

**CITY OF WINCHESTER, VIRGINIA**

**PROPOSED CITY COUNCIL AGENDA ITEM**

**CITY COUNCIL MEETING OF:** 3/24/15(1<sup>st</sup> reading) **CUT OFF DATE:** 03/18/15  
3/24/15 (work session) 4/14/15 (2<sup>nd</sup> reading/Public Hearing)

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

**ITEM TITLE:**

**RZ-14-663** AN ORDINANCE TO CONDITIONALLY REZONE 10.59 ACRES AT 200 MERRIMANS LANE (Map Number 149-01- - 7-A), FROM CONDITIONAL RESIDENTIAL BUSINESS (RB-1) DISTRICT WITH CORRIDOR ENHANCEMENT (CE) DISTRICT OVERLAY (0.80 ACRES) AND CONDITIONAL MEDIUM DENSITY RESIDENTIAL (MR) DISTRICT (9.79 ACRES) TO MEDIUM DENSITY RESIDENTIAL (MR) DISTRICT WITH PLANNED UNIT DEVELOPMENT (PUD) DISTRICT OVERLAY.

**STAFF RECOMMENDATION:**

Approve unless issues raised at 3/10/15 work session are not adequately addressed.

**PUBLIC NOTICE AND HEARING:**

Public hearing tentatively for 4/14/2015 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 | <u>AMG</u>                   |                                 | <u>3/18/15</u>     |
| 2. City Attorney        | <u>[Signature]</u>           |                                 | <u>3/18/15</u>     |
| 3. City Manager         | <u>[Signature]</u>           |                                 | <u>19 Mar 2015</u> |
| 4. Clerk of Council     |                              |                                 |                    |



Initiating Department Director's Signature:  
 (Planning Dept)

[Signature] 3/17/15



**APPROVED AS TO FORM:**

[Signature]  
 CITY ATTORNEY 5/10/2015

# CITY COUNCIL ACTION MEMO

**To:** Honorable Mayor and Members of City Council

**From:** Tim Youmans, Planning Director

**Date:** March 17, 2015

**Re:** **RZ-14-663** AN ORDINANCE TO CONDITIONALLY REZONE 10.59 ACRES AT 200 MERRIMANS LANE (*Map Number 149-01- - 7-A*), FROM CONDITIONAL RESIDENTIAL BUSINESS (RB-1) DISTRICT WITH CORRIDOR ENHANCEMENT (CE) DISTRICT OVERLAY (0.80 ACRES) AND CONDITIONAL MEDIUM DENSITY RESIDENTIAL (MR) DISTRICT (9.79 ACRES) TO MEDIUM DENSITY RESIDENTIAL (MR) DISTRICT WITH PLANNED UNIT DEVELOPMENT (PUD) DISTRICT OVERLAY

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## **THE ISSUE:**

Conditional rezoning with proffers from medium density residential district zoning and some RB-1 (CE) zoning to medium density residential district zoning with Planned Unit Development overlay which would allow for a 170-unit apartment development with clubhouse and pool on the property. The proposal is in the form of a PUD, but is not an age-restricted development as recommended in the Comprehensive Plan.

## **RELATIONSHIP TO STRATEGIC PLAN:**

Goal 2: More Livable City for All

## **BACKGROUND:**

See attached staff report, proffer statement, Development Plan, and Market/Fiscal Impact analysis.

## **BUDGET IMPACT:**

Latest proffer statement includes \$300K cash proffer to offset possible impacts on City services.

## **OPTIONS:**

1. Approve as recommended by Planning Commission (including latest proffers)
2. Table request
3. Deny request

## **RECOMMENDATIONS:**

Recommend option 1 unless latest revised proffers submitted by applicant do not adequately address concerns raised at prior Council work sessions.

City Council Meeting and Work Session  
March 24, 2015

**RZ-14-663** AN ORDINANCE TO CONDITIONALLY REZONE 10.59 ACRES AT 200 MERRIMANS LANE (*Map Number 149-01- - 7-A*), FROM CONDITIONAL RESIDENTIAL BUSINESS (RB-1) DISTRICT WITH CORRIDOR ENHANCEMENT (CE) DISTRICT OVERLAY (0.80 ACRES) AND CONDITIONAL MEDIUM DENSITY RESIDENTIAL (MR) DISTRICT (9.79 ACRES) TO MEDIUM DENSITY RESIDENTIAL (MR) DISTRICT WITH PLANNED UNIT DEVELOPMENT (PUD) DISTRICT OVERLAY.

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#### REQUEST DESCRIPTION

The request would conditionally rezone land from RB-1(CE) and MR to MR with a PUD overlay which would allow up to 26 townhouse-styled rental units and 144 apartment units for a total of 170 dwellings units as outlined in the letter from the applicant dated October 21, 2014. The request includes proffers (see attached proffer statement dated October 21, 2014 including December 11, 2014, February 2, 2015, February 10, 2015, and March 17, 2015 revisions) relating to the development of the PUD.

