorable recommendation from staff, otherwise staff feels this conversion from hotel to extended stay lodging use is an appropriate change of use.

RECOMMENDATION

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

At the August 18, 2015 meeting, the Planning Commission forwarded **CU-15-383** to City Council recommending approval per Sections 8-2-19 of the Zoning Ordinance because the proposal, as submitted, will not adversely affect the health, safety or welfare of persons residing or working in the neighborhood nor be detrimental to public welfare or injurious to property or improvements in the neighborhood. The approval is subject to:

1. Weekly maid service provided for all 76 units to ensure consistency with definition of the units as accommodations serving business travelers, not primary residences; and,
2. A typical floor plan to be submitted to City staff showing kitchen facilities are provided for all 76 units; and,
3. No occupancy of any individual(s) shall be for a period of longer than 9 months within a 12 month period; and,
4. No more than three criminal police calls, as determined by the Chief of Police, may be attributable to the facility within a thirty day continuous period, after which a facility security management plan shall be submitted to and approved by the Chief of Police; and,
5. A six month review of compliance with the permit shall be conducted by staff. Any substantial issues of noncompliance shall cause the CUP to be brought back to City Council for modification or revocation of the permit; and,
6. Staff review and approval of the required site plan.

At the August 25, 2015 Council work session, the request was reviewed. Concerns were raised regarding security at the property; specifically the rear of the property and what types of lighting and fencing will be used. Staff emailed the applicant on August 27, 2015 asking for more information regarding the features to the rear of the property that were being proposed (fencing, lighting, landscaping, etc.) and the applicant emailed back stating they would bring more information to the next meeting. Questions were also raised about number of police calls at the property in the past few years and the number of extended stay lodging units within the City of Winchester. Attached to this staff report is a chart highlighting the number of police calls over the past four years at

the subject property and a chart showing the number of extended stay lodging units in the City. One revision of a condition was suggested by council, changing the staff review of the permit from six months to twelve months and having the CUP brought back to council for reapproval after three years.

Staff was also asked how the conditions imposed by Council for The Elms Extended Stay Lodging CUP compare to the ones proposed for the ANS proposal. On September 8, 2009, City Council approved the request for 42 extended stay units within the seven existing structures. The approval was subject to:

- A. Installation of approved cooking facilities as generally depicted on the submitted floor plans;
- B. Retention of a staffed on-site lodging manager's office with proper directional signage so as to be easily located by intended business travelers;
- C. Expiration of the approval when the use of the property changes, but no later than September 30, 2016 after which the lodging facility would operate in compliance with motel use provisions;
- D. Occupancy of the units shall be for one (1) adult only, with the following exceptions: up to 10% of the units at any one time may be occupied by one (1) adult and one (1) child, and; up to 25% of the units at any one time may be occupied by two (2) adults with no children;
- E. Strict compliance with payment of lodging tax to the City;
- F. Weekly smoke detector inspection by the property manager and annual inspection of the facility by the Fire Marshal's Office;
- G. Certificate of Occupancy for Business and revised Business Licensed obtained upon approval of the CUP;
- H. Strict compliance with Property Maintenance Code provisions;
- I. Staff review and approval of the related site plan; and,
- J. If there are four (4) or more criminal offense police calls attributable to the subject property during any 30-day period, the owner shall be notified of such calls. If there are eight (8) or more criminal offense calls attributable to the subject property during any 30-day period, the permit shall be subject to review and/or revocation by City Council.

Since the time of the August 25th work session, it has come to staff's attention that the former Best Value Inn motel only has 73 approved units instead of 76 units. An alternative motion that reflects this count and includes other conditions that are more consistent with the 2009 conditional approval for The Elms Extended Stay Lodging CUP could read:

MOVE, that City Council approve **CU-15-383** because the use, as proposed, will not adversely affect the health, safety or welfare of persons residing or working in the neighborhood nor be detrimental to public welfare or injurious to property or improvements in the neighborhood. The approval is subject to:

1. Weekly maid service provided for all **73** units to ensure consistency with definition of the units as accommodations serving business travelers, not primary residences; and,

2. A typical floor plan to be submitted to City staff showing kitchen facilities are provided for all **73** units; and,
3. No occupancy of any individual(s) shall be for a period of longer than 9 months within a 12 month period; and,
4. No more than ~~three~~ **four** criminal police calls, as determined by the Chief of Police, may be attributable to the facility within a thirty day continuous period, after which a facility security management plan shall be submitted to and approved by the Chief of Police **If there are eight (8) or more criminal offense calls attributable to the subject property during any 30-day period, the permit shall be subject to review and/or revocation by City Council;** and,
5. **A twelve month review of compliance with the permit shall be conducted by staff. After three (3) years, the applicant must seek reapproval of the CUP by City Council, at which time, modifications or revocation of the permit may result if any substantial issues of noncompliance are found in the review;** and,
6. Staff review and approval of the required site plan; and,
7. **Retention of a staffed on-site lodging manager's office with proper directional signage so as to be easily located by intended business travelers;** and,
8. **Occupancy of the individual units shall be for not more than two (2) adults, with the following exception: up to 5 of the larger units at any one time may be occupied by up to two (2) adults and (2) children;** and,
9. **Strict compliance with payment of lodging tax to the City;** and,
10. **Weekly smoke detector inspection by the property manager and annual inspection of the facility by the Fire Marshal's Office;** and,
11. **Certificate of Occupancy for Business and revised Business Licensed obtained upon approval of the CUP;** and,
12. **Strict compliance with Property Maintenance Code provisions.**



ANS PROPERTY LLC

PO Box, 4038, Winchester, VA 22604

To: Aaron Grisdale

ANS Inn and Suites vision for the property located at 2469 Valley Ave, is to create a clean, comfortable and affordable option for those in need of extended housing whether its work related or a transitional phrase. Our main focus will be corporations and business's to help support the economic growth in our community. ANS Property LLC has invested over half million dollars in renovations and upgrades to our property to ensure our guests are comfortable and provide everything needed during their stay with us. With your help we are dedicated and determined to create an environment that the City of Winchester will be proud of. We look forward to working with the City of Winchester to make this vision a reality.

Thank you

Priscilla Price

VP of Operations ANS Property LLC



ANS PROPERTY LLC

PO Box, 4038, Winchester, VA 22604

ANS Inn and Suites offers five acres in the center of town only minutes away from corporations, businesses and the Winchester Medical Center. We all have been working to put procedures in place to shift our position and perception of establishment in our community.

ANS is staffed with an office manager which is responsible for registering guest but more importantly to enforce our guest policy (see attached). She is also responsible for random room inspections once a week to ensure guest compliance and to relay any maintenance issues to our maintenance manager. Our Vice President of Operations, is responsible for the everyday operations of hotel concerning staff, advertising and sourcing out those in need of our services such as Government agencies, corporations, hospital staff, and utility and real estate companies. The Vice President of the company is on hand daily to ensure all staff is following protocol and procedures. We have maintenance and groundskeeper on staff that are responsible for maintaining property.

We have remodeled and updated all rooms which include new furniture, microwaves, flat screen T.V.'S, refrigerators, coffee makers, new flooring, paint and bathroom fixtures. Our facility will offer cable and WIFI as well. Our rooms are almost 400 sq. ft. of living space. Prices of rooms will reflect that of a professional income.

We have future plans of repairing asphalt, extensive landscaping, and coffee bar/café, business and meeting centers. We will also add a workout facility for our guests to enjoy. Our intent is to provide local and nationwide businesses and organizations all the comforts of home at an affordable price.

Thank you all for your support.

Sincerely,



ANS PROPERTY LLC

PO Box, 4038, Winchester, VA 22604

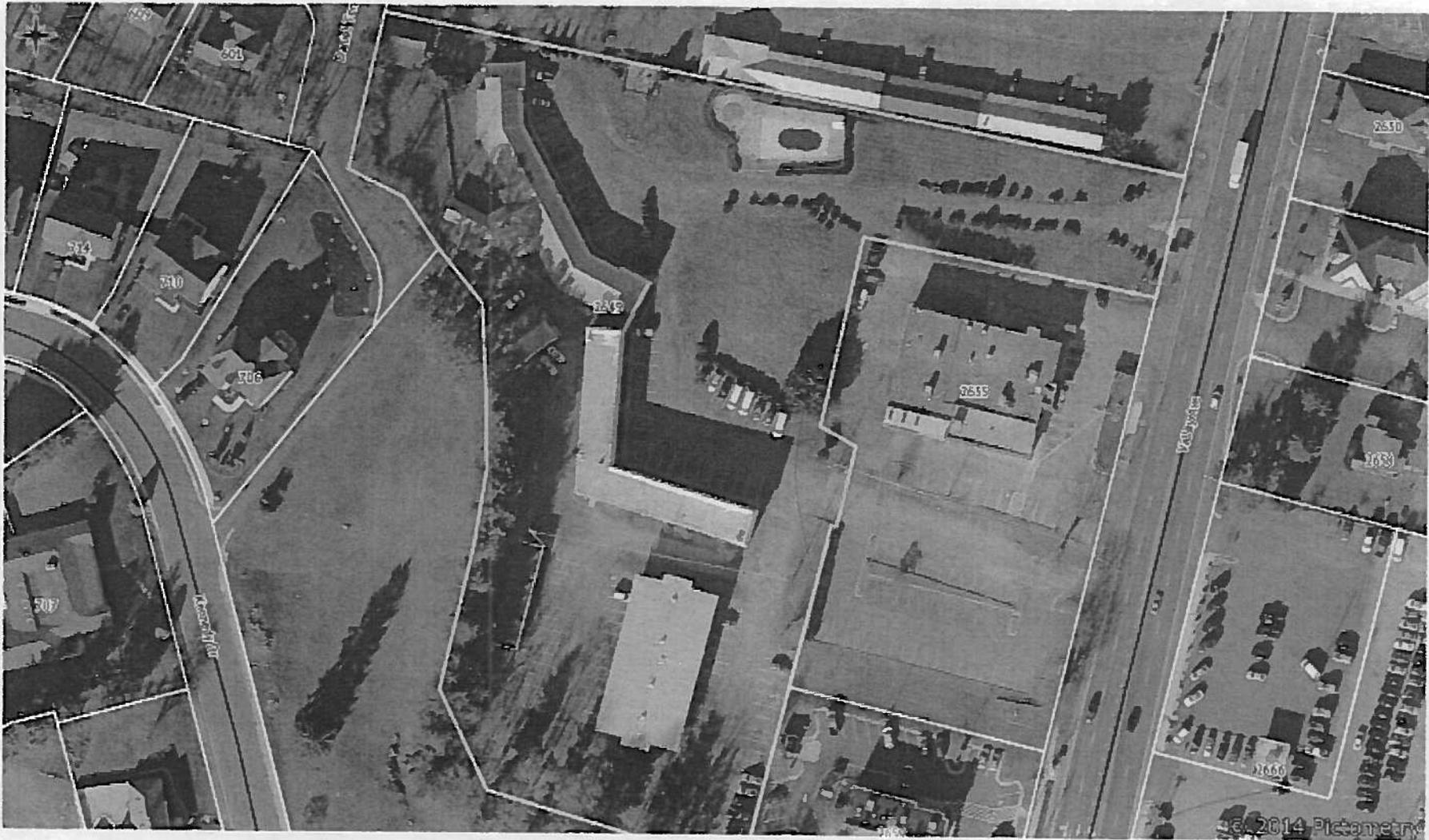
Guest Policy

We would like each and every resident to enjoy their stay and we ask the each resident consider the following rules:

