

**PLANNING COMMISSION
WORK SESSION AGENDA
AUGUST 4, 2015 - 3:00 PM
Fourth Floor Exhibit Hall
Rouss City Hall**

1. Review agenda for August 18th regular meeting
2. Committee reports
3. Status of projects pending Council approval
4. Administrative Approval
 - a. **SP-15-447- 700** Jefferson Street Telecommunication Tower- City of Winchester
5. Announcements

**PLANNING COMMISSION
AGENDA
AUGUST 18, 2015 - 3:00 PM
Council Chambers - Rouss City Hall**

1. POINTS OF ORDER

- A. Roll Call
- B. Approval of Minutes
- C. Correspondence
- D. Citizen Comments
- E. Report of Frederick Co Planning Commission Liaison

2. PUBLIC HEARINGS – New Business

- A. **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 District (B-2) with Corridor Enhancement (CE) District Overlay zoning. **(Mr. Crump)**

- B. **CUP-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 District (B-2) with Corridor Enhancement (CE) District Overlay zoning . **(Mr. Crump)**

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

- D. **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. **(Mr. Grisdale)**

3. PUBLIC HEARINGS – Continued

4. NEW BUSINESS

- A. **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. **(Mr. Youmans)**

- B. Resolution to initiate **RZ-15-421** AN ORDINANCE TO REZONE APPROXIMATELY 16.4 ACRES OF LAND CONTAINING APPROXIMATELY 96 PARCELS, EITHER IN FULL OR IN PART, TO BE INCLUDED IN THE CORRIDOR ENHANCEMENT (CE) DISTRICT; AS DEPICTED ON AN EXHIBIT ENTITLED: “NATIONAL AVE PROPOSED CE DISTRICT” PREPARED BY WINCHESTER PLANNING DEPARTMENT ON 6/23/2015. **(Mr. Youmans)**

- C. **TA 15-441** AN ORDINANCE TO AMEND AND REENACT ARTICLES 1, 7, 8, 9, 10, 11, 12, 13 AND 18 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO THE DEFINITION OF BREWERY, DISTILLERY, MICRODISTILLERY, MICROBREWERY, NANOBREWERY, TASTING ROOM, AND WINERY, PARKING REQUIREMENTS, AND USE STANDARDS. **(Mr. Grisdale)**

5. OLD BUSINESS

6. OTHER BUSINESS

- A. **Admin. Approvals- Sites Plans (Mr. Crump)**
 - 1) **SP-15-426-** Minor Revision- 555 Adams Dr.- Five Star Auto Spa
 - 2) **SP-15-422-** Major Revision- 715 S. Braddock St.- Old Town Commons

7. ADJOURN

PLANNING COMMISSION MINUTES

The Winchester Planning Commission held its regular meeting on Tuesday, July 21, 2015, at 3:00 p.m. in Council Chambers, 15 N. Cameron Street, Winchester, Virginia.

CALL TO ORDER:

PRESENT: Chairman Slaughter, Vice-Chairman Loring, Commissioner Smith, Commissioner Wolfe, Commissioner Tagnesi, Commissioner Fieo

ABSENT: Commissioner Shickle

EX-OFFICIO: City Manager Freeman

FREDERICK CO. LIAISON: Commissioner Kenney

STAFF: Aaron Grisdale, Josh Crump, Erick Moore, Carolyn Barrett

VISITORS: Kathleen Beyrau, Thomas Lawson

APPROVAL OF MINUTES:

Chairman Slaughter called for corrections or additions to the minutes of June 16, 2015. Hearing none, he called for a motion. Commissioner Tagnesi moved to approve the minutes as submitted. Commissioner Wolfe seconded the motion. Voice vote was taken and the motion passed 6-0.

CORRESPONDENCE:

Mr. Grisdale said there was no correspondence from the citizens but there is an updated staff report for Item 2c, the text amendment for PUD bonus incentives. There is some information on the current ordinance as well as the original proposal. There are also some administrative approvals added to the agenda.

CITIZEN COMMENTS:

None.

REPORT OF THE FREDERICK COUNTY PLANNING COMMISSION LIAISON:

The last meeting was July 15, 2015. There were five items on the agenda. One five-acre parcel was pulled prior to the meeting started and was not voted on. A 175-acre parcel was added into the agricultural district. Forty-six parcels of five-acres or less were broken up into three groups. Eleven were denied, sixteen approved and nineteen were on a case-by-case basis and sent on to the Board of Supervisors. There were two ordinance amendments – 1. Breweries are now being allowed in the rural district. 2. The way the minor site plan submittal process is handled was approved. Both were sent on to the Board. The next meeting is August 19, 2015.

PUBLIC HEARINGS:

TA-15-289 An ordinance amending section 8-2-19 of the Winchester Zoning Ordinance pertaining to ground floor residential conversion of existing structures with a conditional use permit.

Mr. Crump reviewed the publicly initiated text amendment. It will allow ground floor residential dwelling units in the B-2 district. There are multi-family units allowed with a conditional use permit. There are currently no proposals right now. There are some projects that could potentially use it. There has been input from the development community about it. Staff feels there would not be many applications for it and recommended approval. It would be a tool for people to use to get ground floor apartments.

Commissioner Loring asked if it would create a by-right use in B-2. Mr. Crump said it would be a conditional use. Chairman Slaughter asked what areas of the city are in the B-2 district.

Chairman Slaughter Opened the Public Hearing

Chairman Slaughter Closed the Public Hearing

Chairman Slaughter called for discussion from the Commission.

Chairman Slaughter felt there was already a tool to accomplish what this text amendment is asking for. Commissioner Loring was not sure what problem this would solve if no one had come forward with a request. Mr. Crump said it was just another tool for a developer to utilize. Commissioner Smith said that staff will look at things that may occur in the future and they will make amendments and changes but it does not mean there is a problem already.

Mr. Grisdale said that there was not a current issue but if someone wanted to come forward in one of the limited situations, they would not have the ability to do so without going through a text amendment and conditional use permit. This sets up the framework in the ordinance for someone to take advantage of it. It will be limited on what type of applications can come forward. One limitation is dwelling units would not be able to face a street.

Chairman Slaughter asked for some examples of major commercial streets. Mr. Grisdale said the Planning Director looks at it on a case-by-case basis. Portions of Loudoun Street were an example of a major commercial street and there are certain blocks that transition to more residential. Commissioner Fieo noted that they were not looking at someone wanting to construct new structures but convert older structures. Mr. Grisdale agreed. Commissioner Wolfe said that since the apartment units cannot face the street and have to be in the rear of a building, it put her mind at ease.

*Commissioner Smith moved that the Planning Commission forward **TA-15-289** to City Council with a favorable recommendation because the amendment, as proposed, presents good planning practice by providing for expanded residential opportunities consistent with Council's Strategic Plan and the City's Comprehensive Plan. Commissioner Loring seconded the motion. Voice vote was taken and the motion passed 5-1 (Slaughter).*

TA-15-322 An ordinance amending Article 1 of the Winchester Zoning Ordinance pertaining to the definitions of hotel, motel and transient.

Mr. Grisdale said that as discussed at the work session, staff requests for the item to be tabled.

Chairman Slaughter Opened the Public Hearing

Chairman Slaughter Closed the Public Hearing

Chairman Slaughter called for discussion from the Commission. Hearing none, he called for a motion.