#### AREA DESCRIPTION

The subject portion of the Ridgewood Orchard land is vacant, except for a small portion of an unused driveway extending from Merrimans Lane to the Sacred Heart Church site which borders the subject site to the north. The Sacred Heart property is zoned LR and contains a church and private school in addition to a residential unit. Land adjacent to the site to the east is zoned LR and comprises the undeveloped westerly portion of the Glass-Glen Burnie Foundation land. Land to the west includes the proposed Meadow Branch Avenue and the proposed John Kerr Elementary school site which was recently rezoned Education, Institution & Public (EIP).



Land to the south is part of the Moffett Estate and is primarily undeveloped. The easternmost portion of the Moffett land was conditionally rezoned from LR to MR in 2008 to support medium density residential use along the east side of Meadow Branch Avenue extended. Land to the northwest, including the land to the west of the 'tail' of RB-1 land included in this rezoning, is conditionally zoned B-2. It is vacant and is intended for a limited array of commercial uses including retail and restaurant.

#### STAFF COMMENTS

The applicant has provided a number of updated exhibits and documents which supersede those submitted with the original application in October of 2014. This includes an updated Statement of Justification titled 'Meadow Branch Luxury Apartments, Winchester, Va'; a revised Proffer Statement dated March 17, 2015 titled 'Proffer Statement, A Proposed Rezoning, for a Portion of Tax Map

Parcel ID: 149-1-7'; a copy of a Memo dated October 6, 2014 from Mr. Ed Smith, Director of Operations, Winchester Public Schools to the Winchester School Board members; a Market and Fiscal Impact Analysis, Meadow Branch Apartments, Winchester, Virginia dated November 2014; and a revised PUD Development Plan titled 'Ridgewood Orchard, Land Bay 'C' Apartments, Development Plan dated October 21, 2014 with revisions through March 12, 2015. These materials are attached for reference.

The Comprehensive Plan identifies the area as a Redevelopment Site and notes that the neighboring regional medical center makes the site attractive for housing for high-income seniors and healthcare professionals. It calls for a variety of housing types for the central portions of the site. The Plan, which was just updated in 2014, states: *"Zoning for development in this central area should be medium density unless age-restricted housing is proposed, in which case, high density zoning may be appropriate."* The 2014 update was specifically undertaken with the intention of guiding development along the unbuilt portion of Meadow Branch Avenue through the Moffett and Ridgewood Orchard land with the assumption that the replacement John Kerr Elementary School would be constructed in this location.

Earlier versions of the draft update to the Comprehensive Plan in 2014 for the subject 10.59-acre portion of the Ridgewood property situated along the east side of Meadow Branch did not explicitly include the statement about zoning for medium density development. The language was added at the request of City Council to intentionally clarify that high density development may be appropriate only if two conditions are included which are:

- Planned Unit Development (PUD) overlay zoning; and,
- Age-restrictive housing

The submitted rezoning request does fulfill the first prerequisite (PUD zoning), but is not limited to age-restricted housing. The request is, thus, contrary to the Comprehensive Plan in this regard. In the attached Statement of Justification titled 'Meadow Branch Luxury Apartments, Winchester, Va', the applicant makes a strong case for why adherence to the age-restriction recommendation of the Comprehensive Plan update should not be required and instead allow for market rate apartments that would appeal to two of the three targeted populations identified in the Comp Plan and the Economic Master Plan. The applicant emphasizes the importance of the location to the regional medical center and the strong attraction for young professionals, all of whom would not meet age-restriction qualifications, and empty-nesters, some of whom may not meet the criteria for age-restriction.

The Statement of Justification outlines the unlikelihood that families with school-aged children would want to rent a more expensive luxury apartment as compared to renting or purchasing a less expensive single-family house elsewhere in the City. Estimates of school-aged population are included in the report with good examples of comparable market rate developments. These estimates indicate low rates of student population. Ms. Denise LaCour also gave a detailed presentation at the February 10, 2015 work session explaining why she felt that the age-restriction provision is no longer desirable.

#### POTENTIAL IMPACTS & PROFFERS

Since this is a conditional rezoning request, the applicant has voluntarily submitted proffers to mitigate potential impacts arising from the rezoning of the property from RB-1(CE) & MR to MR (PUD). The October 21, 2014 Proffer Statement, including revisions dated December 11, 2014, February 2, 2015, February 10, 2015, and March 17, 2015, is structured to address five areas under the heading of "Proffers Relating To The Use In The Proposed Planned Unit Development District (Land Bay C): These are: Street Access and Improvements; Site Development; Recreation, Landscaping and Design; Cash Proffers; and Phasing.

### Street Access & Improvements

The applicant proffers that Meadow Branch Avenue entrances will be as depicted on the Generalized Development Plan (GDP). The latest version of the GDP depicts two entrances onto Meadow Branch Ave, one situated at the fully signalized intersection opposite of the employee and parent drop-off/pick-up entrance to the proposed John Kerr Elementary School (JKES) and one aligning with the median crossing opposite of the bus and delivery access to JKES. This latter access point to the proposed apartment area was not depicted on the approved subdivision plans nor the approved Meadow Branch Avenue engineering plans that the City commissioned. It is, however, addressed in the recently approved Memorandum of Agreement (MOA) between the City and Ridgewood Orchard. A southbound left-turn lane is now shown on the Development Plan at this location and the conversion of this approved 3-way intersection to a 4-way intersection may affect safe afternoon dismissal of school buses from JKES. No signalization is anticipated at this intersection and none is warranted given the close proximity to the fully signalized intersection just to the north. Staff has advised that a Traffic Impact Analysis (TIA) will likely be required as part of the rezoning if this intersection remains part of the proposal. The TIA was submitted on December 12, 2014 and was reviewed by the Public Services Director and agreed with the findings.