- Do not obstruct the driveways, sidewalks, entries, stair or hallways
- Do not leave windows or doors in an open position during inclement weather
- Do not hang laundry, clothing, sheets etc., from any window, rail, porch, balcony
- Do not smoke on the interior of any unit or building
- Do not disable the smoke detectors that are in the units
- Do not consume alcoholic beverages outside of your rooms or inside the laundry room.
 - This is also precluded by the Winchester Police Department and you will be subjected to paying a fine and /or other penalties
- If you are returning from an outside job site, remove all mud from shoes/boots before entering the building or take foot wear off and carry to you apartment.
- Keep all lavatories, sinks, toilets and all other water and plumbing equipment in good order. They are to only be used for purposes they are intended for.
- Do not keep dangerous, flammable or explosive items inside of your room
- All trash, garbage, rubbish or refuse should be placed in a tied plastic bag and deposited in the designated area. Do not let trash pile up inside room
- Remember that all tenants are entitled to peace and quiet inside of their room. Keep this in mind when you are coming and going from your room and while adjusting the volume on TVs or radio. There will be no excessive noise after 10:00pm
- Only appliances that are provided by the hotel are to be used in the rooms
- Maintain orderly living space at all times.
- **Candle burning is NOT ALLOWED in the rooms at any time**

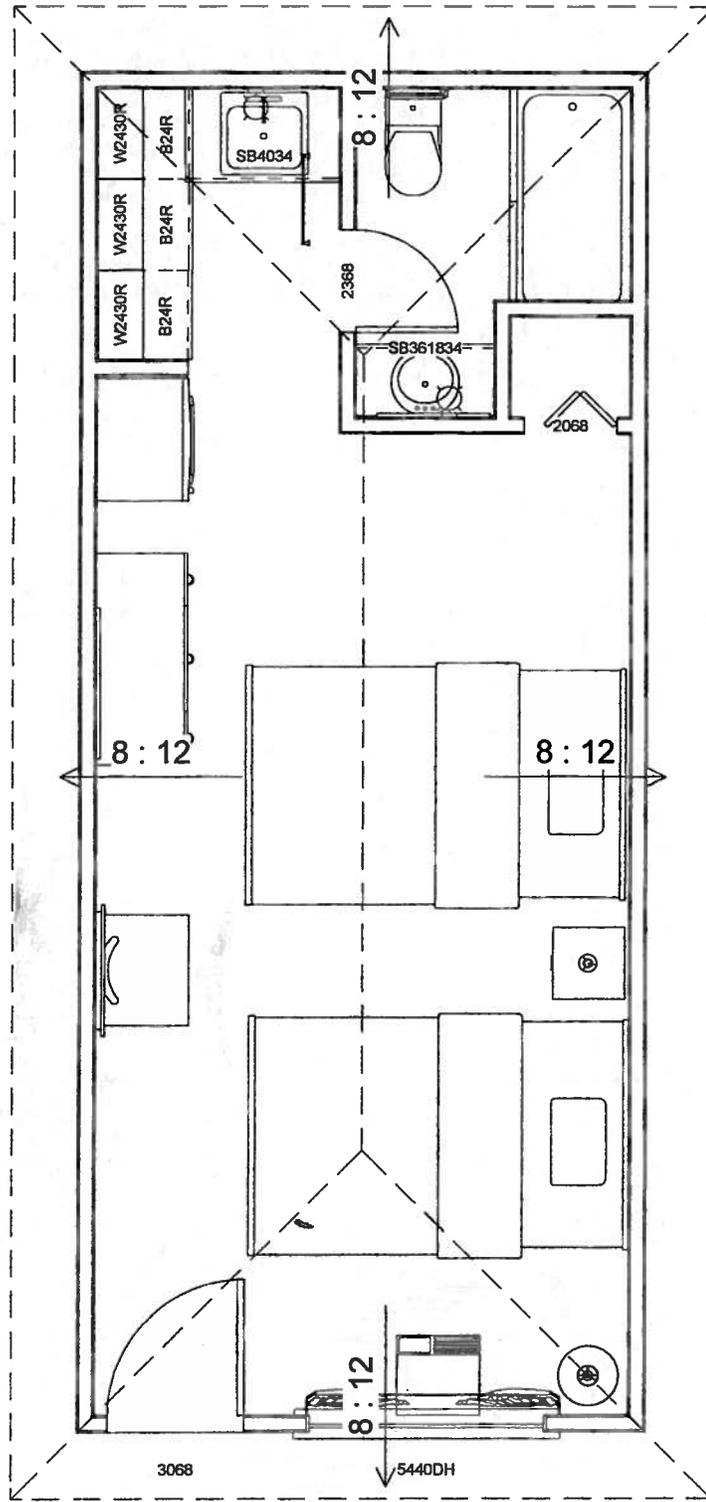
Your room has been furnished with

- Coffee maker
- Microwave
- Refrigerator
- TV
- Alarm clock
- Hairdryer- Available Upon request



2649 Valley Ave

Print Date: 06/08/2015
Image Date: 12/30/2014
Level: Community



LIVING AREA
373 sq ft

Building #1



Building #2



Building #3



Extended Stay Lodging within The City of Winchester

Location	Units
120 N Braddock St.	4
132 N Braddock St.	4
116 S Braddock St.	6
548 Brookfield Dr. (Brookfield)	29*
2011 Valley Ave. (Elms Motel)	42
2971 Valley Ave. (Winchester Executive Suites)	23*

*Grandfathered prior to the 2003 TA est. Extended Stay Lodging

Total Police Calls at 2649 Valley Ave.

Year	# of Calls
2010	164
2011	188
2012	158
2013	159
2014	142
2015*	119

*(up until 08/30/2015)

CITY OF WINCHESTER, VIRGINIA

CITY COUNCIL AGENDA ITEM

CITY COUNCIL MEETING OF: September 8, 2015

ITEM TITLE: CUP-15-388 2413 Valley Ave (Grasso) Request of Peter S. Grasso Jr. of Grasso & Sons Development LLC for a Conditional Use Permit for a Single-Family Detached Dwelling at 2413 Valley Avenue Zoned Highway Commercial (B-2) District with Corridor Enhancement (CE) District Overlay Zoning.

PUBLIC HEARING DATE: September 8, 2015 at 6:00 PM

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

Review:

Josh Crump	Completed	09/02/2015 4:00 PM
Anthony Williams	Completed	09/02/2015 4:49 PM
Eden Freeman	Completed	09/03/2015 11:59 AM

Josh Crump
Josh Crump, Planner

9/2/2015



APPROVED AS TO FORM:

Anthony Williams
CITY ATTORNEY

Eden Freeman
Eden Freeman, City Manager

9/3/2015

CITY COUNCIL ACTION MEMO

To: Honorable Mayor and Members of City Council
From: Josh Crump, Planner
Date: September 8, 2015
Re: CUP-15-388 2413 Valley Ave (Grasso) Request of Peter S. Grasso Jr. of Grasso & Sons Development LLC for a Conditional Use Permit for a Single-Family Detached Dwelling at 2413 Valley Avenue Zoned Highway Commercial (B-2) District with Corridor Enhancement (CE) District Overlay Zoning.

THE ISSUE:

The applicant is requesting a conditional use permit (CUP) to allow for the use of a single-family detached dwelling at 2413 Valley Ave.

RELATIONSHIP TO STRATEGIC PLAN:

Goal #2- Promote and accelerate revitalization of catalyst and other areas throughout the city

BACKGROUND:

See attached staff report

BUDGET IMPACT:

N/A

OPTIONS:

1. Approve with conditions as recommended by Planning Commission
2. Approve with modified conditions
3. Deny

RECOMMENDATIONS:

Recommend Option 2

CU-15-388 Request of Peter S. Grasso Jr. of Grasso & Sons Development LLC for a Conditional Use Permit for a single-family detached dwelling at 2413 Valley Avenue (Map Number 270-03- -13) zoned Highway Commercial (B-2) District with Corridor Enhancement (CE) District Overlay zoning.

REQUEST DESCRIPTION

The request is for Conditional Use Permit (CUP) approval under Section 8-2-11 of the Zoning Ordinance for a single-family detached dwelling on the subject property.

AREA DESCRIPTION

The subject property is located along the southern corridor of Valley Ave where an existing single-family detached dwelling has existed on the property. The “U” shaped parcel also includes two automotive repair service centers on site at 2409 & 2425 Valley Ave. The subject parcel surrounds the property known as 2417 Valley Avenue that was recently used as real estate office and is not affiliated with the applicant/owner. A majority of the surrounding parcels are zoned B-2 with Corridor Enhancement Overlay. The subject property also has access to Hillcrest Alley where residential properties zoned Low Density Residential back to the alley.



STAFF COMMENTS

The CUP request for conversion to a single-family detached dwelling use is outlined in a letter from the applicant, Mr. Peter Grasso, to the City received on July 7, 2015 (see attached). The applicant also provided supporting materials included in the packet including floor plans of the building and photos of the building. As indicated in the letter, the applicant wishes to utilize the existing dwelling as a residence occupation for a licensed acupuncture practice which would be located on the first floor of the building and the second floor would be residence, as shown in the attached floor plans. There was a site plan revision also submitted with the CUP application showing upgrades in parking for the site which include an addition 6 parking spot for parcel which includes 11 spots previously for a new total of 17 parking spots on site.

RECOMMENDATION:

In order for a CUP to be issued, a finding must be made that the proposal as submitted or modified will 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.

At the August 18, 2015 meeting, the Planning Commission forwarded **CU-15-383** to City Council recommending approval per Sections 8-2-11 of the Zoning Ordinance because the proposal, as submitted, will not adversely affect the health, safety or welfare of

persons residing or working in the neighborhood nor be detrimental to public welfare or injurious to property or improvements in the neighborhood. The approval is subject to:

1. Staff review and approval of the required site plan.
2. The parking improvements as shown in the site plan are completed prior to the issuance of the Certificate of Occupancy.

At the August 25, 2015 Council work session, the request was reviewed. Concerns were raised regarding the permit transferring with the property should property owners change in the future. An additional condition was suggested by council, requiring having the CUP brought back to council for reapproval after five years.

MOVE, that City Council approve **CU-15-388** because the use, as proposed, will not adversely affect the health, safety or welfare of persons residing or working in the neighborhood nor be detrimental to public welfare or injurious to property or improvements in the neighborhood. The approval is subject to:

1. Staff review and approval of the required site plan.
2. The parking improvements as shown in the site plan are completed prior to the issuance of the Certificate of Occupancy.
3. **After five (5) years, the applicant must seek reapproval of the CUP by City Council.**

**REQUEST FOR CONVERSION BACK TO SINGLE FAMILY DWELLING for
2413 Valley Avenue, Winchester, VA 22601**

CITY OF WINCHESTER - PLANNING

15 North Cameron Street

Winchester, VA 22601

Tuesday, July 07, 2015

TO WHOM IT MAY CONCERN:

This letter is affirm compliance to the "General Provisions" section 18-2 "Conditional Use Permit" (to include Subsections 18-2-1.1, 18-2-1.1a, and 18-2-1b) herewith.