*Commissioner Loring made a motion to table **TA-15-322**, an ordinance amending Article 1 of the Winchester Zoning Ordinance pertaining to the definitions of hotel, motel and transient. Commissioner Fieo seconded the motion. Voice vote was taken and the motion passed 6-0.*

TA-15-323 An ordinance amending section 13-1-5 PUD of the Winchester Zoning ordinance pertaining to bonus incentives to increase allowable residential density for planned unit developments.

Mr. Grisdale reviewed the text amendment and noted the updated staff report and analysis of new information that had come in. It is a privately sponsored Zoning Ordinance Text Amendment pertaining to density bonus provisions in the PUD district. Staff has some concerns in the areas that are noted on the chart included in the proposal. Presently there is only one bonus with different levels that allow developers up to 18 units per acre. Mr. Grisdale explained the categories listed in the chart. In the current form, staff does not support the text amendment with the level of bonuses being proposed. If the density bonuses are backed up to staff recommendations, they would be an appropriate level and consistent with planning practice.

Chairman Slaughter asked where a developer would start in the underlying district as far as density and where they would be with the current PUD. Mr. Grisdale explained the formula to figure out the density of a development.

Commissioner Fieo said that in the work session they had talked about being certain bonus points were not given for something that was already required. He asked how residential amenities are defined for which a bonus would be applied as opposed to open space that is dictated by current regulations. Mr. Grisdale explained the residential amenities are for things that are enclosed in the residential floor area such as an indoor gymnasium. Commissioner Fieo noted that improving an open space with something like a garden would not be counted as a qualifier; it had to be within a building. Mr. Grisdale agreed.

Commissioner Wolfe asked how the city benefits from the text amendment. Mr. Grisdale said it encourages mixed use within a project and sets some thresholds. Commissioner Fieo asked for clarification of section 13-1-5.2 and an explanation that a bonus was not being given for something that has already been in effect. Mr. Grisdale said that in terms of the current provisions, the Planning Commission and City Council evaluate the consistency with the Comprehensive Plan and the proximity determines what density is appropriate. A PUD that is submitted is not automatically eligible just because they meet one of the criteria. It is still a discretionary act. If the Council does not believe a project meets the criteria, it does not have to approve it.

Commissioner Smith asked if the staff was comfortable with what is in place and the recommendations. Mr. Grisdale said if the current proposal was modified to come in line with staff recommendations, they would be comfortable with it. No one is guaranteed 18 units, it is very context sensitive and the framework of the analysis is a worst case scenario. Chairman Slaughter asked if anyone had come forward not wanting 18 units. Mr. Crump said it is usually fewer than 18. Chairman Slaughter noted there was nothing in the language to say what number someone gets and now the number is being changed to 27. Mr. Grisdale said that was something staff could look into if the Commission thinks it needs to be clarified.

Commissioner Wolfe asked what does the City get now with what is offered as opposed to what does it get if more is offered. Mr. Grisdale said the staff is setting high end goals with specific thresholds that tie in with the goals of the Comprehensive Plan. In terms of fiscal impact etc., those are going to be context sensitive. This would give greater flexibility for development coming forward.

Chairman Slaughter Opened the Public Hearing

Mr. Lawson, JDC Winchester LLC, reiterated what had already been discussed and praised the staff for the work they had done. Chairman Slaughter noted that if the Commission recommended approval of the amendment, it would be for all future PUDs. He asked Mr. Lawson if he had a project in mind for a PUD that it would be applicable to. Mr. Lawson said they had started out with an application and rezoning and staff had said it was not the way to do it. They were creating an ordinance that would apply city wide. It has changed since they first started the process. They are looking at projects that are near campuses such as the medical center. There is an interest to appeal and file an application, possibly more than one, for consideration by the City to put more density in close proximity to those campuses. There is more demand for more costly products that rent for higher values; they have more amenities like elevators. In order to do that, there needs to be a density to support it. Market forces are driving the text amendment.

Commissioner Tagnesi asked if he was satisfied with the current proposal bonuses or is it still in negotiation. Mr. Lawson suggested it be moved forward to Council with a recommendation and let them decide. He did like the incentives and certification in the chart.

Ms. Beyrau, Johnston Court, suggested that providing bonuses was a slippery slope and she had never heard of that before. Clearly developers are extremely interested in building in Winchester without any need for incentives but only if they can put in high density housing. Winchester is already a very congested city with many highways coming in. There are little pockets of land left to develop but they need to be high quality development not more apartments and high density apartments. It may be time to stop providing incentives and maybe they should go back to a moratorium on building new apartments. The Green Circle trail is not built, it is extremely congested, and the new school going in is already overcrowded. No one is working with the school district to talk about how to control the population coming into the city and schools. It is a huge burden on tax payers to provide for the city schools. She would like to see more amenities in the City, complete the Green Circle trail, build a few small parks or something as opposed to only working with developers to build out the last few acres left in the city and make it more congested and less walkable.

Chairman Slaughter Closed the Public Hearing

Chairman Slaughter called for discussion from the Commission.

Commissioner Smith said he needed more information. Commissioner Tagnesi said there was no reason to hold onto it and to send it to Council and let them review it. Commissioner Wolfe said she did not want to forward it on without a final number. If the percentages did not really matter then why wouldn't they already be at the staff recommendation level? Clearly the applicant is trying to get the proposed bonuses as opposed to the staff recommendations.

Mr. Grisdale said that since it was a privately sponsored text amendment, the staff could not unilaterally change it but it would be going forward with a recommendation and the caveat “comfortable with the staff recommendations.”

Chairman Slaughter thought they were getting ahead of themselves. There have been many PUDs come through that were successful. He did not see a rush or need to increase the density to more than what they have now. Obviously there is a project coming up where their numbers do not work so they wanted to have increased density. Before they review it and imposed conditions on extra items above items that is already being given, they need to go back and look at the 18 units they are already giving.

Chairman Slaughter reviewed the options for a motion. The board members discussed whether to table or move the text amendment forward.

*Commissioner Fieo made a motion to table **TA-15-323** because the Commission requires additional time to review the proposed changes before making a recommendation to City Council. There was no second and the motion died.*

*Commissioner Tagnesi made a motion to move forward **TA-15-323** recommending approval considering the staff recommended current proposed bonus. There was no second and the motion died.*

*Commissioner Loring made a motion to forward **TA-15-323** recommending denial because the amendment as proposed provides additional residency densities that are not consistent with good planning practice and are inconsistent with the Comprehensive Plan. Commissioner Smith seconded the motion. Roll call vote was taken and the motion passed 5-1 (Tagnesi).*

NEW BUSINESS:

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.

Mr. Grisdale reviewed the ordinance, proposed definitions and changes to requirements.