Planning staff generally advocates for more than one entrance for a large residential development. However, the provision of inter-parcel access to the Moffett property to the south and to the Sacred Heart property to the north makes it likely that the development would be served by at least two connections to the public street system. The Meadow Branch Ave project currently calls for the City to construct a right-in/right-out access to the Moffett property fairly close to where the inter-parcel connection is called for.

### Site Development

Site Development proffers help to mitigate potential impacts arising from the inclusion of townhouse styled rental units in the project and by limiting the number of bedrooms which might otherwise create increased school-aged population placing demands on the City's overcrowded schools. The applicant proposes to construct 144 traditional apartments of which, no more than 24 would have three bedrooms. None of the 26 townhouse units would have more than two bedrooms. All of the rental units would be Market Rate units (i.e. no subsidized housing units), as stated in the third paragraph on page three of the December 11, 2014 revised proffer statement. Further, the applicant proffers that none of the townhouse units would be available for sale as owner-occupied units for a period of 40 years.

The Site Development proffers also address the minimum size for the community building (5,000 sq. ft of finished space) and the minimum size of the swimming pool (1,800 sq. ft.). Qualitative standards for exterior finishes of the apartment buildings and clubhouse are also specified in general conformity with the elevations included in the GDP. This includes consistency of design, color, and materials on the garage and maintenance structures as well. Lastly, the Site Development proffer notes that no "vertical" construction would occur on the 0.54-acre narrow strip (the "tail") of land between Meadow Branch Avenue and the Sacred Heart property, thus assuring that this will serve as open space.

### Recreation, Landscaping & Design

Under the Recreation, Landscaping and Design proffer, the applicant proffers screening and buffers as depicted on the GDP in addition to what is otherwise required by the Zoning Ordinance. A second part

of the landscape proffer calls for providing street trees along Meadow Branch Ave consistent with the species called for along the John Kerr School site across the street.

A third part of the Recreation, Landscaping and Design proffer calls out the inclusion of 10-foot wide paved hiker/biker trails through the site as depicted on the GDP. The plan currently shows two trails connecting the Green Circle Trail out along Meadow Branch Avenue to the eastern boundary of the site (allowing for connection to future trails on the Glass-Glen Burnie property) along both the far north and south boundaries of the site. The applicant is working with MSV to build trail and cattle fencing in return for a grading easement on the MSV property. To mitigate the potential impact of having the northerly trail situated so close in behind the 12 townhouse units proposed close to the Sacred Heart property boundary, a screen consisting of 5-foot tall evergreens planted 4 feet apart has been included in the proffers and depicted as an element of the PUD Development Plan. Phasing of the trail along the south property line is tied to occupancy of the third apartment building.

#### Cash Proffers

The fourth major proffer replaces a prior fourth proffer titled: 'Meadow Branch Avenue extension' That had pertained to the construction of Meadow Branch Avenue extension which was tied in with a separate Memorandum of Understanding and Project Administration Agreement executed on December 12, 2014." The replacement Cash Proffer calls for a lump sum payment of \$300,000 to be paid to the City within 30 days of an unappealable site plan approval. The cash proffer is to address any impacts including, but not limited to, public safety, public services, public transportation, and/or recreation that might arise from the development.

#### Phasing

The last proffer pertains to Phasing. It indicates that all construction will be done as a single phase of development, but indicates that occupancies will be phased. It indicates that the inter-parcel connecting private roadways depicted on the GDP will be constructed with a final coat of paving before the first apartment occupancies are to occur. The applicant proffers that they will have the final surfacing done in the other areas where the occupancies are requested as those occupancies are requested. It is understood that the clubhouse and pool will be completed and operational before the first occupancy permit is requested and that the timing of the trails and other amenities would be as noted in the 'Recreation, Landscaping, and Design' proffer above.

#### MARKET AND FISCAL IMPACT ANALYSIS

On December 2, 2014, the applicant submitted a Market and Fiscal Impact Analysis for the Meadow Branch Apartment project dated November 2014. The study examines the anticipated revenues and costs associated with the 170-unit project and concludes that there would be a net fiscal benefit for the \$30 million Meadow Branch Apartment development. Projected revenue and expense calculations are included in Table 4 on page 22 of the attached report. On-site impacts are expected to produce a surplus of \$95,200 (incorrectly noted as \$97,410 in the original report) annually due to the few public school pupils which are expected in the apartments, based on pupil rates at Stuart Hill and other projects identified by the Winchester public school district. Apartment resident expenditures in the City are projected to generate \$22 million in new business receipts and these new business receipts are projected to produce a fiscal surplus of \$51,000 annually for the City. Total fiscal benefit is projected at \$148,000 annually in constant year 2014 dollars.