- Grasso & Sons Development LLC., acknowledges and will subscribe to City conditions, and requirements imposed by the city to include it continuance of said conditions and requirements in accordance to Section 18-2-1.1 for 2413 Valley Avenue, Winchester, VA 22611.
- As stated in Section 18-2-1.1a, Grasso & Sons Development LLC, affirms that proposed "Conditional Use" will not affect adversely the health, safety, or welfare of person 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. Additionally, matters to be considered in this connection will not negatively impact 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. Said property will be used primarily for in residence occupation with one small room on the main level for a licensed acupuncture practice.
- As stated in Section 18-2-1.1b, Grasso & Sons Development LLC, affirms that this "Conditional Use" 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.

Most Respectfully,



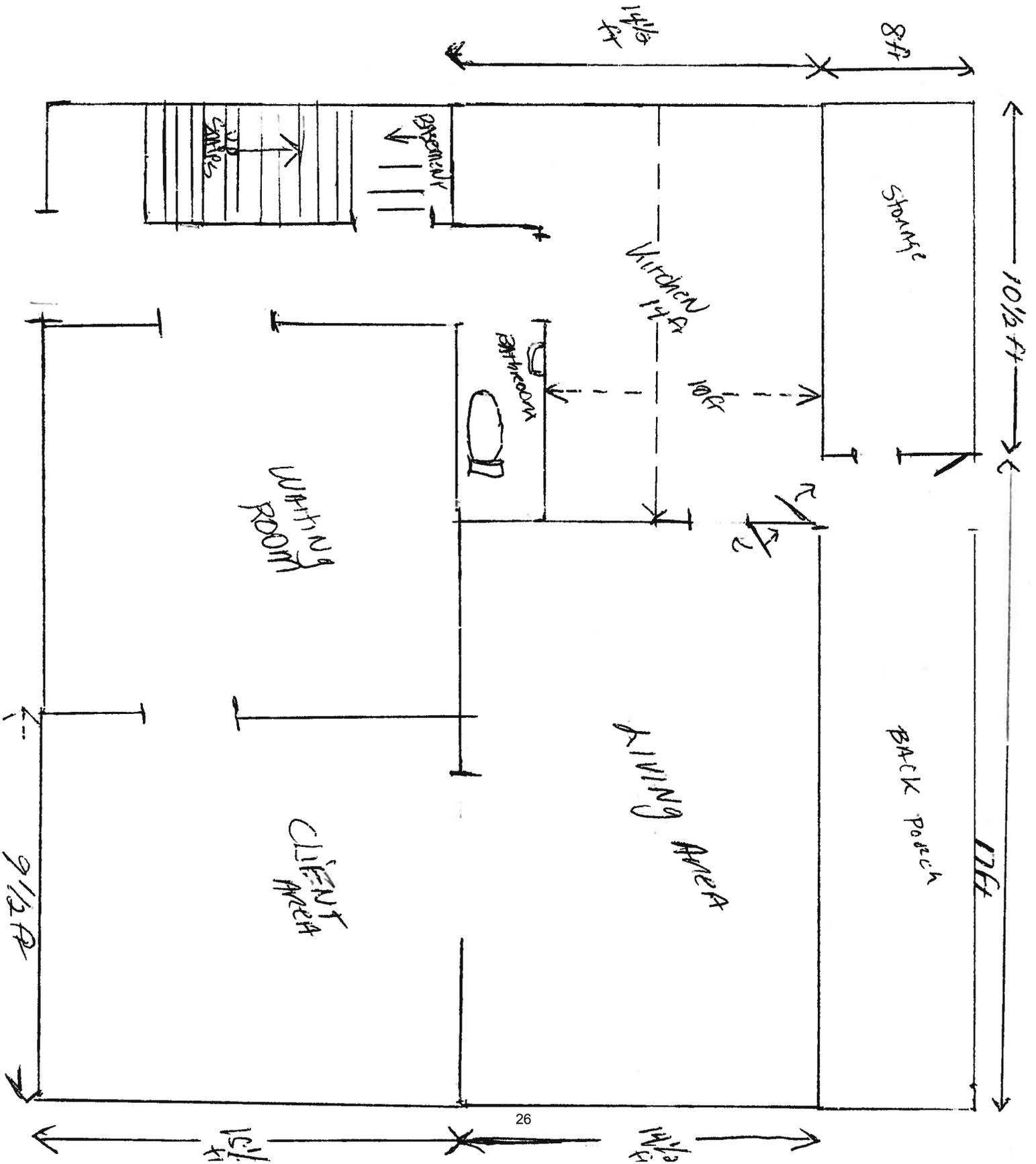
7 JULY 2015

Peter S. Grasso Jr.
President & CEO, Grasso & Sons Development LLC.