*Commissioner Smith made a motion that the Planning Commission initiate **TA-15-376** per the attached resolution. Commissioner Fieo seconded the motion. Voice vote was taken and the motion was approved 6-0.*

OLD BUSINESS:

None

OTHER BUSINESS:

Administrative Approval(s):

A. CE Report

- 1) **CE-15-305** 2291 Valley Ave - Exterior Renovation- Dairy Queen
- 2) **CE-15-331** 710 Berryville Ave - Exterior Renovation- Bear Trading Post

B. Minor Subdivision Report

- 1) **MS-15-204** 2705 & 2725 S. Pleasant Valley Rd- Dixie Beverage Boundary Line Adjustment
- 2) **MS-15-206** 16 W. Bond St & 1004 Valley Ave- Handley Crossing Boundary Line Adjustment
- 3) **MS-15-266** 420 Meadow Branch Ave- Ridgewood Orchard Boundary Line Adjustment
- 4) **MS-15-311** 801 & 901 Amherst St- Glass-Glen Burnie Foundation Lot Consolidation

C. Administrative Approval – Site Plans

- 1) **SP-15-389** New Site Plan – 607 N. Cameron Street – Milam Landscapes
Commissioner Smith made a motion to grant administrative approval and waivers requested for SP-15-389. Commissioner Loring seconded the motion. Voice vote was taken and the motion passed 6-0.
- 2) **SP-15-392** Major Revision – 1671 & 1673 S. Pleasant Valley Road – Winchester Plaza Phase II
Commissioner Loring made a motion to grant administrative approval for SP-15-392. Commissioner Wolfe seconded the motion. Voice vote was taken and the motion passed 6-0.
- 3) **SP-15-402** Minor Revision – 601-641 W. Jubal Early Drive – Abram’s Crossing
Commissioner Loring made a motion to grant administrative approval for SP-15-402. Commissioner Smith seconded the motion. Voice vote was taken and the motion passed 6-0.

ADJOURN:

With no further business before the Commission, the meeting adjourned at 4:32 p.m.

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 Ave where an existing hotel (currently 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 current Americas Best Value Inn hotel to extended stay lodging use is outlined in a letter from Mr. Dearing of EFD Investments, LLC 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 of approx. 70 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 and 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.

In examining the floor plans, it is unclear if cooking facilities are being proposed/provided within the units. Section 1-2-35.1 of 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 in an email (see attached), the applicant indicated that kitchenettes will be installed in each unit upon approval. Cooking facilities will be needed to be provided 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.

A favorable motion could read:

MOVE, that the Commission forward **CU-15-383** to 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 () units to ensure consistency with definition of the units as accommodations serving business travelers, not primary residences; and,
2. Kitchen facilities are provided for each unit; and,
3. Staff review and approval of the required site plan.

-OR-

An unfavorable motion could read:

MOVE, the Planning Commission forward **CU-15-383** recommending denial because the proposal, as submitted, will 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 reasons being:

(Include any other reason for negative recommendation)

-OR-

Possible Table Motion:

MOVE, the Planning Commission table **CU-15-383**, because of
(Include any reasons for tabling)



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

PHONE
540-662-2521

FAX
540-662-6683

WEB
www.ansinnandsuites.com



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

Josh Crump

From: priscilla.ansproperty@gmail.com
Sent: Wednesday, July 29, 2015 2:37 PM
To: Josh Crump
Subject: Re: CUP for 2469 Valley Ave Questions

Hey josh , yes we would convert all units approx 70 units

In rooms currently we have only mini fridge and micro

Kitchenettes will be installed upon approval . Home Depot putting together packages to include cabinets, cook top and sink along with mini fridge and microwave

Sent from my iPhone

On Jul 29, 2015, at 10:12 AM, Josh Crump <Josh.Crump@winchesterva.gov> wrote:

Hello Ms. Price,

I have two quick questions regarding your CUP.

- 1) How many units do you have currently at the Americas Best Value Inn and how many do you plan to convert to extended stay lodging? All of them I presume?
- 2) Are there any kitchen/cooking facilities provided in each unit? The letter and floor layout plan does not give a clear picture if they are in the units or not.

Thanks,

--

Josh Crump

Planner

City of Winchester

15 N. Cameron Street

Winchester, VA 22601

Phone: (540) 667-2117 (direct)

Email: Josh.Crump@winchesterva.gov



www.winchesterva.gov/planning

Building #1

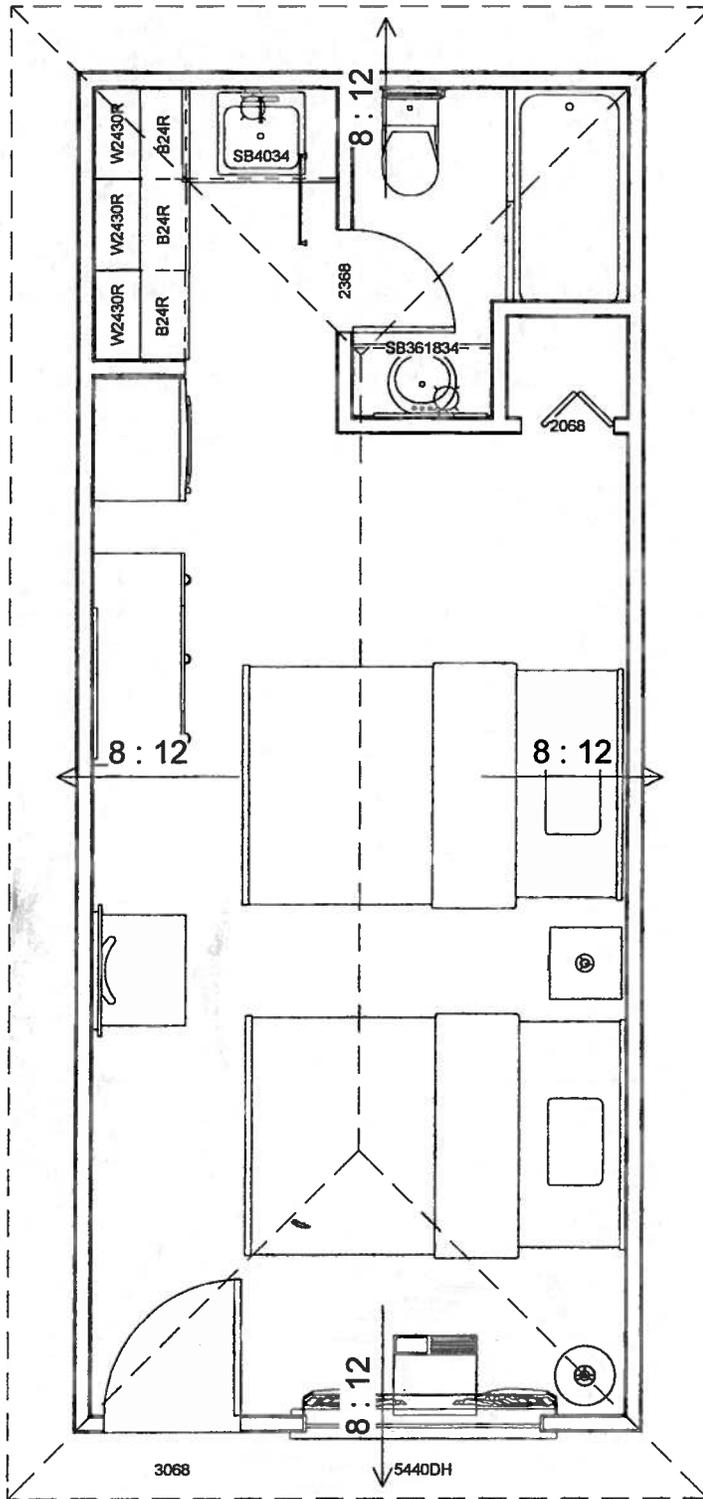


Building #2



Building #3





LIVING AREA
373 sq ft

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.

A favorable motion could read:

MOVE, that the Commission forward **CU-15-388** to 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.