The analysis identifies projected revenues totaling \$417,930. This includes \$285,000 of real estate tax, \$110,670 of personal property tax, and \$15,500 of consumer utility tax, and \$6,380 of motor vehicle

licensing revenue. The report includes \$380 of recordation tax which would not be realized assuming that all units remain rental and therefore should not be included, thus reducing the figure to \$417,550.

With regard to costs, the study concludes that there would be 162 of the 170 apartments occupied at any time and that would translate to 249 residents. Based upon the City's current budget, the per capita cost equals \$956 annually. The total per capita annual expense would therefore equal \$238,240. The study also assumes that there would be approximately 13 school-aged children generated by the 162 occupied units based upon a generation rate of 0.079 students per occupied unit. At a cost of \$6470 per pupil, that translates to an annual school impact of \$84,110 (incorrectly noted as \$82,280 on Page 33 of the fiscal impact analysis). Together, the \$238,240 of per capita expenses and \$84,110 of school expenses adds up to \$322,350 of annual cost for the 170-unit apartment project.

Based upon a projected positive annual fiscal impact (net revenue) of \$95,200, that would mean that up to 27 students could be generated before the project would cause a negative impact on the City. The analysis submitted to the City incorrectly noted this threshold at 35 students. It is worth noting that the existing Medium Density (MR) residential zoning would permit single-family detached homes on lots as small as 8,000 square feet. After netting out land for public streets, the 10.59-acre site could probably yield 40-45 homes. Given the proximity to the new John Kerr School, these homes would likely contain 3-5 bedrooms and generate considerably more than the 13 school-aged children projected to result from the rezoning allowing the 170 apartment units.

#### THE GENERALIZED DEVELOPMENT PLAN

The GDP consists of four pages which were most recently updated on March 12, 2015 and received by the City on March 17, 2015. The first page depicts the subject 10.59-acre portion of the Ridgewood Orchard parcel as it exists at the time of the rezoning application. This exhibit depicts the proposed Meadow Branch Avenue right of way and the proposed ultimate configuration of the JKES site as well as the recently rezoned 11.64-acre commercial areas of the larger Ridgewood site. The Major Subdivision for the subject area was approved by City Council on October 14, 2014 and was recorded on December 12, 2014. Likewise a Minor Subdivision required to assemble the adjacent DBL Holdings property into the JKES and Ridgewood Orchard sites was recorded on that same date.

#### Density

The second page of the GDP is the actual conceptual Development Plan depicting the layout of the improvements on the site and the areas that are set aside for active and passive open space. The applicant is proposing 170 units on 10.59 acres of land including the 0.54 of RB-1 land that may get conveyed off to the Catholic Diocese to assemble in with the adjoining Sacred Heart property. The resulting density is 16.1 units per acre where the MR(PUD) zoning would permit up to 18 units per acre.

#### Apartment Building Layout

The 170 unit project includes 144 traditional apartment units consisting of two 3-story apartment buildings each containing 24 apartments out closer to an open space along Meadow Branch Ave and two 4-story buildings each containing 48 apartments back closer to the rear of the site adjoining the Glass-Glen Burnie property. The 4-story buildings would each have basement parking and elevators. Ample surface parking is provided along private drives to the east and west sides and north end of the front two buildings and along the east side and south end of the rear two buildings. A limited number of garages are available to tenants of the front two buildings in two freestanding structures to the rear of these buildings.

### Townhouse Layout

The remaining 26 rental units are in the form of two-bedroom townhouse units situated within six structures located along the north end of the site closer to Sacred Heart Church. Twelve of these units are proposed to have parking pads situated to the front of the units (similar in fashion to the older Orchard Hill townhouses without garages). The other 14 units would have basement level garages that would be accessed from private alleys along the rear of the units. The result of this layout is that no garages would be oriented to Meadow Branch Avenue. The inclusion of the rear alley access to the majority of these units also minimizes the presence of back-out conditions for tenants onto the private access roadway serving the 96 apartments to the rear of the site. Staff has some concerns about the ability to easily access the rear entry garages from the alleys, which in many cases immediately adjoin the rear wall of the townhouse structures. These concerns can probably be addressed at the time of site plans assuming the rezoning is approved.

### Amenities and Open Space

The latest development plan depicts a clubhouse located very close to the main entrance to the apartment complex. It is proposed as a 2-story structure that would have lower level access out the rear to a fenced in recreation area that includes an outdoor swimming pool, concrete deck, and small grassed area. A separate volleyball court is proposed near the south central portion of the site with sidewalks and trails connecting the apartments to the clubhouse and recreational amenities. The site summary indicates that the site contains 5.35 acres of recreational open space where 4.77 acres are required at a minimum. Of that open space, 0.95 acres is allocated to developed (active) recreational use. This reflects compliance with the requirement for 20% of the overall open space being in the form of active recreational space.