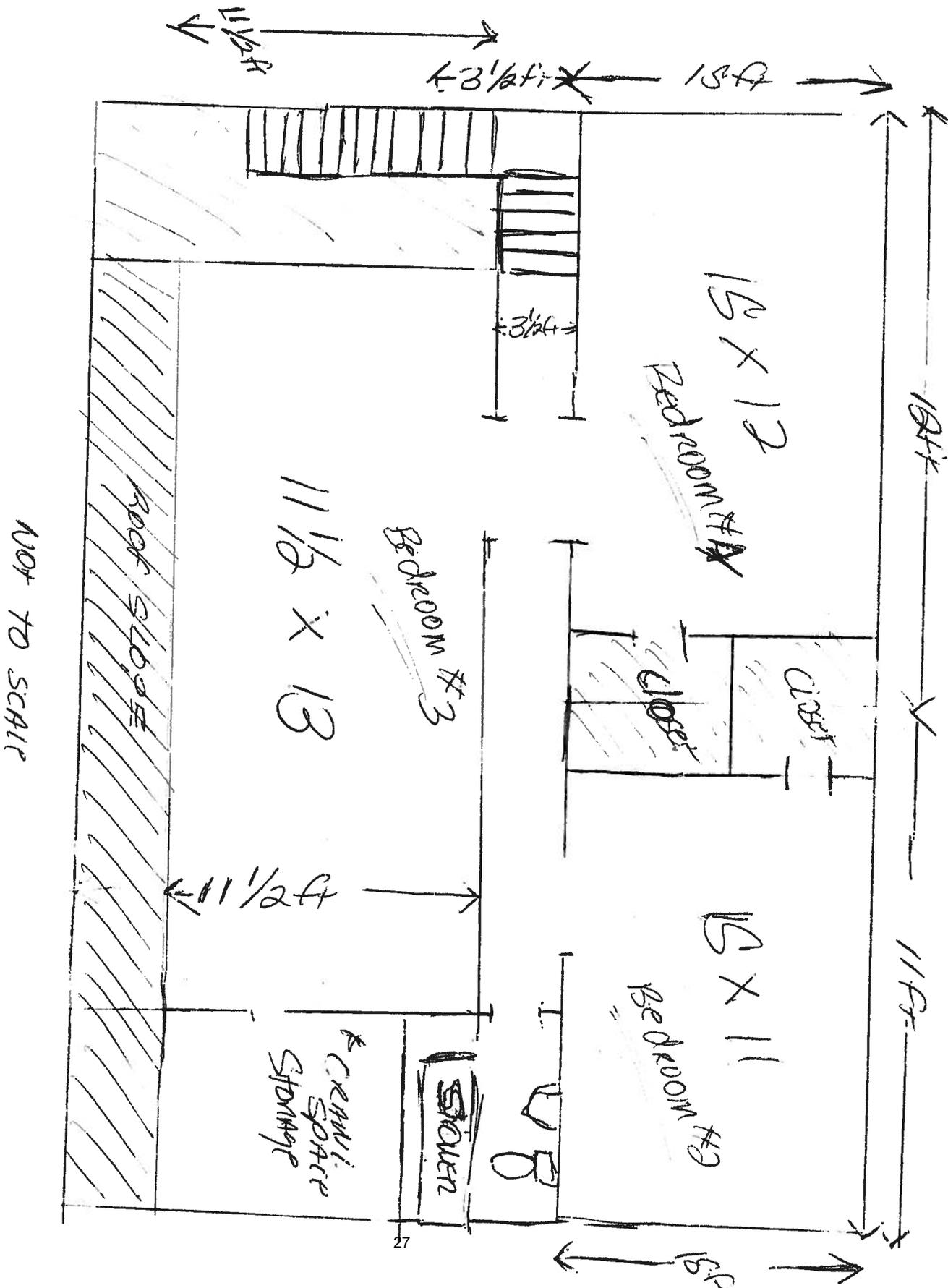
2413 Valley Ave. , Winchester, VA 22601



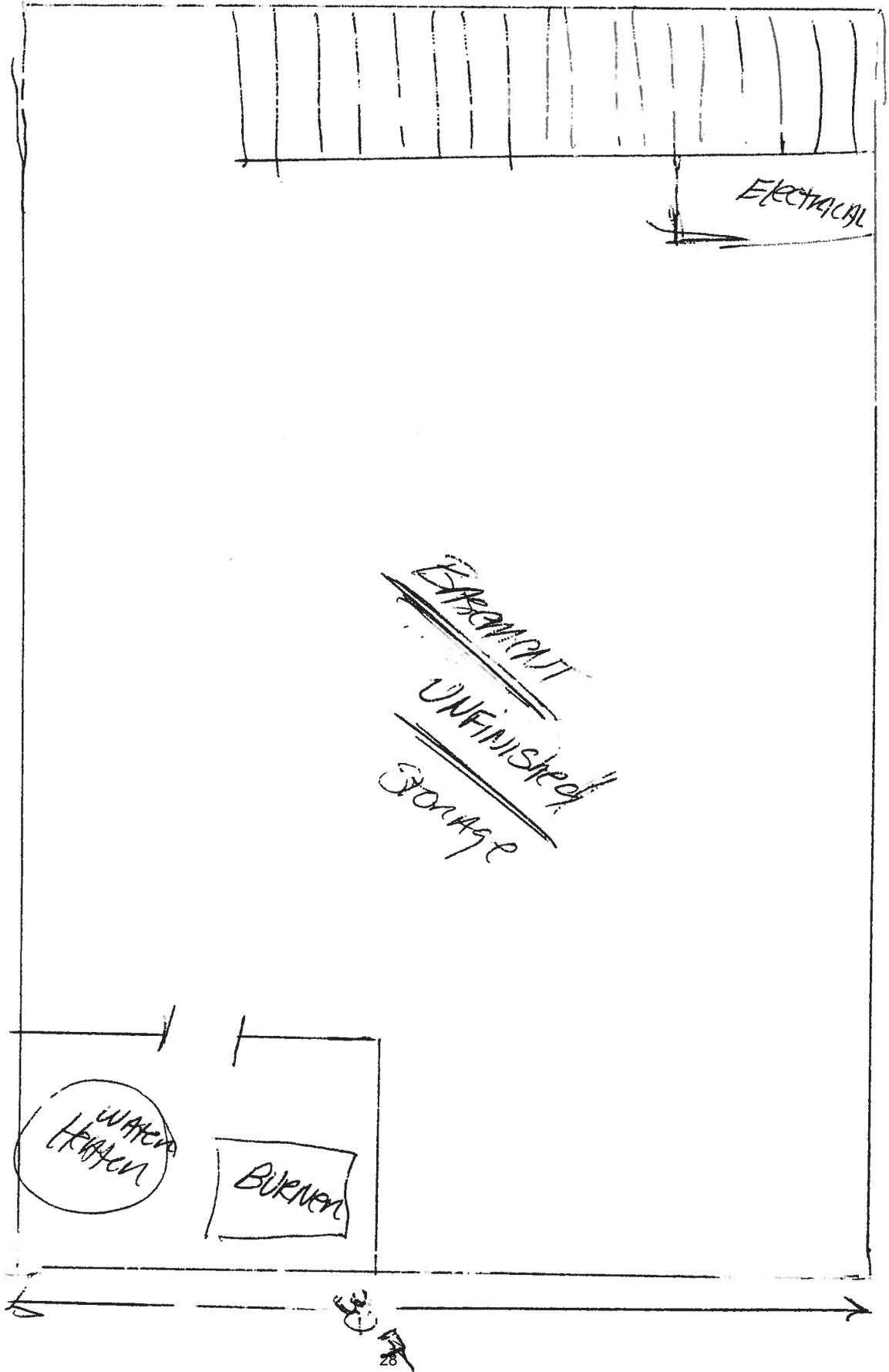
2413 VALLEY MAIN FLOOR



2413 Valley Ave
Second Floor



2413 Valley Ave
Basement



CITY OF WINCHESTER, VIRGINIA

PROPOSED CITY COUNCIL AGENDA ITEM

CITY COUNCIL MEETING OF: 08/25/15 (work session) CUT OFF DATE: 08/19/15
09/08/15 (regular mtg/1st Reading); 09/22/15(regular mtg/Public Hearing & Appointment of Viewers); 10/13/15(regular mtg/2nd Reading)

RESOLUTION ___ ORDINANCE ___ PUBLIC HEARING X

ITEM TITLE:

SV-15-406 AN ORDINANCE TO VACATE A PORTION OF AN ALLEY RIGHT OF WAY BETWEEN 328 AND 400 HIGHLAND AVENUE AND CONVEY IT TO THE OWNER(S) OF 400 HIGHLAND AVENUE.

STAFF RECOMMENDATION:

Approval with utility easement.

PUBLIC NOTICE AND HEARING:

Public hearing for 09/22/2015 Council meeting.

ADVISORY BOARD RECOMMENDATION:

Planning Commission unanimously recommended approval.

FUNDING DATA: N/A

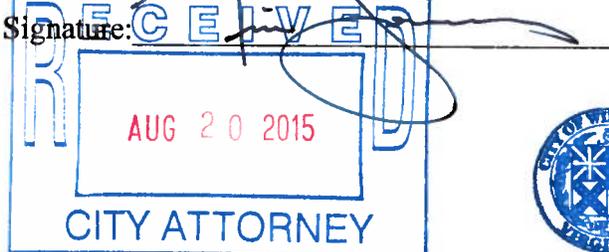
INSURANCE: N/A

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.

Table with 4 columns: DEPARTMENT, INITIALS FOR APPROVAL, INITIALS FOR DISAPPROVAL, DATE. Rows include Public Services, Police, Fire & Rescue, City Attorney, City Manager, Clerk of Council with handwritten initials and dates.

Initiating Department Director's(Planning)

Date: 8/19/15



APPROVED AS TO FORM: [Signature] CITY ATTORNEY

CITY COUNCIL ACTION MEMO

To: Honorable Mayor and Members of City Council

From: Tim Youmans, Planning Director

Date: August 19, 2015

Re: **SV-15-406** AN ORDINANCE TO VACATE A PORTION OF AN ALLEY RIGHT OF WAY BETWEEN 328 AND 400 HIGHLAND AVENUE AND CONVEY IT TO THE OWNER(S) OF 400 HIGHLAND AVENUE.

THE ISSUE:

The request from Habitat For Humanity (HFH) is to vacate a public alley extending off of the east side of Highland Avenue between homes at 328 and 400 Highland Avenue and convey it to HFH.

RELATIONSHIP TO STRATEGIC PLAN:

Goal #2- Promote and accelerate revitalization of catalyst and other areas throughout the city

BACKGROUND:

See attached staff report

BUDGET IMPACT:

Nominal revenue from sale of vacated right of way.

OPTIONS:

1. Approve as recommended by Planning Commission
2. Approve with modifications
3. Deny

RECOMMENDATIONS:

Recommend Option 1

SV-15-406 AN ORDINANCE TO VACATE A PORTION OF AN ALLEY RIGHT OF WAY BETWEEN 328 AND 400 HIGHLAND AVENUE AND CONVEY IT TO THE OWNER(S) OF 400 HIGHLAND AVENUE.

REQUEST DESCRIPTION

The request from Habitat For Humanity (HFH) is to vacate a public alley extending off of the east side of Highland Avenue between homes at 328 and 400 Highland Avenue. The short east-west alley connects to Athey Alley- a north-south public alley running along the back of homes along the west side of Gray Avenue and homes along the east side of Highland Avenue. If vacated, the land would be assembled with the property containing a single-family dwelling at 400 Highland Avenue owned by HFH.

AREA DESCRIPTION

The subject alley and all private property adjoining it is zoned Limited High Density (HR-1) District. The predominant land use is single-family residential on relatively small narrow lots.



STAFF COMMENTS

Mr. Michael Butler, President of Habitat For Humanity, has provided a memorandum dated 6-18-15 addressed to Council President Willingham, City Manager Freeman, and Planning Director Youmans outlining the request. In the memo, he notes having conferred with relevant public safety and public services officials as well as the immediately adjoining property owner to the south. Since that owner is agreeable to the vacation and does not wish to acquire any of the vacated alley, then it would be acceptable for City Council to consider vacating the alley and conveying all of it to the applicant to assemble with 400 Highland Avenue.

City Council would need to appoint viewers to determine what, if any, inconvenience would result to affected property owners. The Comprehensive Plan does not call for any changes in the area that would necessitate eliminating or retaining the alley. The only downside of vacating the alley is that it creates a much longer alley without this midblock connection to adjoining public streets.

Council would need to determine what compensation should be received from the grantee of this City property. In the past, alley conveyances in residential district have typically been up to fifty (50) cents per square foot of land conveyed. A Minor Subdivision would also be required to assemble the vacated area into the adjoining property at 400 Highland Avenue. A utility easement would need to be established since there is an existing sanitary sewer line located within the existing alley.

RECOMMENDATION

Based upon the input from relevant City officials, the Planning Commission forwarded **SV-15-406** to City Council recommending approval of vacation and conveyance of the subject alley to the owner of 400 Highland Avenue to be assembled into that property because the request does not conflict with the Comprehensive Plan.

AN ORDINANCE TO VACATE A PORTION OF AN ALLEY RIGHT OF WAY BETWEEN 328 AND 400 HIGHLAND AVENUE AND CONVEY IT TO THE OWNER(S) OF 400 HIGHLAND AVENUE

SV-15-406

WHEREAS, the Common Council has received a request of Mr. Michael Butler on behalf of Habitat for Humanity of Winchester-Frederick County (HFHWFC), owner of certain parcels of real estate known as 400 Highland Avenue, to vacate and convey to HFHWFC all of an unnamed public alley extending from Highland Avenue eastward to Athey Alley, a public alley running in a north-south direction in between Highland Avenue and Gray Avenue, said right of way depicted on an undated exhibit entitled "Location Map~ Unnamed East-West Alley Between Highland Ave & Athey Alley"; and,

WHEREAS, the City is empowered to vacate rights of way in the City and convey them to certain individuals as a condition of vacation pursuant to and in conformance with the provisions of Virginia Code Section §15.2-2006 and §15.2-2008 *et. seq.*, respectively, as amended; and,

WHEREAS, the Planning Commission of the City of Winchester has reviewed the aforesaid request and, at its meeting of August 18, 2015, recommended approval of this action; 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, and viewers were appointed to report on the inconvenience, if any, of said vacation, all as required by and provided for under the Code of Virginia, 1950, as amended; and,

WHEREAS, the viewers have prepared a report in writing, said report concluding that an inconvenience would not result from discontinuing the right of way so long as the necessary easements are established; and,

WHEREAS, the applicant is the property owner of 400 Highland Avenue immediately adjacent to the north side of the public right of way proposed to be vacated and conveyed; and,

WHEREAS, the owner of the property at 328 Highland Avenue immediately adjacent to the south side of the public right of way proposed to be vacated and conveyed has no objection to the vacation and conveyance to the owner at 400 Highland Avenue; and,

WHEREAS, the Common Council has agreed to convey the vacated alley right of way to the applicant for **Fifty Cents (\$0.50)** per square foot subject to the applicant establishing all necessary easements to the City of Winchester to be depicted upon a survey plat.

NOW, THEREFORE, BE IT ORDAINED by the Common Council of the City of Winchester, Virginia, that the public alley right of way depicted on an undated exhibit entitled "Location Map~ Unnamed East-West Alley Between Highland Ave & Athey Alley" be vacated and conveyed to HFHWFC subject to the applicant establishing necessary easements to the City of Winchester.

BE IT FURTHER ORDAINED that this ordinance shall not take effect until such time as the purchaser has secured City approval of an approved Minor Subdivision plat depicting the easements and the required assemblage of the vacated area in with that certain adjoining parcel of real estate owned by the applicant at 400 Highland Avenue, with the sale price for the vacated area being **Fifty Cents (\$0.50)** per square foot. The City Attorney is directed to prepare a deed for this conveyance and the City Manager is directed and authorized to execute all documents and take all actions necessary to carry out this Ordinance.



MEMORANDUM

To: John Willingham, President, Common Council City of Winchester, Virginia
Eden Freeman, City Manager, City of Winchester, Virginia
Tim Youmans, Director, Planning Director, City of Winchester, Virginia

From: Michael Butler, Executive Director, Habitat for Humanity of Winchester-Frederick County, Virginia (HFHWFC)

Subject: Vacation of Alley between 400 and 328 Highland Ave.

Date: 6.18.15

We are requesting the right of way vacation of the alley located between 400 and 328 Highland Ave., and Highland Ave. to Athey Alley.

I have had discussions with the Major Kelly Rice of Winchester Police Department, Chief Alex Baldwin of Winchester Fire and Rescue and Perry Eisenach, Director, Winchester Public Utilities and Works and they find no reasons to oppose the vacation. They understand the reasons for the vacation request and concur that it would be a positive effort.

There are 5 reasons that we are requesting this vacation and they all focus on safety:

1. There is a moderate level of traffic through the alley. Drivers use the alley as a means to get to Athey Alley, as cut through from Elk St. to get to other streets, since they cannot go north on Highland Ave. There are children that live in the 2 houses that border the alley and play in and around the alley. 328 Highland Ave. has been hit on several occasions by cars driving through the alley.
2. People use the alley on foot to cut through to Athey Alley and in addition use the alley as point to cut through yards for multiple reasons. One of those reasons is to avoid being seen on the streets and another is to carry on nefarious activities.
3. Groups of people have been gathering in the alley at all hours of the night and day, which both bothers and concerns the residents.
4. On May 3, 2015 the victim of a shooting in the vicinity of the intersection of Elk and Highland was chased down the Valley and ended up on the back porch of 400 Highland Ave. This incident deeply concerned the residents. This incident showed how the alley leaves them more vulnerable to violence because of its presence.
5. The alley road bed is not being regularly maintained. There are potholes and the road has other irregularities that make it difficult and unsafe to navigate

After the minor subdivision of the property and transfer of the property to HFHWFC, we will within 60 days, transfer the property to the owners of 400 Highland Ave., Brandie and Brandon Brown, a HFHWFC partner family. Soon thereafter the Brown's will construct a fence to surround the property.