-OR-

An unfavorable motion could read:

MOVE, the Planning Commission forward **CU-15-383** recommending denial because the proposal, as submitted, will 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 reasons being:

(Include any other reason for negative recommendation)

-OR-

Possible Table Motion:

MOVE, the Planning Commission table **CU-15-383**, because of

(Include any reasons for tabling)

**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,



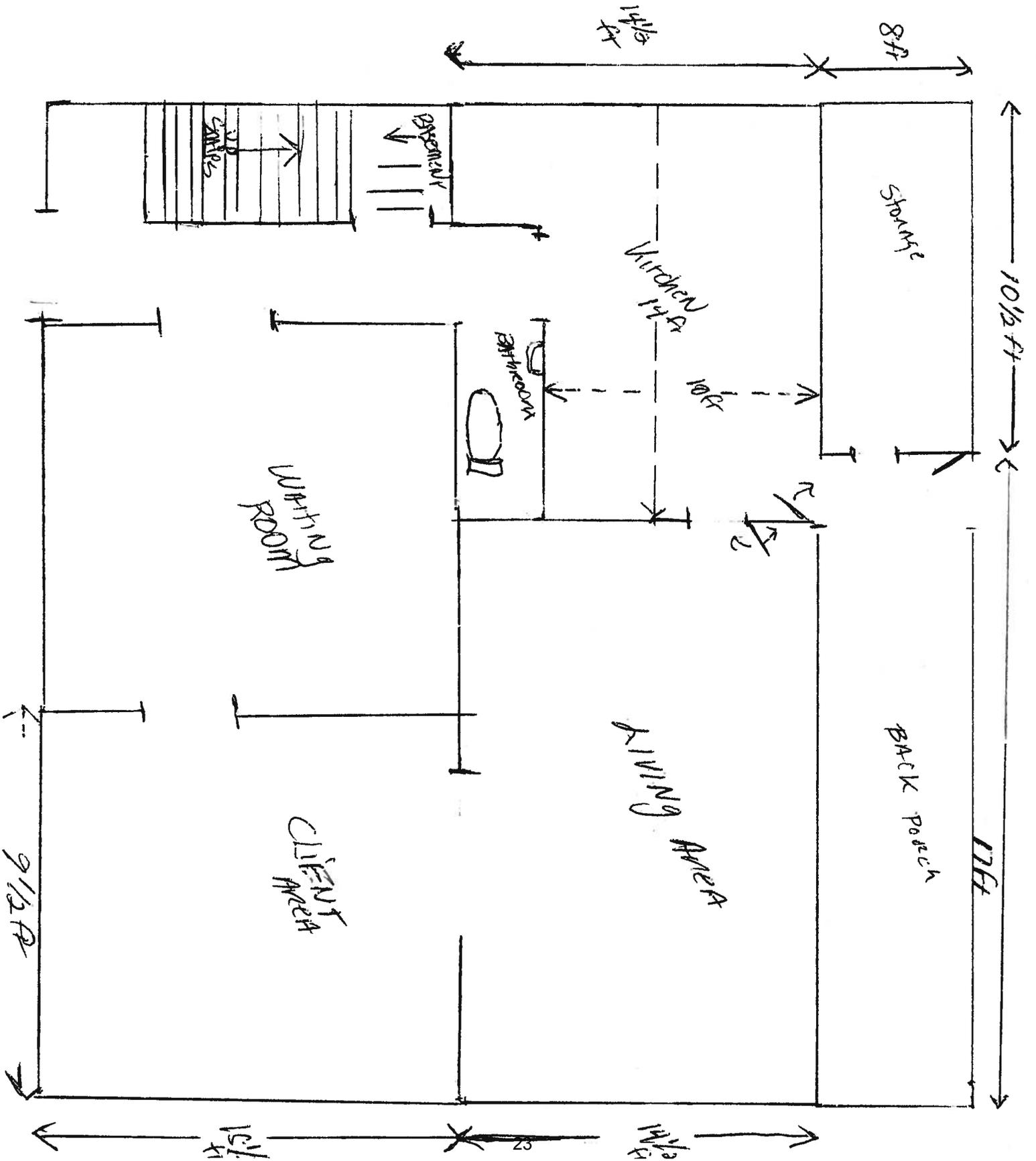
7 JULY 2015

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

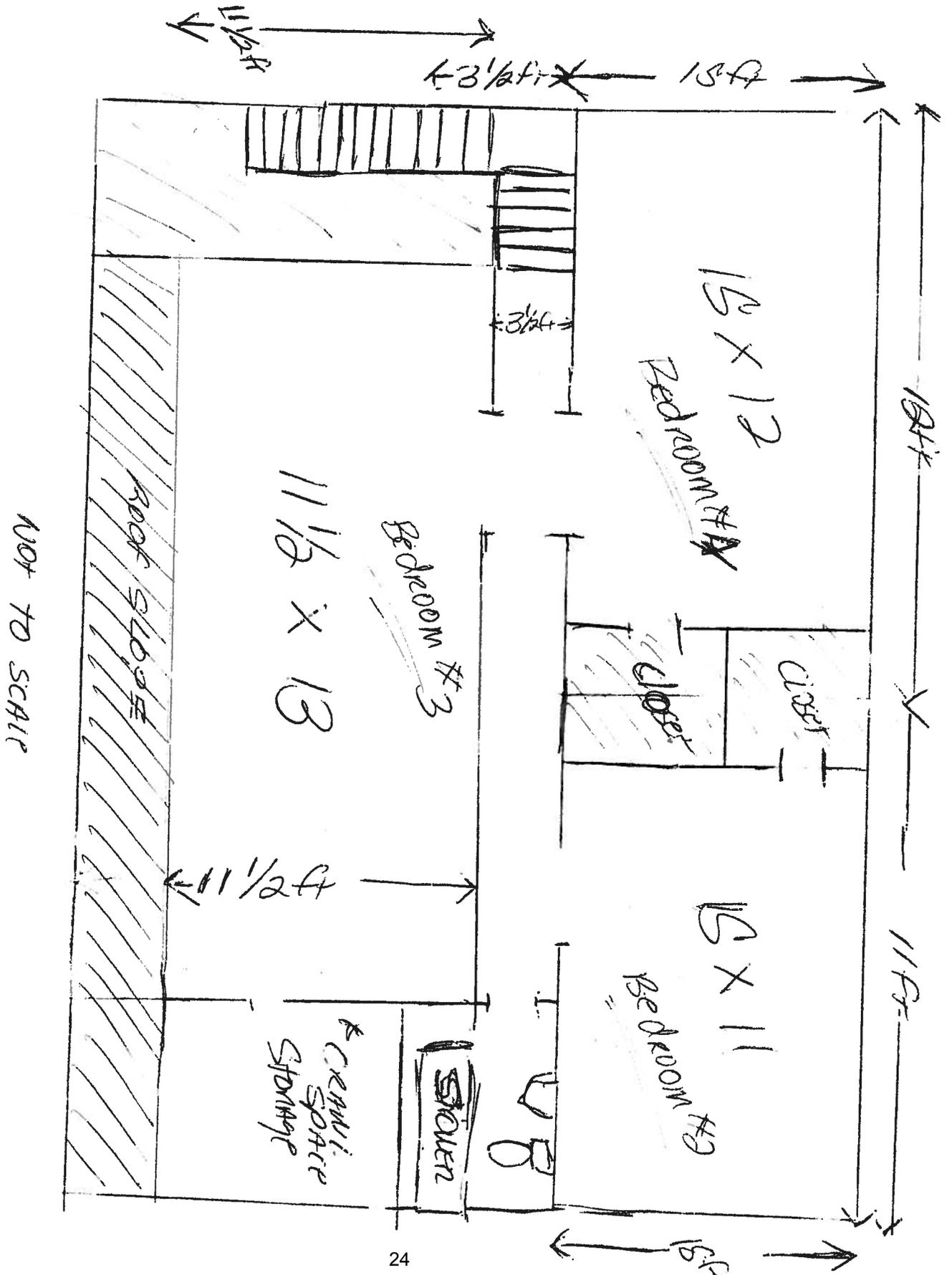
2413 Valley Ave. , Winchester, VA 22601



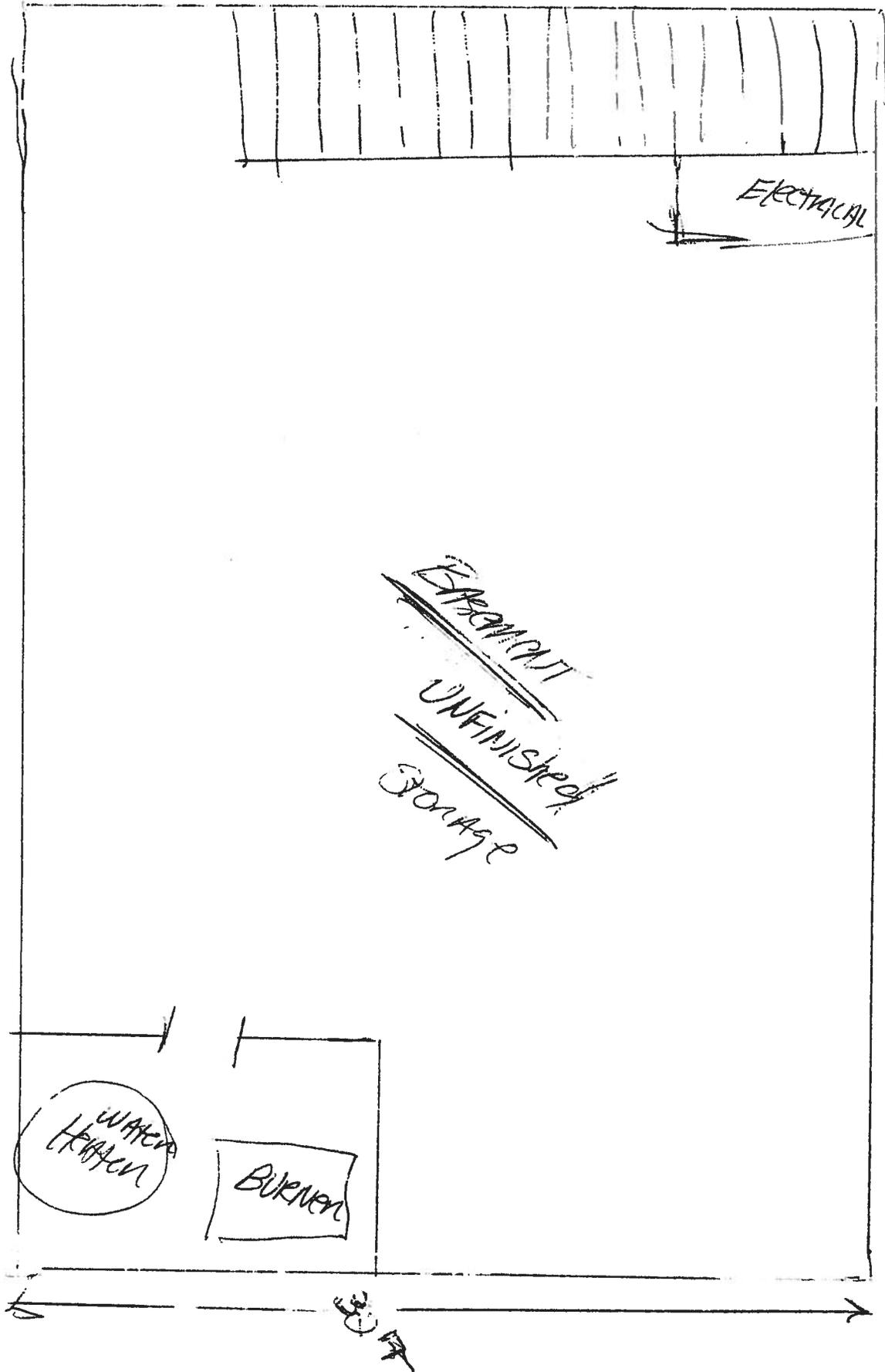
2413 VALLEY MAIN FLOOR



2413 Valley Ave
Second Floor



2413 Valley Ave
Basement



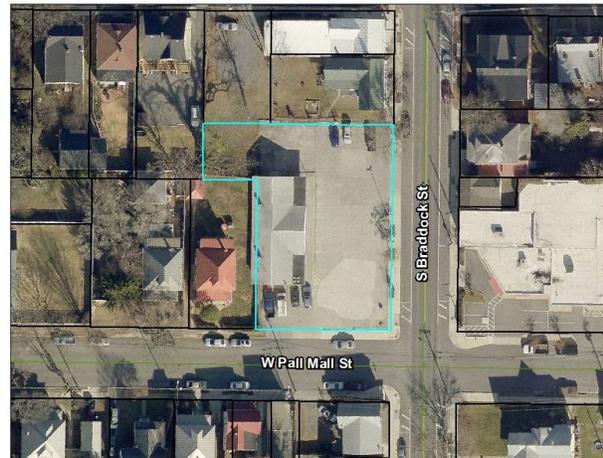
SD-15-384 Request of Pennoni Associates Inc. on behalf of Oakcrest Builders Inc. for a preliminary subdivision approval for a 10-lot subdivision at 715 South Braddock Street (Map Number 212-1-C-8) zoned Central Business (B-1) District.

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. The Commission can choose to include in the motion on the preliminary subdivision to also forward the request for Final Subdivision approval to City Council or it can choose to conduct final subdivision review at a subsequent meeting. Separate reviews historically have been associated with larger (e.g. more than 20) single-family lot subdivisions entailing new public streets. 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 unit include basements. The ground floors for the 6 units facing only along S. Braddock St are 648sq.ft. (18' X 36'). The ground floors for the three units that front along W. Pall Mall St 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.

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.

A favorable motion for Preliminary Subdivision approval and to forward a favorable recommendation to City Council for Final Subdivision approval could read:

MOVE, that the Commission approve Preliminary Subdivision **SD-15-384** and forward 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.

Any motion to table or to recommend denial of the subdivision should cite the specific deficiencies such as non-compliance with the minimum green area requirements or lack of a Deed of Dedication and/or Restrictive Covenants for City Attorney review.

TM #212-1-C-10B
WWP Investments, L.L.C.
Inst. #070003745
Zoned RB-1

TM #212-1-C-10
Heather Cluger
Will Inst.
#080000067
Zoned RB-1

TM #212-1-C-6
Schwartz Family Investments, LLC
& Barbara Bachrach Taylor
Inst. #080002864 ~ Parcel 15 &
WB 27, Pg 137
Zoned B-1

ROOF DRAINS ALONG SOUTH
BRADDOCK STREET SHALL DAYLIGHT
TO EXISTING CURB (NOT SHOWN).