### Circulation & Access

The GDP depicts the proffered inter-parcel connections to the Sacred Heart property and to the Moffett Estate property. These are desirable features. The Plan also depicts a second full access (e.g. left-turns permitted) out to Meadow Branch Avenue across from the bus/delivery access to the JKES site. Staff has indicated that this is problematic and would recommend that a Traffic Impact Analysis be provided to examine intersection impacts at this unsignalized intersection. Staff feels that the fully signalized intersection aligning with the main entrance to JKES should be the only access point directly to Meadow Branch Avenue.

### Floor Plans & Building Elevations

The third page of the GDP contains detailed floor plans and a single 'front' elevation for the various residential buildings proposed on the site with the exception of the two freestanding garage structures and a maintenance building proposed very close to the 10-wide trail running along the boundary with the Moffett Estate. No side elevations are provided for any of the buildings, but rear elevations of the apartment buildings and townhouses are now included as Page 4 of the Development Plan. The elevations and floor plans appear to be generally consistent with the layout depicted on the GDP. There are multiple floor plans for both the traditional apartment building units as well as the townhouse-styled units.

Since this is a sloped site, it was desirable to have a few cross-sectional views of the development showing how the site slopes away from Meadow Branch Avenue and how the 4-5 story elevations of the two rear buildings would relate to the adjoining Glen Burnie property. One sectional view was provided which clearly shows how the 4-5 story buildings at the rear (east) part of the site will appear no taller

than the 3-story apartment buildings up closer to the front (west) part of the site as viewed from Meadow Branch Avenue.

#### RECOMMENDATION

Staff still feels that the fully signalized access point at the northern (main) entrance to the JKES site is adequate to handle the apartment development traffic and that the proffered inter-parcel accesses to the Sacred Heart property to the north and the Moffett Estate property to the south will adequately provide for any needed alternative emergency response. However, the TIA that was submitted on December 12, 2014 indicates that there would not result in an unfavorable Level of Service (LOS) for traffic on the public roadway even though it would operate at a poor LOS on the private apartment development roadway.

Regarding public input on the rezoning request, the City received comments from only two households. Via email, Mr. & Mrs. Dan Troup questioned the school-aged children projection and encouraged the Commission to follow the Comprehensive Plan. Via two emails from Mr. & Mrs. John Beyrau and by Mrs. Beyrau's attendance at the December 16<sup>th</sup> Commission public hearing, they expressed concerns about safety and traffic impacts associated with Meadow Branch Avenue being extended.

At its January 20, 2015 meeting, the Commission forwarded **RZ-14-663** to City Council unanimously recommending approval as depicted on an exhibit entitled "Rezoning Exhibit RZ-14-663, Prepared by Winchester Planning Department, December 1, 2014" because the request is consistent with the Comprehensive Plan which calls for Neighborhood Stabilization in the site. The approval is subject to the Generalized Development Plan revised as of December 11, 2014 and the proffers in the proffer statement titled "Proffer Statement a Proposed Rezoning" dated October 21, 2014 and revised on December 11, 2014.

The request was reviewed at the January 27, 2015 Council work session. Numerous concerns were expressed by City councilors, particularly with regard to the following issues:

1. Use of the \$333K proffered funds associated with Meadow Branch Ave construction
2. Accuracy of school student projections in the Fiscal Impact Analysis
3. Definitions of 'market-rate' included in the Proffer Statement
4. Restrictions associated with the intended HUD 221(d)(4) financing program as it pertains to the ability of the intended purchaser of the site to ensure rent levels utilized in the Fiscal Impact Analysis and to the management and maintenance requirements during the 40-year period linked to the financing

The attorney for the applicant indicated that he would provide additional information about the terms and conditions of the HUD financing program and would submit amended proffers to address concerns of City Council. The request was carried forward to the February 10<sup>th</sup> Council work session.

On Wednesday, February 4, 2015, the City received an electronic version of an amended proffer statement dated February 2, 2015. Staff met with the attorney for the applicant on Thursday, February 5, 2015 to review the amended proffers. These revisions reinserted the language stating that rents charged would be market rate. It also incorporates clearer language about the perimeter screening along the eastern boundary and notes that the phasing of development will be as identified on the GDP. The revised proffers did little if anything to address the four areas of concern noted above. During the

Thursday meeting, the applicant indicated that a formally submitted revision to the GDP will be submitted and that the proffer statement may be further amended.

At the February 10, 2015 Council work session, the attorney for the applicant reviewed the February 10, 2015 version of the Proffer Statement and handed out information about the HUD Section 221(d)(4) Mortgage Insurance for Rental and Cooperative Housing Program and explained some of the program requirements that address questions about long-term management and maintenance. The potential purchaser/developer of the site gave a presentation addressing concerns about the potential for school-aged children. The request was tabled for up to 30 days (effectively the March 10<sup>th</sup> Council work session) to allow councilors adequate time to review the revised proffers and materials that were handed out at the February 10<sup>th</sup> work session.

At the March 10, 2015 Council work session, the request was briefly reviewed and was forwarded to the March 24, 2015 Council meeting for First Reading. A public hearing and Second Reading is tentatively scheduled for the April 14, 2015 Council meeting after which a vote on the rezoning ordinance could take place.