Christopher Maben the owner of the property at 328 Highland Ave., just south of the alley in question, approve of the complete vacation of the alley to HFHWFC.

PO Box 1653
Winchester, VA 22604
(540) 662-7066
info@habitatwfc.org
www.habitatwfc.org

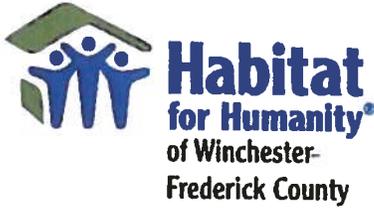
Vacation Request, June 18, 2015, Page 2

Habitat would like to request that the alley be vacated by the City of Winchester to HFHWFC, so that we may transfer the property to the home owners at 400 Highland Avenue. We feel this action would be a positive action for the neighborhood. Additionally, since this property will not be used for a commercial or profit making venture, but rather for safety and security purposes, both for the bordering homeowners and the neighborhood in general, we would request that this property be transferred at no cost to Habitat. We hope that you look favorably upon our request and realize the benefit to the community this endeavor will have.

We would like to request that we be provided address labels with the name and mailing address as it appears in Land Records for owners of all properties within 300 feet of any portion of the subject site. We have included the \$25.00 for the labels in the check with the application fee.

Thank you for your support of the Habitat mission.

PO Box 1653
Winchester, VA 22604
(540) 662-7066
info@habitatwfc.org



MEMORANDUM

To: John Willingham, President, Common Council City of Winchester, Virginia
Eden Freeman, City Manager, City of Winchester, Virginia
Tim Youmans, Director, Planning Director, City of Winchester, Virginia

From: Michael Butler, Executive Director, Habitat for Humanity of Winchester-Frederick County, Virginia (HFHWFC)

Subject: Adjacent Land Owners (328 & 400 Highland Ave.) to Alley between 400 and 328 Highland Ave.

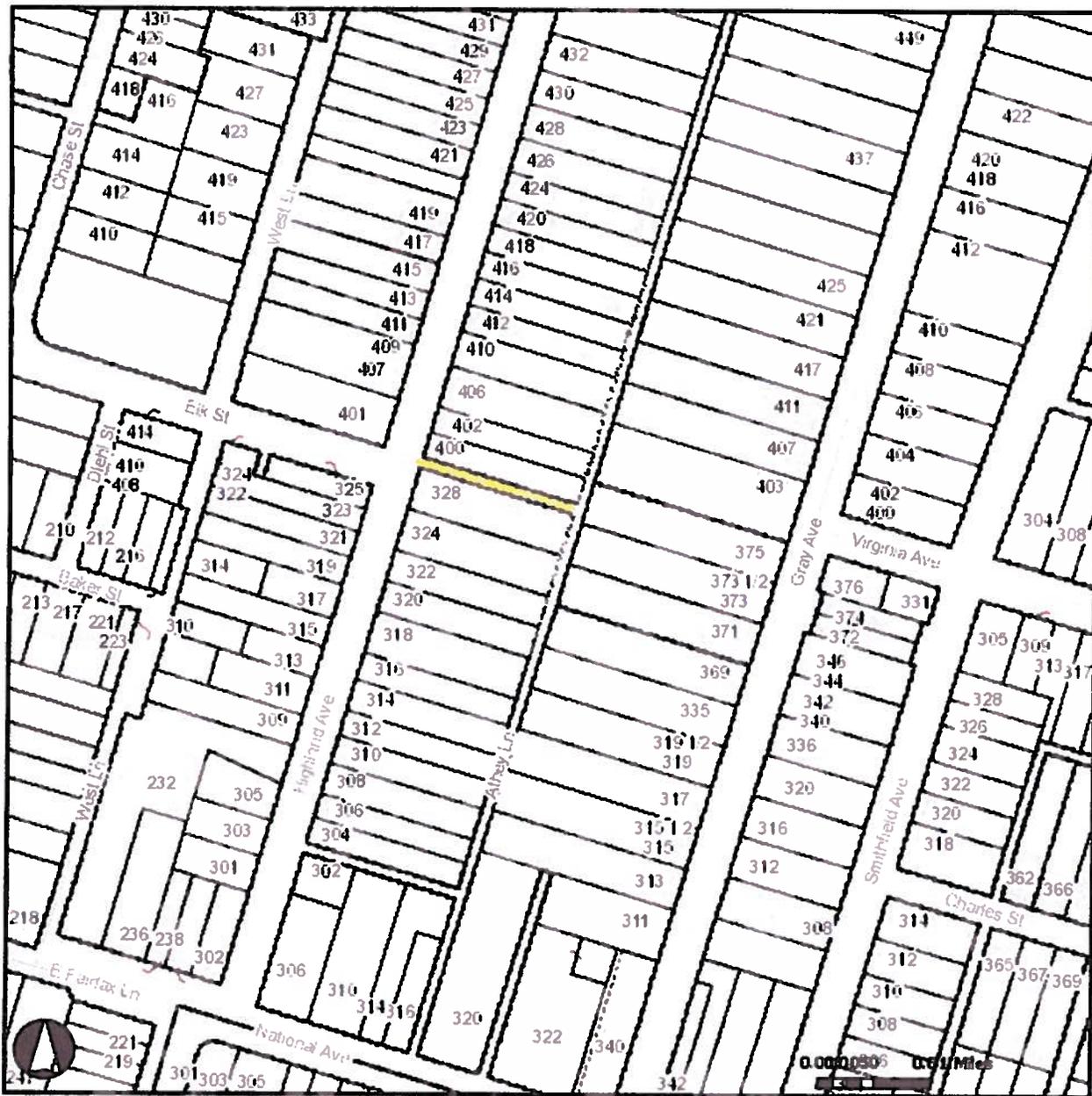
Date: 6.18.15

The landowners that are adjacent to the above referenced alley are:

- Brandie and Brandon Brown, 400 Highland Ave., Winchester, VA 22601 (Owner and occupant of 400 Highland Ave.)
- Chris Maben, CNC Properties, 113 Winns Cir., Winchester, VA 22602 (Owner of 328 Highland Ave.)

After discussion with the land owners they agree with the vacation and closure of the alley as a thoroughfare. The owners of 328 Highland Ave. do not want any ownership of the alley and are willing to cede any ownership to Habitat. The owners of 400 Highland Ave. are willing to take ultimate ownership, from Habitat, of the land that the alley now encompasses. Please see letter addressing request for full explanation of vacation plan.

Map



Parcels



Double Circle



Buildings

Corporate Limits



CITY OF WINCHESTER, VIRGINIA

CITY COUNCIL AGENDA ITEM

CITY COUNCIL MEETING OF: August 25, 2015

RESOLUTION ___ ORDINANCE DESCRIPTION/PRESENTATION ___

ITEM TITLE: AN ORDINANCE TO AMEND AND REENACT ARTICLES 1, 17, 18, AND 21 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO DEFINITIONS; NONCONFORMING STRUCTURES; PERMIT REQUIREMENTS FOR FAMILY DAY HOMES; POWERS, PROCEDURES AND EX PARTE COMMUNICATIONS OF THE BOARD OF ZONING APPEALS; AND VIOLATIONS AND PENALTY. (Amendment Will Incorporate Changes to the Board of Zoning Appeals and Family Day Homes Following Legislation Passed During the 2015 General Assembly Session)

PUBLIC HEARING DATE: September 22, 2015 at 6:00 PM

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

Review:

Aaron Grisdale	Completed	08/19/2015 2:35 PM
Timothy A. Youmans	Completed	08/19/2015 2:36 PM
Mary Blowe	Completed	08/19/2015 2:38 PM
Anthony Williams	Completed	08/20/2015 2:56 PM
Eden Freeman	Completed	09/03/2015 11:59 AM

Aaron Grisdale

Aaron Grisdale, Zoning and Building Inspections 8/19/2015



APPROVED AS TO FORM:

Anthony Williams

CITY ATTORNEY

Eden Freeman

Eden Freeman, City Manager 9/3/2015

CITY COUNCIL ACTION MEMO

To: Honorable Mayor and Members of City Council
From: Aaron Gridale, Zoning and Building Inspections Director
Date: August 25, 2015
Re: AN ORDINANCE TO AMEND AND REENACT ARTICLES 1, 17, 18, AND 21 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO DEFINITIONS; NONCONFORMING STRUCTURES; PERMIT REQUIREMENTS FOR FAMILY DAY HOMES; POWERS, PROCEDURES AND EX PARTE COMMUNICATIONS OF THE BOARD OF ZONING APPEALS; AND VIOLATIONS AND PENALTY. (Amendment Will Incorporate Changes to the Board of Zoning Appeals and Family Day Homes Following Legislation Passed During the 2015 General Assembly Session)

THE ISSUE: A publicly sponsored Zoning Ordinance amendment to incorporate changes following modifications to enabling legislation in the Code of Virginia. The changes affect powers, duties and ex parte communications with the Board of Zoning Appeals, and licensing requirements for Family Day Homes.

RELATIONSHIP TO STRATEGIC PLAN:

(2) Promote and accelerate revitalization of catalyst and other areas throughout the city;

BACKGROUND:

This ordinance incorporates updates mandated by changes to Virginia Code during the 2015 General Assembly session. (See attached staff report).

BUDGET IMPACT:

None

OPTIONS:

Adopt the ordinance amendment.
Modify and adopt the ordinance amendment.
Decline to adopt the ordinance amendment.

RECOMMENDATIONS:

The Planning Commission unanimously forwarded the amendment with a favorable recommendation.

AN ORDINANCE TO AMEND AND REENACT ARTICLES 1, 17, 18, AND 21 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO DEFINITIONS; NONCONFORMING STRUCTURES; PERMIT REQUIREMENTS FOR FAMILY DAY HOMES; POWERS, PROCEDURES AND EX PARTE COMMUNICATIONS OF THE BOARD OF ZONING APPEALS; AND VIOLATIONS AND PENALTY. (AMENDMENT WILL INCORPORATE CHANGES TO THE BOARD OF ZONING APPEALS AND FAMILY DAY HOMES FOLLOWING LEGISLATION PASSED DURING THE 2015 GENERAL ASSEMBLY SESSION)

AN ORDINANCE TO AMEND AND REENACT ARTICLES 1, 17, 18, AND 21 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO DEFINITIONS; NONCONFORMING STRUCTURES; PERMIT REQUIREMENTS FOR FAMILY DAY HOMES; POWERS, PROCEDURES AND EX PARTE COMMUNICATIONS OF THE BOARD OF ZONING APPEALS; AND VIOLATIONS AND PENALTY.