CONNECT TO EX.
WATER MAIN.
3/4" WATER SERVICE.
3/4" TWIN METER

CONNECT TO EX.
WATER MAIN.
3/4" WATER SERVICE.
3/4" TWIN METER

PROPOSED SAN. MANHOLE
RIM=745.29
INV. IN=740.05
INV. OUT=739.85

EXISTING SIGN
TO BE REPLACED

PROPOSED SAN. MANHOLE
RIM=745.59
INV. IN=739.74
INV. OUT=739.54

EXISTING SIGN
TO BE REPLACED

STORM GRATE
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15" CMP OUT=742.91'

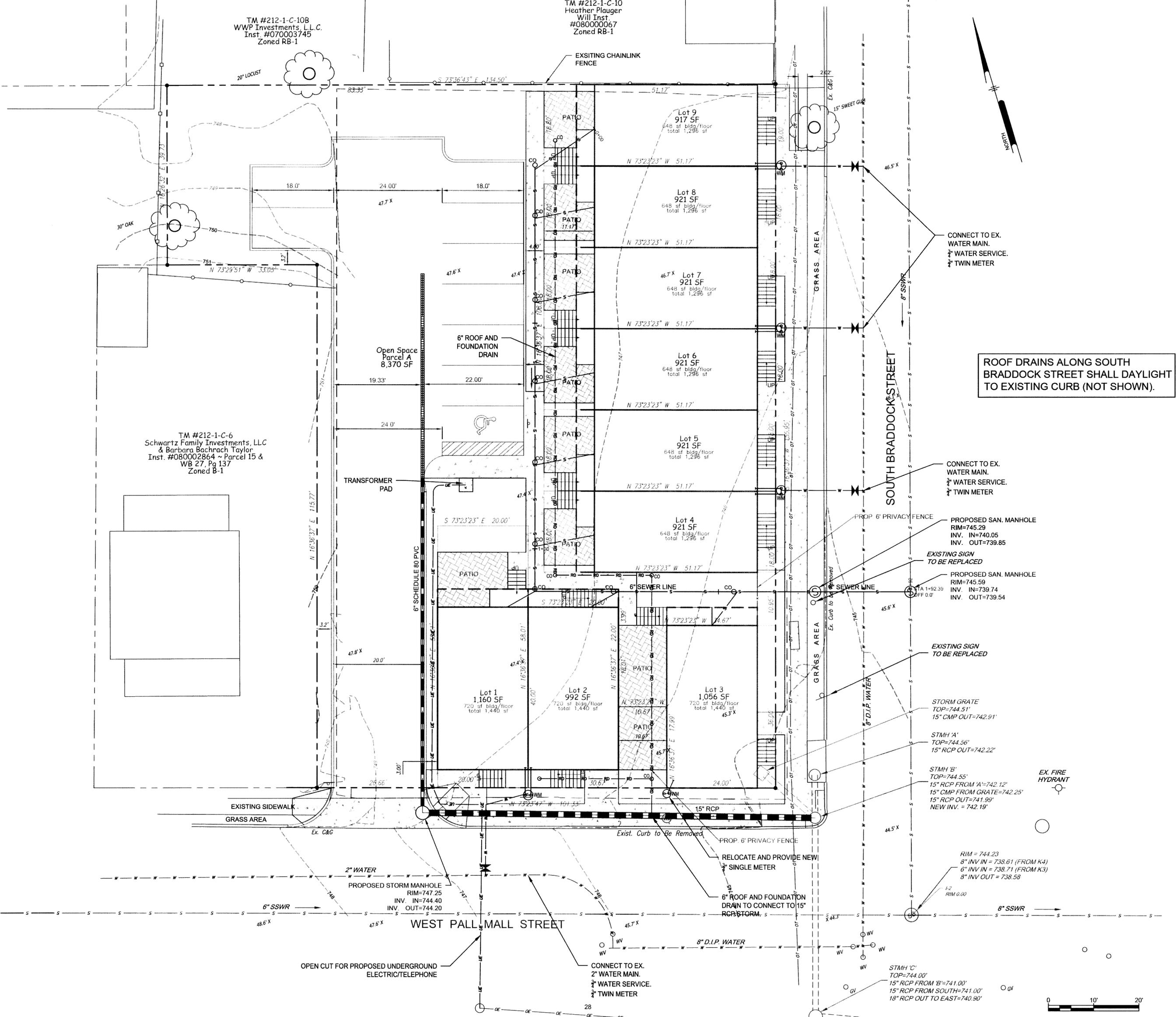
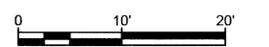
STMH 'A'
TOP=744.56'
15" RCP OUT=742.22'

STMH 'B'
TOP=744.55'
15" RCP FROM 'A'=742.12'
15" CMP FROM GRATE=742.25'
15" RCP OUT=741.99'
NEW INV. = 742.19'

RIM = 744.23
8" INV IN = 738.61 (FROM K4)
6" INV IN = 738.71 (FROM K3)
8" INV OUT = 738.58

STMH 'C'
TOP=744.00'
15" RCP FROM 'B'=741.00'
15" RCP FROM SOUTH=741.00'
18" RCP OUT TO EAST=740.90'

EX. FIRE
HYDRANT







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.

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 to City Council.

A possible motion could read:

MOVE the Planning Commission forward **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.

RESOLUTION INITIATING 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.

WHEREAS, during the 2015 Legislative Session, the Virginia General Assembly passed several updates to the Code of Virginia with impacts on local land use ordinances; and,

WHEREAS, the proposed Zoning Ordinance amendment will incorporate the adopted changes within the enabling legislation pertaining to Boards of Zoning Appeals and Family Day Homes; and,

WHEREAS, it is the interest of the City to ensure that the Zoning Ordinance is consistent with any updates to the Code of Virginia by the General Assembly;

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission hereby initiates the following text amendment:

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.~~

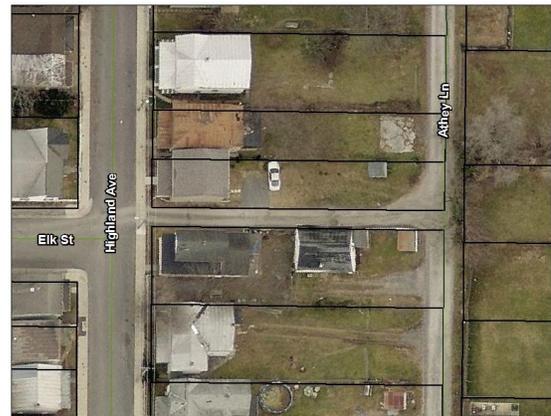
SV-15-406 AN ORDINANCE TO VACATE A PORTION OF AN ALLEY RIGHT OF WAY BETWEEN 328 AND 400 HIGHLAND AVENUE AND CONVEY IT TO THE OWNER(S) OF 400 HIGHLAND AVENUE.

REQUEST DESCRIPTION

The request from Habitat For Humanity is to vacate a short segment of 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 longer 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 Habitat For Humanity.

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.