On March 17, 2015, the attorney for the applicant submitted revised proffers dated March 17, 2015 along with a revised Development Plan containing revisions through March 12, 2015.

The attached ordinance provides for a favorable action to rezone the property. If Council is not supportive of the rezoning request then a motion to deny could read:

**MOVE**, that City Council disapprove **RZ-14-663** because the application for the proposed rezoning, as submitted:

1. is inconsistent with the age-restriction recommendation included in the updated Comprehensive Plan
2. lacks measures to sufficiently mitigate potential negative impacts such as increased numbers of school-aged children

AN ORDINANCE TO CONDITIONALLY REZONE 10.59 ACRES AT 200 MERRIMANS LANE (Map Number 149-01- - 7-A), FROM CONDITIONAL RESIDENTIAL BUSINESS (RB-1) DISTRICT WITH CORRIDOR ENHANCEMENT (CE) DISTRICT OVERLAY (0.80 ACRES) AND CONDITIONAL MEDIUM DENSITY RESIDENTIAL (MR) DISTRICT (9.79 ACRES) TO MEDIUM DENSITY RESIDENTIAL (MR) DISTRICT WITH PLANNED UNIT DEVELOPMENT (PUD) DISTRICT OVERLAY.

**RZ-14-663**

**WHEREAS**, the Common Council has received an application from Pennoni Associates, Inc. on behalf of Ridgewood Orchard LTD Partnership to rezone property at 200 Merrimans Lane from Conditional Residential Business (RB-1) district with Corridor Enhancement (CE) district overlay (0.80 acres) and Conditional Medium Density Residential (MR) district (9.79 acres) to Medium Density Residential (MR) district with Planned Unit Development (PUD) district overlay; and,

**WHEREAS**, the Planning Commission forwarded the request to Council on January 20, 2015 recommending approval of the rezoning as depicted on an exhibit entitled "*Rezoning Exhibit RZ-14-663, Prepared by Winchester Planning Department, December 2, 2014*" because the proposed Medium Density Residential (MR) district with Planned Unit Development (PUD) district overlay supports the redevelopment site as designated in the Comprehensive Plan. The recommendation is subject to adherence with the Generalized Development Plan revised as of February 5, 2015 and the submitted proffers dated October 21, 2014 revised as of December 11, 2014; and,

**WHEREAS**, following the Planning Commission's review, the applicant submitted revised proffers dated February 2nd 10th 2015 which were reviewed at the February 10, 2015 Council work session, and revised proffers dated March 17, 2015 which were reviewed at the March 24, 2015 Council work session along with a revised Development Plan containing revisions dated March 12, 2015 ; 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 provides for residential space in support of the redevelopment site character designation in the Comprehensive Plan.

**NOW, THEREFORE, BE IT ORDAINED** by the Common Council of the City of Winchester, Virginia that the following land is hereby rezoned from the existing zoning designation of Conditional Residential Business (RB-1) district with Corridor Enhancement (CE) district overlay (0.80 acres) and Conditional Medium Density Residential (MR) district (9.79 acres) to Medium Density Residential (MR) district with Planned Unit Development (PUD) district overlay:

10.59 acres of land at 200 Merrimans Lane as depicted on an exhibit entitled "*Rezoning Exhibit RZ-14-663 Prepared by Winchester Planning Department, December 2, 2014*".

**BE IT FURTHER ORDAINED** by the Common Council of the City of Winchester, Virginia that the rezoning is subject to adherence with the with the Generalized Development Plan dated October 21, 2014 and revised as of March 12, 2015 and submitted proffers dated October 21, 2014 revised as of March 17, 2015.

# **PROFFER STATEMENT**

## **A PROPOSED REZONING**

for

A PORTION OF

TAX MAP PARCEL ID: 149-1-7

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

Prepared By: Thomas Moore Lawson, Esquire  
Lawson and Silek, P.L.C.  
P.O. Box 2740  
Winchester, Virginia 22604  
Tel: 540-665-0050

Original Date: October 21, 2014

Revised: March 17, 2015

## **INTRODUCTION**

The undersigned applicant hereby proffers that in the event that the Council of the City of Winchester ("Council") shall approve the rezoning of two tracts of land on Tax Map Parcel ID 149-1-7, totaling 10.59 acres (the "Property") as shown on the plan entitled "Ridgewood Orchard Land Bay C Apartments Development Plan" dated October 21, 2014 and revised March 12, 2015 (the "GDP"), with one tract consisting of 9.79 acres from Medium Density Residential District ("MR") to MR with a Planned Unit Development District ("PUD") overlay and a second tract consisting of 0.80 acres from RB-1 to MR with a PUD overlay, then development of the subject properties 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 successors or assigns.

The conditions proffered herein supersede all prior proffers submitted by the owner on the Property. All prior proffers affecting these areas are hereby revoked by the owner.

## **PROFFERS RELATING TO USE IN THE PROPOSED PLANNED UNIT DEVELOPMENT DISTRICT**

The Property shall be subject to the standards provided in the City of Winchester Zoning Ordinance Article 13.