TA 15-376

Draft 1 - (07/02/15)

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**

1-2-94.2 VARIANCE: A reasonable deviation from those provisions regulating the shape, size, or area of a lot or parcel of land or the size, height, area, bulk, or location of a building or structure when the strict application of the ordinance would unreasonably restrict the utilization of the property, and such need for a variance would not be shared generally by other properties, and provided such variance is not contrary to the purpose of the ordinance. It shall not include a change in use, which change shall be accomplished by a rezoning or by a conditional zoning.

1-2-94.23 WELLNESS & FITNESS CENTER: A facility which consists of physical fitness and therapy, wellness services, and related educational and/or informational programs, and sports medicine as the primary components of healthcare services provided. (1/11/11, Case TA-10-473, Ord. No. 2010-63)

**ARTICLE 17
NONCONFORMITIES**

SECTION 17-2 NONCONFORMING STRUCTURES

17-2-1 General Requirements

- A. Any lawfully constructed structure which existed at the time of this Ordinance or any amendments thereto may continue in its legally nonconforming status so long as the

structure does not violate other legal provisions and otherwise complies with the provisions of this Article.

- B. No additional structure not conforming to the requirements of this Ordinance shall be erected in connection with such nonconforming use of land.
- C. A nonconforming structure may be used for any use allowed in the underlying zoning district, subject to all applicable use standards.
- D. ~~If a variance is approved from otherwise applicable zoning district dimensional standards, the subject structure still shall be deemed nonconforming.~~ **Notwithstanding any other provision of law, general or special, the property upon which a property owner has been granted a variance shall be treated as conforming for all purposes; however, the structure permitted by the variance may not be expanded unless the expansion is within an area of the site or part of the structure for which no variance is required. Where the expansion is proposed within an area of the site or part of the structure for which a variance is required, the approval of an additional variance shall be required.**

ARTICLE 18 GENERAL PROVISIONS

SECTION 18-19. HOME OCCUPATIONS.

- 18-19-3 The operation of a family day home may occur as an accessory and subordinate use to a residence provided the following:
- A. A family day home for not more than ~~five (5)~~ **four (4)** children shall be considered as residential occupancy by a single family; and, therefore does not require a Certificate of Home Occupation.
 - B. A family day home serving six **five (5)** through twelve **(12)** children, exclusive of the provider's own children and any children who reside in the home, shall obtain a Certificate of Home Occupation and shall be licensed by the Virginia Department of Social Services, provided the following:
 - 1. Prior to the issuance of a Certificate of Home Occupation for a family day home serving six **five (5)** through twelve **(12)** children, the applicant shall send a notice developed by the Administrator to each adjacent property owner by registered or certified mail, and shall provide proof to the Administrator of the completion of such mailings.
 - 2. If the Administrator receives no written objection from a person so notified within thirty (30) days of the date of sending the letter and determines that the family day home otherwise complies with the provisions of this Ordinance, the Administrator may issue the permit sought.
 - 3. Any applicant denied a permit through this administrative process may request that the application be considered by City Council after a hearing following public notice per Section 23-7-1 of this Ordinance.
 - 4. Upon such hearing, City Council may, in its discretion, approve the permit, subject to such conditions as agreed upon by the applicant and the locality, or deny the permit.
 - C. No family day home shall care for more than four children under the age of two, including the provider's own children and any children who reside in the home, unless the family day home is licensed or voluntarily registered.

- D. A family day home where the children in care are all grandchildren of the provider related to the provider by blood or marriage shall not be required to be licensed or obligated to obtain a Certificate of Home Occupation.

ARTICLE 20 BOARD OF ZONING APPEALS

SECTION 20-2. POWERS OF THE BOARD OF ZONING APPEALS.

- 20-2-1 The Board of Zoning Appeals shall have the following powers and duties:
- 20-2-2 To hear and decide appeals from any order, requirement, decision, or determination made by an administrative officer in the administration or enforcement of this Article or of any ordinance pursuant thereto. **The determination of the administrative officer shall be presumed to be correct. At a hearing on an appeal, the administrative officer shall explain the basis for his determination after which the appellant has the burden of proof to rebut such presumption of correctness by a preponderance of the evidence. The board shall consider any applicable ordinances, laws, and regulations in making its decision. For purposes of this section, determination means any order, requirement, decision or determination made by an administrative officer. Any appeal of a determination to the board shall be in compliance with this Article.**
- 20-2-3 To authorize **grant** upon appeal **or original application** in specific cases such a variance from the terms of the ordinance as will not be contrary to the public interest when, owing to special conditions, a literal enforcement of the provisions will result in unnecessary hardship; provided that the spirit of the Ordinance shall be observed and substantial justice done, as follows: **the burden of proof shall be on the applicant for a variance to prove by a preponderance of the evidence that his application meets the standard for a variance, provided below:**
- 20-2-3.1 When a property owner can show that his property was acquired in good faith and where by reason of the exceptional narrowness, shallowness, size, or shape of a specific piece of property at the time of the effective date of the Ordinance, or where by reason of exceptional topographic conditions or other extraordinary situation or condition of such piece of property, or of the use or development of property immediately adjacent thereto, the strict application of the terms of the Ordinance would effectively prohibit or unreasonably restrict the use of the property or where the Board is satisfied, upon the evidence heard by it, that the granting of such variance will alleviate a clearly demonstrable hardship, as distinguished from a special privilege or convenience sought by the applicant, provided that all variances shall be in harmony with the intended spirit and purpose of the Ordinance. **Notwithstanding any other provision of law, general or special, a variance shall be granted if the evidence shows that the strict application of the terms of the ordinance would unreasonably restrict the utilization of the property or that the granting of the variance would alleviate a hardship due to a physical condition related to the property or improvements thereon at the time of the effective date of the ordinance, and:**

- A. The property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance;**
 - B. The granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area;**
 - C. The condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance;**
 - D. The granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property; and,**
 - E. The relief or remedy sought by the variance application is not available through a special exception process or the process of an administrative modification at the time of the filing of the variance application.**
- (7/15/09, Case TA-09-66, Ord. No. 2009-18)

- 20-2-3.2 ~~No such variance shall be authorized by the Board unless it finds:~~**Repealed.**
- ~~a. That the strict application of this Ordinance would produce a clearly demonstrable hardship. (9/13/05, Case TA-05-03, Ord. No. 026-2005)~~
 - ~~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.~~
- 20-2-3.3 Repealed. (10/13/92, Case TA-92-02, Ord. No. 016-92)
- 20-2-3.4 ~~No variance shall be authorized unless the Board finds that the condition or situation of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the Ordinance.~~**Repealed.**
- 20-2-3.5 In authorizing**granting** a variance the Board may impose such conditions regarding the location, character, and other features of the proposed structure ~~for~~**or** use as it may deem necessary in the public interest, and may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be complied with.
- 20-2-4 To hear and decide appeals from the decision of the Zoning Administrator **after notice and hearing as provided in this Article.** (10/13/92, Case TA-92-02, Ord. No. 016-92)
- 20-2-5 Repealed. (9/13/05, Case TA-05-03-05, Ord. No. 026-2005)
- 20-2-6 To hear and decide applications for interpretation of the district map where there is any uncertainty as to the location of a district boundary. After notice to the owners of the property affected by any such question, **and after public hearing with notice,** the Board shall **may** interpret the map **in such way as to carry out the intent and purpose of the ordinance for** in the particular section or district in question. The Board shall not have the power to change substantially the locations of district boundaries as established by the Ordinance. (3/15/88, Case TA-87-17, Ord. No. 014-88; 10/13/92, Case TA-92-02, Ord. No. 016-92)

20-2-7

No provisions of this Article shall be construed as granting the board the power to rezone property or to base board decisions on the merits of the purpose and intent of local ordinances duly adopted by the governing body.

SECTION 20-3. PROCEDURES.

20-3-1

An application or appeal to the Board may be taken by any person aggrieved or by any officer, department, board, or bureau of the locality affected by any decision of the Administrator or from any order, requirement, decision or determination made by any other administrative officer in the administration or enforcement of this Ordinance, or any modification of zoning requirements pursuant to §15.2-2286 of the Code of Virginia, as amended. Notwithstanding any charter provision to the contrary **and violations provided in Section 20-2-3**, any written notice of a zoning violation or a written order of the Administrator dated on or after July 1, 1993, shall include a statement informing the recipient that he may have a right to appeal the notice of a zoning violation or a written order within 30 days in accordance with §15.2-2311 of the Code of Virginia, as amended, and that the decision shall be final and unappealable if not appealed within 30 days. The zoning violation or written order shall include the applicable appeal fee and a reference to where additional information may be obtained regarding the filing of an appeal. The appeal period shall not commence until the statement is given. A written notice of a zoning violation or a written order of the Administrator that includes such statement sent by registered or certified mail to, or posted at, the last known address of the property owner as shown on the current real estate tax assessment books or current real estate tax assessment records shall be deemed sufficient notice to the property owner and shall satisfy the notice requirements of this section. The application or appeal shall be taken within thirty (30) days after the decision appealed from by filing with the Administrator, and with the Board, a notice of appeal specifying the grounds thereof.

The Administrator shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed was taken. An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Administrator certifies to the Board that by reason of facts stated in the certificate a stay would in his opinion cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order granted by the Board or by a court of record, on application and on notice to the Administrator and for good cause shown. (10/13/92, Case TA-92-02, Ord. No. 016-92; 9/14/10, Case TA-10-334, Ord. No. 2010-39)

20-3-2

All applications or appeals to the Board shall be made to the Administrator on a form provided for such purpose, and shall be accompanied by a filing 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 of this Ordinance. The fee for filing an appeal shall not exceed the costs of advertising the appeal for public hearing and reasonable costs. Except as provided for below, the time period for appeal shall be no less than thirty (30) days from the date of receipt of the Notice of Violation sent by the Administrator, pursuant to § 15.2-2311 and § 15.2-2286, Code of Virginia, et seq.: (3/13/90, Case TA-89-12, Ord. No. 008-90; 10/13/92, Case TA-92-02, Ord. No. 016-92; 8/16/02, Case TA-02-04, Ord. No. 014-2002;

3/11/09, Case TA-08-14, Ord. No. 2009-09; 9/14/10, Case TA-10-334, Ord. No. 2010-39)

- a. An appeal period of ten (10) days shall be provided for violations of this Ordinance pertaining to maximum occupancy of residential dwellings.
- b. Any violation of Sections 18-8-12.1 through 18-8-12.3, pertaining to temporary signs.
- c. Any violation of Sections 18-9-5 through 18-9-5.4, pertaining to yard sales.
- d. Any violation of Section 18-12, pertaining to visual obstructions.
- e. Any violation of Section 18-17, pertaining to mobile storage units and temporary events.

20-4

EX PARTE COMMUNICATIONS

20-4-1

The non-legal staff of the governing body may have ex parte communications with a member of the board prior to the hearing but may not discuss the facts or law relative to a particular case. The applicant, landowner or his agent or attorney may have ex parte communications with a member of the board prior to the hearing but may not discuss the facts or law relative to a particular case. If any ex parte discussion of facts or law in fact occurs, the party engaging in such communication shall inform the other party as soon as practicable and advise the other party of the substance of such communication. For purposes of this section, regardless of whether all parties participate, ex parte communications shall not include (i) discussions as part of a public meeting or (ii) discussions prior to a public meeting to which staff of the governing body, the applicant, landowner or his agent or attorney are all invited.