RECOMMENDATION

Based upon the input from relevant City officials, staff recommends that the alley be vacated and conveyed as part of a joint ordinance. A favorable recommendation from the Commission could read: **MOVE**, that the Planning Commission forward **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,

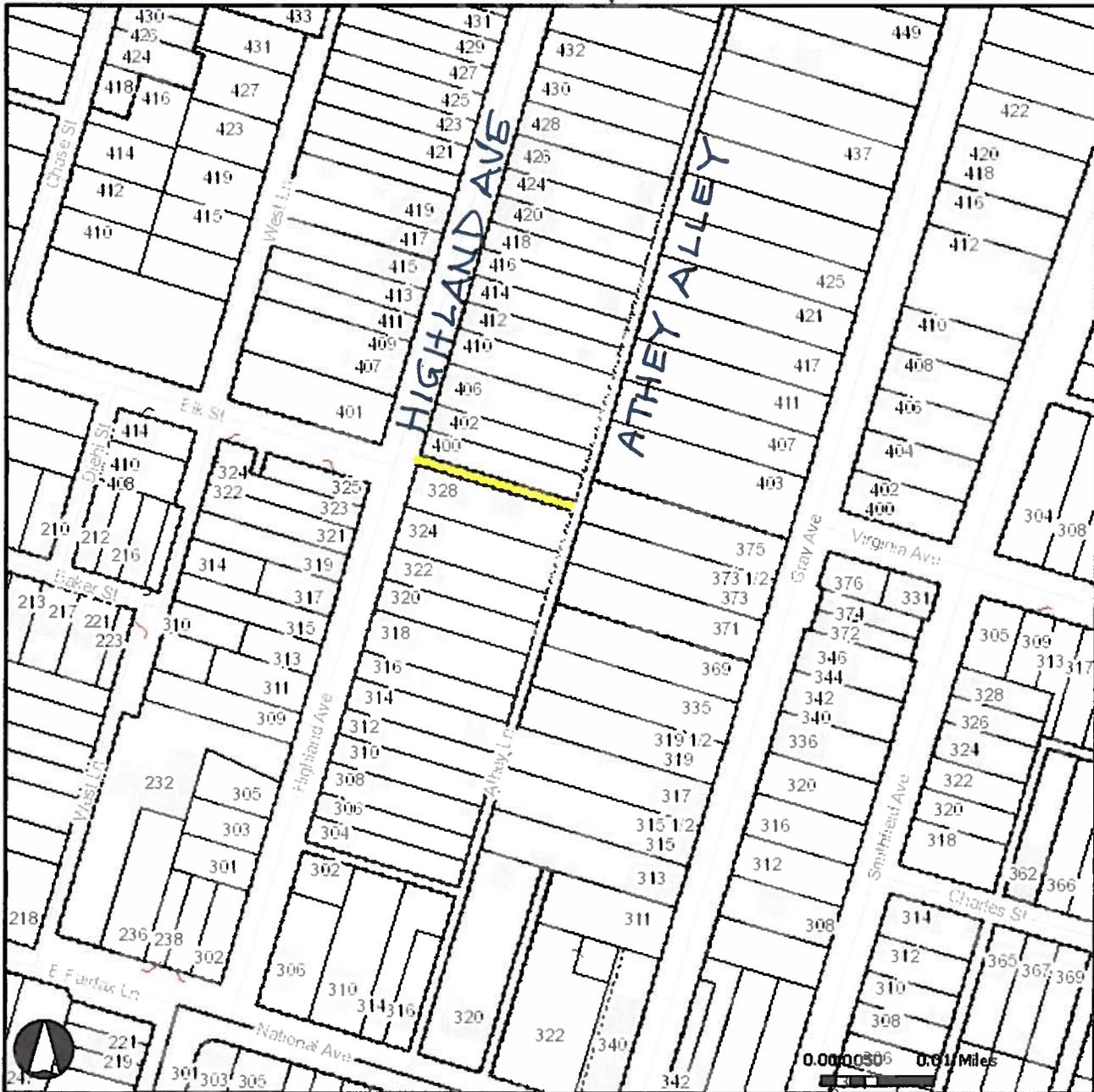
WHEREAS, the owner of the property at 328 Highland Avenue immediately adjacent to the south side of the public right of way proposed to be vacated and conveyed has no objection to the vacation and conveyance to the owner at 400 Highland Avenue; and,

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.

LOCATION
Map - UNNAMED EAST-WEST ALLEY BETWEEN
 HIGHLAND AVE & ATHEY ALLEY



Parcels



Double Circle



Buildings

Corporate Limits





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.

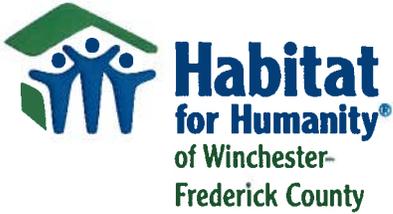
Christopher Maben the owner of the property at 328 Highland Ave., just south of the alley in question, approve of the complete vacation of the alley to HFHWFC.

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

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.



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.

RESOLUTION TO INITIATE RZ-15-421
NATIONAL AVENUE CORRIDOR ENHANCEMENT DISTRICT

August 18, 2015

WHEREAS, it is in the interest of the City to protect and promote the aesthetic character and functionality of major tourist access corridors leading into the local and national Historic Winchester District; and,

WHEREAS, it is in the interest of the City to promote the general welfare of the community by attracting visitors and generating business through heritage tourism-based economic development; and,

WHEREAS, it is the interest of the City to enhance the overall appearance of the City's corridors, while improving access along the corridors through increased walkability and interconnectivity; and,

WHEREAS, the City has recently undertaken a major capital improvement project to realign National Avenue, North East Lane, and East Piccadilly Street, including the installation of a roundabout as part of the National Avenue Gateway Project; and,

WHEREAS, the Common Council unanimously adopted provisions for the Corridor Enhancement Overlay District on April 12, 2005; and,

WHEREAS, the Common Council adopted in the City's FY2016 Strategic Plan, a goal to promote and accelerate revitalization of catalyst and other areas throughout the City of Winchester; and,