### **Street and Access Improvements**

The owner proffers to design and construct a series of private streets within the Property as shown on the GDP. The entrances to the Property will be as generally shown on the GDP. The number of entrances to the Property will be limited to that shown.

The owner proffers to also design and construct an interparcel connection from the Property's north entrance to the boundary of Tax Map Parcel 149-01-6 owned by The Most Reverend Paul S. Loverde, Bishop of the Catholic Diocese of Arlington, Virginia (the "Diocese") as shown on the GDP and will grant the Diocese a non-exclusive easement for the access and use of said connection.

The owner proffers to also design and construct an interparcel connection at the Property's southern boundary to Tax Map Parcel 169-1-5, as shown on the GDP.

### **Site Development**

The Property shall be developed as a multi-family project (the "Project") consisting of no more than one hundred seventy (170) apartment homes and a club house with pool and amenities generally consistent with the GDP. Buildings 1 and 2, as shown on the GDP, shall consist of a total of forty-eight (48) apartments in three-story buildings on slab. Buildings 3 and 4, as shown on the GDP, shall consist of a total of ninety-six (96) apartments with an elevator and basement level parking. These two buildings will have a four-story elevation facing northwest. The

twenty-six (26) townhouse-style apartments will be constructed along the northern Property boundary, as shown on the GDP, and will be two stories.

The apartments and club house shall be constructed in general accordance with the elevations depicted on the GDP and shall primarily consist of red brick and ground face block with white cementitious siding in select areas. The architectural style and building materials used for all elevations of the apartments and club house shall be consistent with the design, color, and materials depicted on the elevations depicted on the GDP. Additionally, the single story garage structures and maintenance building, as identified on the GDP, shall be designed and constructed to be consistent with the materials and colors of the apartment buildings.

Development of the Property shall consist of one, two and three bedroom apartments; however, the Project shall not have more than twenty-four (24) three-bedroom apartments. Further, no three-bedroom townhouse-style apartments will be built within the Project.

The owner proffers that all of the apartments (residential units) within the development shall be market rate. Market rate is being proffered in order to distinguish the multi-family apartment units that are being proffered in this community from some other existing multi-family stock in the City of Winchester as of the time of the filing of this rezoning and Proffer Statement. This market rate concept is further elaborated upon in the market analysis authored by S. Patz and Associates, Inc. Additionally, a market rate project is defined as one where there is no income limit for the tenants of said project and it is generally designed to have the highest rent that a given market can bear.

The rents charged for the apartments within the Project shall be market rate.

The apartments and club house developed on the Property shall be built in general accordance with the floor plans shown on the GDP (with variations for handicapped accessible units, units accessed other than from the stairwell or units modified due to construction restraints such as an elevator wall).

The club house shall be a minimum of 5,000 finished square feet and associated amenities shall include a pool deck area of approximately seventy (70) feet by ninety (90) feet, as depicted on the GDP, and a swimming pool with a minimum water surface area of 1,800 square feet.

The club house and pool area shall be operational and available for use prior to the issuance of occupancy permits for any apartments constructed on the Property.

In response to stated concerns received from the City of Winchester, the owner does proffer that the townhouse-style apartments shall not be sold as independent dwelling units for a term of at least forty (40) years from the date of the approval of the rezoning.

No vertical construction shall occur on the 0.54 acres bordering Meadow Branch Avenue Extension as shown on the GDP.

### **Recreation, Landscaping and Design**

In the location depicted on the GDP and pursuant to the notes provided in the GDP along the eastern Property boundary, the Applicant shall provide evergreen trees between the parking areas and the eastern Property boundary. Landscaping will be provided for the other perimeter areas of Property as well. The landscaping plan shall be incorporated as part of the site

development plan. The landscaping plan shall be approved by the Planning Commission as part of the design of these areas.

Development of the Property shall include street trees along the Meadow Branch Avenue frontage. Said trees shall consist of a mixture of Sugar Maples and Pin Oaks in order to coordinate with and compliment the planned landscaping for the future, adjoining John Kerr Elementary School.

Development of the Property shall include ten (10) foot asphalt hiker/biker trails as depicted on the GDP, including a connection to the planned Green Circle Trail. The site plan for the Property shall identify the specific sequence of construction for the proposed buildings, parking, and trail system. At a minimum, the ten (10) foot asphalt trail along the southern Property boundary shall be constructed prior to issuance of the occupancy permit for the third apartment building.

A screen, consisting of a single row of evergreens planted no more than four (4) feet apart with a minimum height of five (5) feet at time of planting, in accordance with Winchester Zoning Ordinance requirements, shall be located along the northern Property boundary between the proposed hiker/biker trail and the townhouse style rental units. This screen shall not be planted within a stormwater conveyance channel and shall additionally satisfy the requirements of Section 19-5-6.4d of the Winchester Zoning Ordinance for that portion of the Property.

#### **Cash Proffers**

Within thirty (30) days of a final unappealable approved site plan, the owner will pay to the City of Winchester a lump sum payment in the amount of \$300,000.00 to be used by Council at its discretion to address any impacts including, but not limited to, public safety, public services, public transportation, and/or recreation, that may arise out of the proposed development set forth herein.