20-4-2

Any materials relating to a particular case, including a staff recommendation or report furnished to a member of the board, shall be made available without cost to such applicant, appellant or other person aggrieved under § 15.2-2314 of the Code of Virginia, as soon as practicable thereafter, but in no event more than three business days of providing such materials to a member of the board. If the applicant, appellant or other person aggrieved under § 15.2-2314 requests additional documents or materials be provided by the locality other than those materials provided to the board, such request shall be made pursuant to § 2.2-3704 of the Code of Virginia. Any such materials furnished to a member of the board shall also be made available for public inspection pursuant to subsection F of § 2.2-3707.

20-4-3

For the purposes of this section, "non-legal staff of the governing body" means any staff who is not in the office of the attorney for the locality, or for the board, or who is appointed by special law or pursuant to § 15.2-1542 of the Code of Virginia. Nothing in this section shall preclude the board from having ex parte communications with any attorney or staff of any attorney where such communication is protected by the attorney-client privilege or other similar privilege or protection of confidentiality.

**ARTICLE 21
VIOLATION AND PENALTY**

~~21-2-2~~

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

TA-15-376 AN ORDINANCE TO AMEND AND REENACT ARTICLES 1, 17, 18, AND 21 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO DEFINITIONS; NONCONFORMING STRUCTURES; PERMIT REQUIREMENTS FOR FAMILY DAY HOMES; POWERS, PROCEDURES AND EX PARTE COMMUNICATIONS OF THE BOARD OF ZONING APPEALS; AND VIOLATIONS AND PENALTY. (Amendment Will Incorporate Changes to the Board of Zoning Appeals and Family Day Homes Following Legislation Passed During the 2015 General Assembly Session)

REQUEST DESCRIPTION

This is a publicly initiated ordinance amendment to incorporate updates to the Zoning Ordinance as a result of the actions of the General Assembly during their 2015 session. There were two main areas that impact the Winchester Zoning Ordinance: the Board of Zoning Appeals and Family Day Homes.

The more substantive changes dealt with the powers and review standards for the Board of Zoning Appeals, the definition of a variance, and ex parte communications for the BZA. The changes to the BZA review authority eliminates the undefined threshold of a “demonstrable hardship” and replaces the standard with “unreasonably restrict the utilization of the property.” Furthermore, the legislation included mandatory provisions pertaining to ex parte communications between the Board of Zoning Appeals, the applicant and staff. The intent is to eliminate the opportunities for discussions about the merits and law of the case outside of the formal hearing.

Secondly, the General Assembly made some major updates to state code pertaining to the licensure and other requirements for family day homes. The main impact on zoning regulations with the Family Day Home pertains to the threshold for when such facilities are permitted by-right and when the facilities may be regulated by local zoning ordinances. Previously any family day home with 5 or less children had to be treated as by-right in a single family dwelling; this threshold has been reduced to four children. Facilities with 4-12 children may be authorized by the Zoning Administrator in the form of a Home Occupation.

RECOMMENDATION

As these are updates to the enabling legislation in the Code of Virginia, Staff recommends favorable recommendation by City Council.

During their August 18th meeting, the Planning Commission forwarded **TA-15-376** with a favorable recommendation because the ordinance as presented provides for good planning practice in ensuring that the City’s Zoning Ordinance is consistent with mandatory provisions of the Code of Virginia.

CITY OF WINCHESTER, VIRGINIA

PROPOSED CITY COUNCIL AGENDA ITEM

CITY COUNCIL MEETING OF: 08/25/15 (work session) CUT OFF DATE: 08/19/15
09/08/15 (regular mtg/motion to approve)

RESOLUTION ___ ORDINANCE ___ PUBLIC HEARING

ITEM TITLE:

SD-15-384 Request of Pennoni Associates Inc. on behalf of Oakcrest Builders Inc. subdivision approval for a 10-lot subdivision at 715 South Braddock Street (Map Number 212-1-C-8) zoned Central Business (B-1) District

STAFF RECOMMENDATION:

Approval with conditions.

PUBLIC NOTICE AND HEARING:

None.

ADVISORY BOARD RECOMMENDATION:

Planning Commission unanimously recommended approval with conditions.

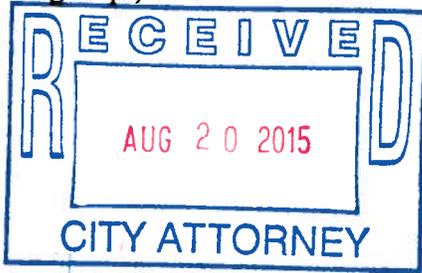
FUNDING DATA: N/A

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.

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] 8/19/15



APPROVED AS TO FORM: [Signature] 8/20/2015 CITY ATTORNEY

CITY COUNCIL ACTION MEMO

To: Honorable Mayor and Members of City Council

From: Tim Youmans, Planning Director

Date: August 19, 2015

Re: SD-15-384 Request of Pennoni Associates Inc. on behalf of Oakcrest Builders Inc. subdivision approval for a 10-lot subdivision at 715 South Braddock Street (Map Number 212-1-C-8) zoned Central Business (B-1) District

THE ISSUE:

The request is for approval of a 10-lot subdivision which includes nine (9) townhouse lots and one common lot containing off-street parking and open space. The proposal includes 9 off-street parking spaces and results in a net increase in green area when compared to the former convenience store use of the site.

RELATIONSHIP TO STRATEGIC PLAN:

Goal #2- Promote and accelerate revitalization of catalyst and other areas throughout the city

BACKGROUND:

See attached staff report

BUDGET IMPACT:

N/A

OPTIONS:

1. Approve as recommended by Planning Commission
2. Deny

RECOMMENDATIONS:

Recommend Option 1

SD-15-384 Request of Pennoni Associates Inc. on behalf of Oakcrest Builders Inc. for subdivision approval for a 10-lot subdivision at 715 South Braddock Street (Map Number 212-1-C-8) zoned Central Business (B-1) District.

REQUEST DESCRIPTION

The request is for approval of a 10-lot subdivision which includes nine (9) townhouse lots and one common lot containing off-street parking and open space. The proposal includes 9 off-street parking spaces and results in a net increase in green area when compared to the former convenience store use of the site.

AREA DESCRIPTION

The site is zoned Central Business (B-1) and is not within any overlay district such as the Historic Winchester (HW) historic district nor any Corridor Enhancement (CE) district. Surrounding properties at the other three corners at the intersection of S. Braddock St and W. Pall Mall St are also zoned B-1 and contain a mix of residential and commercial uses. Adjoining property to the north is zoned Residential Business (RB-1) and contains residential use. Land immediately to the west is zoned B-1 and contains a single-family dwelling. Land further to the west along Washington Street is zoned Medium Density Residential (MR) with HW overlay and contains single-family residences. The vacant site previously housed the 7-Eleven convenience store and gas filling operation prior to it relocating to the corner of Gerrard and S. Loudoun Street. The former building was demolished and the asphalt and concrete paving has been removed from the site.



STAFF COMMENTS

Because this townhouse development entails more than 3 proposed lots, it is required to go through a Major Subdivision approval process that requires the Preliminary Subdivision to be handled as a public hearing at the Planning Commission level. A public hearing is not required at the City Council level where a motion is all that is needed to approve or deny the subdivision.

The proposed townhouse development fits well with the character of the downtown streetscape where most of the buildings are situated out close to the street line (as compared to the more suburban arrangement of the former convenience store which was set back from the street with a large expanse of asphalt parking area. Even though the property is not within the local historic district, the applicant has made great strides at designing the townhouses to fit in with the surrounding architecture. The B-1 zoning would permit one or more structures up to 75 feet in height and the 17,100 square foot parcel would allow at least 17 apartments or condos. Depending upon use of density bonuses, the density could be over 35 units.

The proposed townhouses are on separately platted lots ranging in size from 917 to 1,160 square feet in size. The proposed common lot is 8,370 square feet in size. The two-story townhouse units include

basements. The ground floors for the 6 attached units facing only along S. Braddock St are 648sq.ft. (18' X 36'). The ground floors for the two attached units that front along W. Pall Mall St and the one detached unit at the corner are 720 sq. ft. (20' X 36'). A four (4) foot 2nd floor rear overhang is depicted on the site plan drawings for all units. Based upon that larger 2nd floor area, the units (excluding basement area) will range from 1,368-1,520 sq. ft. in size.

The site is located in the 50% reduction parking exemption district which means that the 9 proposed townhouse units, each with two bedrooms, would only require a total of 4 parking spaces. The applicant is providing 9 off-street parking spaces including 1 handicap parking space. The elimination of driveway entrances along S. Braddock Street adds to the supply of onsite parking spaces as well.

A waiver of the 45% green space requirement will be needed with this request. Staff supports this waiver since the resulting development renders a net increase in green area as compare to the former convenience store use. The townhouse site plan includes 17.4% green area whereas the former use contained 11.0% green area. Most of the proposed green area is adjoining the less intensive RB-1 zoned land to the north and northwest. The applicant is proposing to replace existing shade trees within the S. Braddock St public right-of-way. Staff recommends somewhat larger caliper than the minimum 2" caliper for these trees. The applicant should also clarify the minimum height of screening trees and shrubs proposed along the west side of the parking lot adjoining the single-family dwelling.

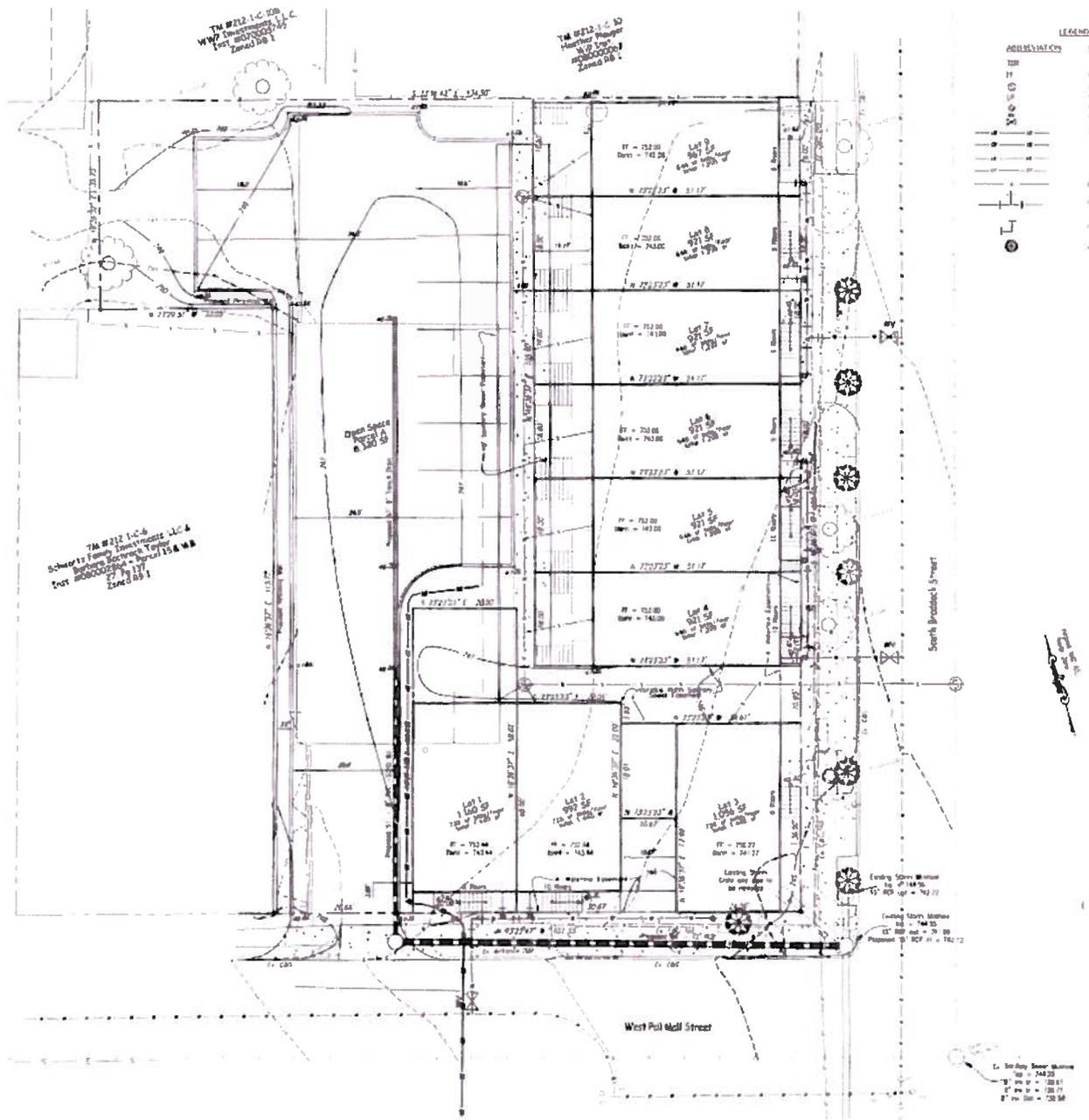
As a Townhouse Major Subdivision, a draft Deed of Dedication and copy of the Subdivision Covenants and Restrictions must be submitted for City Attorney Review. Since the project includes a common lot for parking and open space, a homeowners association (HOA) must be created. The HOA document must include a mandatory annual budget and clear outline of how the common elements will be maintained (e.g. provisions for maintaining landscaping and parking areas). Since there are no new public improvements (e.g. city streets and utilities) there is no requirement for Subdivision Surety.

At the Planning Commission public hearing, one resident expressed concerns about the availability of on-street parking. The applicant is already providing more than double the amount of off-street parking and the change from the convenience store to the townhouses increases the amount of curbside parking since there would no longer be any driveway openings along the S. Braddock Street frontage.

RECOMMENDATION

Staff feels that the proposed use is desirable and that the proposed subdivision provides increased opportunities for home ownership in the downtown area consistent with the Strategic Plan.

At the August 18, 2015 meeting, the Commission approved the Preliminary Subdivision **SD-15-384** and forwarded Final Subdivision SD-15-384 to City Council recommending approval with a waiver of the green space requirement as shown on the plans. The recommendation is subject to staff review and approval of the Deed of Dedication and HOA documents, including an annual budget for maintenance of common elements.



Old Town Commons Subdivision Plat

SD-15-384

CITY OF WINCHESTER, VIRGINIA

CITY COUNCIL AGENDA ITEM

CITY COUNCIL MEETING OF: September 8, 2015

RESOLUTION ___ ORDINANCE DESCRIPTION/PRESENTATION ___

ITEM TITLE: An Ordinance to Amend Section 2-1 and 2-2 of the Winchester City Code Pertaining to the City Seal and Duties of the Clerk of Council

PUBLIC HEARING DATE:

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

Review:

Eden Freeman	Completed	09/03/2015 10:41 AM
Anthony Williams	Completed	09/03/2015 1:07 PM
Eden Freeman	Completed	09/03/2015 3:16 PM

Eden Freeman

Eden Freeman, City Manager

9/3/2015



APPROVED AS TO FORM:

Anthony Williams

CITY ATTORNEY

Eden Freeman

Eden Freeman, City Manager

9/3/2015

CITY COUNCIL ACTION MEMO

To: Honorable Mayor and Members of City Council
From: Kari VanDiest, Deputy Clerk of Council
Date: September 8, 2015
Re: An Ordinance to Amend Section 2-1 and 2-2 of the Winchester City Code Pertaining to the City Seal and Duties of the Clerk of Council

THE ISSUE:

At the August 14, 2015, Work Session of the Common Council, Council directed the City Manager to work with staff to prepare an ordinance to amend City Code to replace the existing city seal with a revised seal that more accurately depicts the four governments to which the City (and the town prior to it becoming a city) was subservient. The amendment also expressly authorizes the Clerk of Council or designee to seal adopted ordinances and approved resolutions.

RELATIONSHIP TO STRATEGIC PLAN:

Goal #3 - Advance the Quality of Life for Winchester residents

BACKGROUND:

During an overview of the seal, it was noted that the center portion of the seal is intended to represent the four governments to which Winchester was subservient. However, it was observed that the flag image for the American government was not very characteristic of the United States flag and that the flag image used to represent the Confederate States of America (CSA) government was a battle flag of the CSA Army rather than a national CSA flag in effect during most of the period that Winchester was under CSA government control. The proposed seal includes an image of the 50-star United States flag in the upper left quadrant (switched with the Union Jack) and an image of the 11-star CSA 'Stars & Bars' flag in the lower right quadrant (switched from the lower left).

Upon further review, it was discovered that modern-day representations of the seal include alterations from the version adopted in 1936. The new seal incorporates the current version of the centerfield of the Virginia state flag which was legislature changed in 1950. The updated Virginia flag is relocated to the lower left quadrant of the seal.

BUDGET IMPACT:

Costs for changing just the official city seal would, at a minimum, include purchasing a new die to press the gold foil seals that are attached to official ordinances and resolutions. Beyond that, Council could direct City staff to remove or replace images of the City seal such as the stained glass piece hanging in the Council Chambers and the piece hanging in the lobby on the 3rd floor of City Hall. New vinyl decals could be requested for use on the lecterns in the 4th floor Exhibit Hall and any other City furniture (or they could simply be removed and not replaced).

OPTIONS:

1. Adopt the amendment
2. Reject the amendment

RECOMMENDATIONS:

Given that the Common Council specifically directed that this item be brought forward and involves a policy decision, Staff is not making a recommendation on the adoption or rejection of this item.

AN ORDINANCE TO AMEND SECTION 2-1 AND 2-2 OF THE WINCHESTER CITY CODE PERTAINING TO THE CITY SEAL AND DUTIES OF THE CLERK OF COUNCIL

WHEREAS, the Common Council of the City of Winchester, Virginia adopted a revised seal on April 1, 1936 to replace an earlier seal that was deemed undesirable; and,

WHEREAS, the City has discussed changes to the City seal and/or the City flag on multiple occasions, including discussions in 1993, 2001, 2003, 2004, and 2006; and,

WHEREAS, Council adopted a City logo on October 12, 2010 recognizing the need to effectively present the City of Winchester in a uniform positive manner to all of its various constituents; and,

WHEREAS, Council directed staff to provide an overview of the history of the city seal, flag, and logo for presentation at the July 14, 2015 Council work session during which it was discovered that modern-day representations of the seal included unauthorized changes to the official seal adopted in 1936; and,

WHEREAS, Council has carefully deliberated the topic of the city seal over several months, listening to city residents as well as citizens of other jurisdictions as to the pros and cons of keeping the existing seal or changing it; and,

WHEREAS, an alternative seal design was presented at the August 11, 2015 Council Work Session and forwarded for consideration of an ordinance; and,

WHEREAS, while non-binding on future Councils, it is the intent of this Council that no further changes be made to City seal in the future.

NOW, THEREFORE BE IT ORDAINED that the Common Council of the City of Winchester, Virginia, does hereby amend Sections 2-1 and 2-2 of the Winchester City Code as follows and hereby adopts the revised city seal.

BE IT FURTHER ORDAINED that the City Manager is directed to implement the changes to the City seal.

Ordinance No. 2015-XX.

ADOPTED by the Common Council of the City of Winchester on the ___th day of _____ 2015.

Witness my hand and the seal of the City of Winchester, Virginia.

*Kari J. Van Diest
Deputy Clerk of the Common Council*

ARTICLE I. IN GENERAL

SECTION 2-1. CITY SEAL--DESCRIBED.



**NEW
SEAL**



There is adopted, a Seal of the City of Winchester. The Seal may be used for official **City** purposes only as authorized by the City, and shall be affixed to all **adopted** ordinances and **approved** resolutions. The City Seal, as depicted above, consists of a disc, two inches in diameter with a border or outer circle, within which shall be engraved at the top of the circle, the words "City of Winchester," and at the bottom of the circle the word "Virginia." Within this circle shall be engraved a shield which shall be quartered and shall display thereon **the flags of the governments to which Winchester was subservient**, in the upper left quarter, **a portion of the flag of the United States of America** the Union Jack of Great Britain as it existed during the period when Winchester owed allegiance to that flag; in the upper right quarter, **the Union Jack of Great Britain as it existed during the period when Winchester owed allegiance to that flag** Commonwealth of Virginia; in the lower left quarter, **a facsimile of the circa 2015 center field of the flag of the Commonwealth of Virginia** the cross and stars of the battle flag of the Confederate States of America; and in the lower right quarter, **a portion of the original national flag of the Confederate States of America with eleven stars** a portion of the union with three of the stars, three of the red stripes and two of the white stripes of the flag of the United States of America. At the top and center of the shield shall be a bust of a Shawnee Indian warrior **and a pipe**. Below the shield shall be the **Fairfax family** motto "Fare Fac," and below that the date **year that Col. James Wood founded the old town** "1744." At the right of the shield shall be a decoration of a garland of the ivy vine, and at the left a laurel branch. This seal shall be so

engraved as to produce the above- described design when it is impressed on paper. When the seal is reproduced in colors, the several quarterings, the Indian bust, the laurel and ivy shall be in their proper colors, and the lettering in the outer circle shall be in colonial blue upon a background of colonial buff. This seal shall be the authorized and official and corporate seal of the City and shall be accepted and used as such. (Code 1959, §1-8; Ord. No. 2011-21, 10-11-11)

Charter reference--Authority to use corporate seal, §1.

Cross references--Air pollution commission, §3-2 *et seq.*; building official, §6-1; plumbing and gas inspector, §6-46; electrical inspector, §6-98; housing code board of appeals, §6-331 *et seq.*; elections, Ch. 7; fire department, §10-16 *et seq.*; fire marshal, §10-30 *et seq.*; fire prevention code board of appeals, §10-47(F-105.11); library board, §12-16 *et seq.*; park and recreation council, §18-1; park and recreation board, §18-16 *et seq.*; planning commission, §19-16 *et seq.*; police department, §20-16 *et seq.*; director of utilities, §29-1 *et seq.*; tree commission, §30-32 *et seq.*

SECTION 2-2. SAME--CUSTODIAN; USE.

The Clerk of the Council shall be custodian of the City Seal and City Logo. The Clerk, **or designee**, shall affix the City Seal and/or City Logo, as appropriate, to such papers or documents as ~~he may be~~ authorized to ~~affix it~~ **do so** by ordinance or resolution of the Council. (Code 1959, §2-47; Ord. No. 2011-21, 10-11-11)