#### **Phasing**

Applicant proposes to develop the Property as a single phase, but does expect that certain units will be delivered for occupancy before others. The general sequence of construction is identified by the GDP. As part of the overall construction, however, the inter-parcel connections to adjoining properties, as depicted on the GDP will be completed to final paving prior to occupancy of the first apartment building. As additional apartment buildings are completed, final paving necessary to serve those apartment units shall be provided prior to issuance of an occupancy permit for the applicable apartment units.

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

SIGNATURES APPEAR ON THE FOLLOWING PAGE(S)

Submitted By:

Ridgewood Orchard Limited Partnership

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

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

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

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2015,  
by \_\_\_\_\_ .

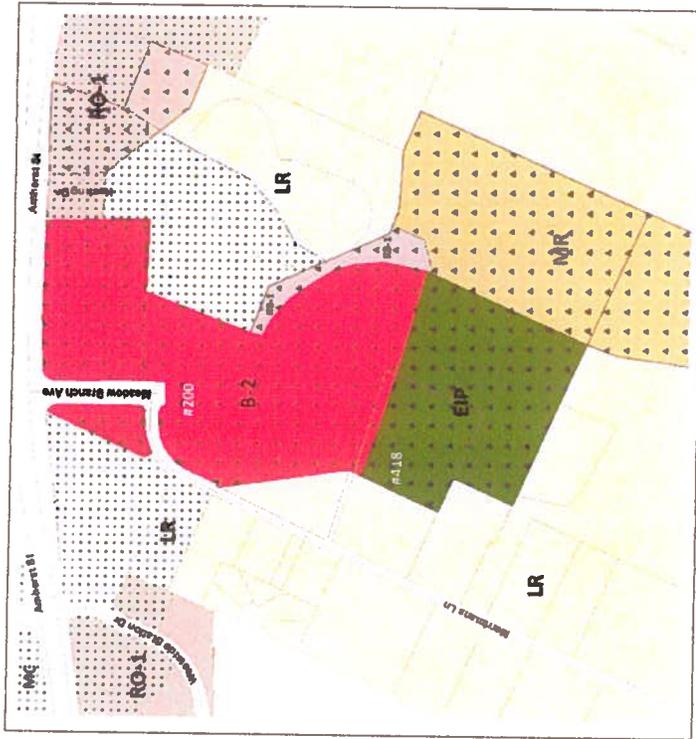
My commission expires on \_\_\_\_\_

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

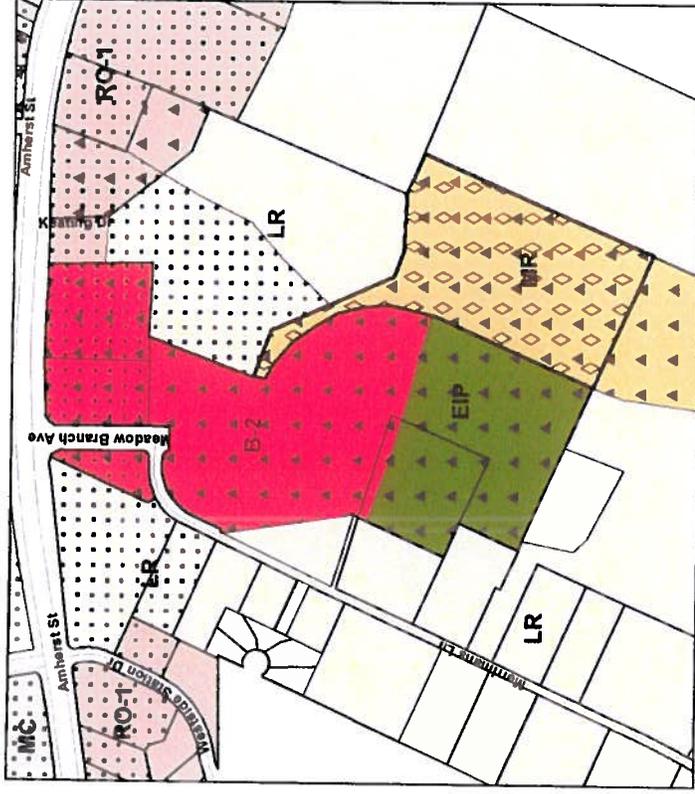
# REZONING EXHIBIT

RZ-14-686

PREPARED BY WINCHESTER PLANNING DEPARTMENT  
DECEMBER 2, 2014



**EXISTING**  
RESIDENTIAL BUSINESS DISTRICT  
& MEDIUM DENSITY RESIDENTIAL DISTRICT (MR) ZONING  
FOR 200 MERRIMANS LANE



**PROPOSED**  
MEDIUM DENSITY RESIDENTIAL DISTRICT (MR) ZONING  
WITH PLANNED UNIT DEVELOPMENT (PUD) OVERLAY  
FOR 200 MERRIMANS LANE

**Zoning**

**MZONE**

- B2 Highway Commercial District
- LR Low Density Residential
- MC Medical Center District
- MR Medium Residential District
- RB1 Residential Business District
- RO1 Residential Business District

**Zoning Overlay**

- CE-Amherst
- Conditional
- PUD