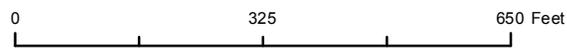
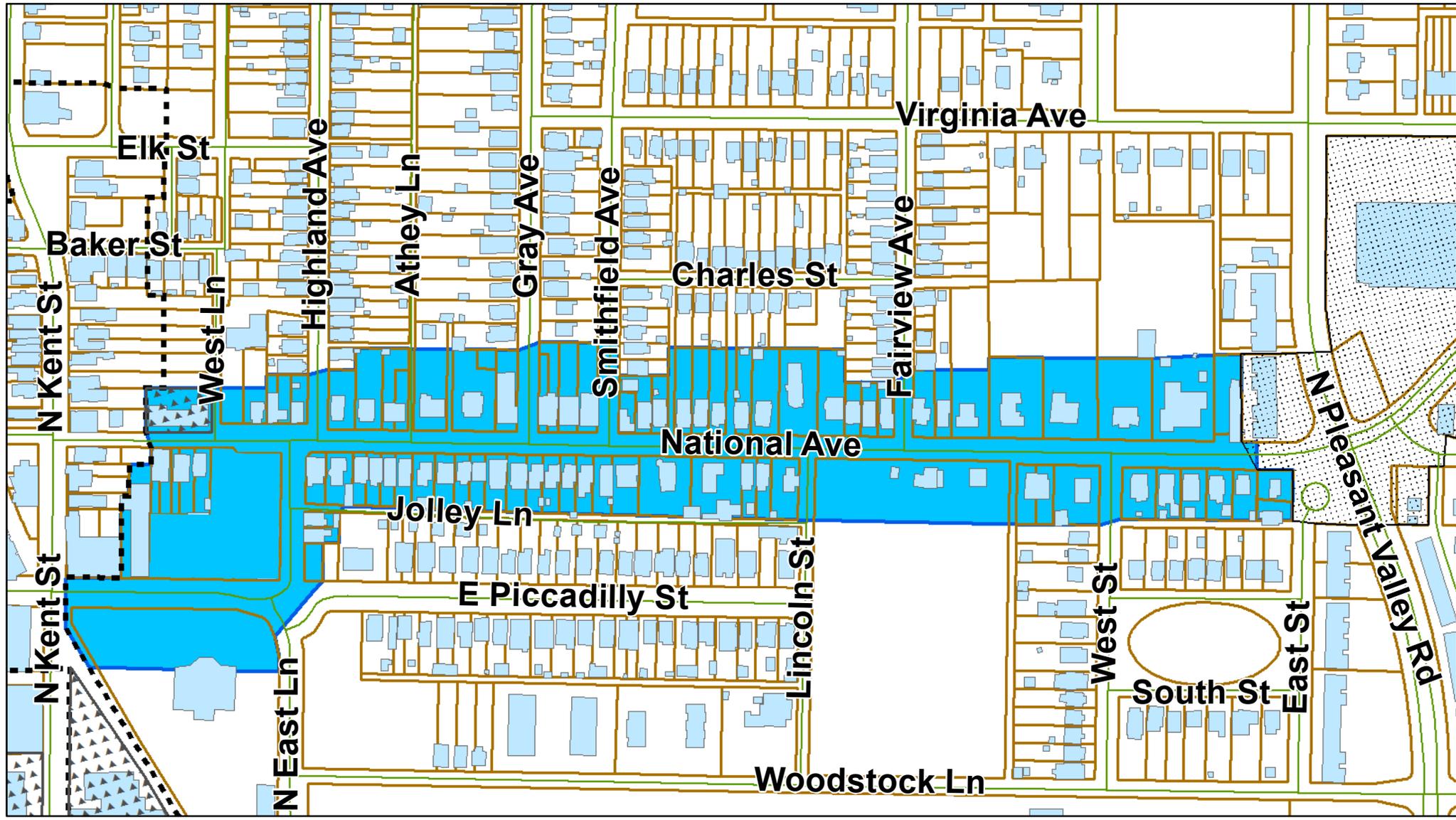
WHEREAS, the Planning Commission has studied the existing physical development, land use, zoning, topography, and view sheds of the National Avenue Corridor from North Kent Street to East Street; and,

WHEREAS, the Planning Commission has identified properties along the National Avenue Corridor from North Kent Street to East Street that are suitable for inclusion in the Corridor Enhancement District; and,

WHEREAS, the City held a Public Information Meeting on August 13, 2015, pertaining to the proposed National Avenue CE District.

NOW, THEREFORE, BE IT RESOLVED that the Commission hereby initiates the following rezoning:

AN ORDINANCE TO REZONE APPROXIMATELY 16.4 ACRES OF LAND CONTAINING APPROXIMATELY 96 PARCELS, EITHER IN FULL OR IN PART, TO BE INCLUDED IN THE CORRIDOR ENHANCEMENT (CE) DISTRICT; AS DEPICTED ON AN EXHIBIT ENTITLED: "NATIONAL AVE PROPOSED CE DISTRICT" PREPARED BY WINCHESTER PLANNING DEPARTMENT ON 6/23/2015.



**National Ave
Proposed CE District**

-  Conditional
-  CE- Berryville
-  Historical District
-  CE- National



Prepared on:
6/23/2015

National Ave Proposed CE District

Prepared by Winchester Planning Department on 6/23/2015

Number	Range	Street	Tax Map ID	Current Zoning	Proposed Zoning
209		N EAST LANE	174-07- - C- >	B1	B1(CE)
211	-213	N EAST LANE	174-07- - D- >	B1	B1(CE)
212		N EAST LANE	174-01-K- 49- >	HR1	HR1(CE)
214		N EAST LANE	174-01-K- 48- >	HR1	HR1(CE)
215		N EAST LANE	174-01-J- 10- >	HR1	HR1(CE)
219		N EAST LANE	174-01-J- 9- >	HR1	HR1(CE)
221		N EAST LANE	174-01-J- 8- >	HR1	HR1(CE)
223		N EAST LANE	174-01-J- 7- >	HR1	HR1(CE)
255		EAST STREET	194-01-B- H- >	HR1	HR1(CE)
208		E FAIRFAX LANE	174-01-G- 17- >	HR1	HR1(CE)
232		E FAIRFAX LANE	174-01-I- 19- >A	HR1	HR1(CE)
236		E FAIRFAX LANE	174-01-I- 18- >	HR1	HR1(CE)
237		E FAIRFAX LANE	174-01-J- 1- >	HR1	HR1(CE)
238		E FAIRFAX LANE	174-01-I- 17- >	HR1	HR1(CE)
239		E FAIRFAX LANE	174-01-J- 2- >	HR1	HR1(CE)
241		E FAIRFAX LANE	174-01-J- 3- >	HR1	HR1(CE)
243		E FAIRFAX LANE	174-01-J- 4- >	HR1	HR1(CE)
245		E FAIRFAX LANE	174-01-J- 5- >	HR1	HR1(CE)
247		E FAIRFAX LANE	174-01-J- 6- >	HR1	HR1(CE)
300		NATIONAL AVE	174-01-I- 16- >	HR1	HR1(CE)
301	-303	NATIONAL AVE	174-01-K- 47- >	HR1	HR1(CE)
302		NATIONAL AVE	174-01-I- 15- >	HR1	HR1(CE)
305		NATIONAL AVE	174-01-K- 46- >	HR1	HR1(CE)
306		NATIONAL AVE	174-01-L- 66- >	HR1	HR1(CE)
307		NATIONAL AVE	174-01-K- 45- >	HR1	HR1(CE)
310		NATIONAL AVE	174-01-L- 65- >	HR1	HR1(CE)
311		NATIONAL AVE	174-01-K- 44- >	HR1	HR1(CE)
314		NATIONAL AVE	174-01-L- 64- >	HR1	HR1(CE)
315		NATIONAL AVE	174-01-K- 43- >	HR1	HR1(CE)
316		NATIONAL AVE	174-01-L- 63- >	HR1	HR1(CE)
317		NATIONAL AVE	174-01-K- 42- >	HR1	HR1(CE)
319		NATIONAL AVE	174-01-K- 41- >	HR1	HR1(CE)
320		NATIONAL AVE	174-01-L- 62- >	HR1	HR1(CE)
321	-323	NATIONAL AVE	174-01-K- 40- >	HR1	HR1(CE)
322		NATIONAL AVE	174-01-L- 61- >	HR1	HR1(CE)
324	-326	NATIONAL AVE	174-01-L- 60C- >	HR1	HR1(CE)
325		NATIONAL AVE	174-01-K- 39- >	HR1	HR1(CE)
327		NATIONAL AVE	174-01-K- 38- >	HR1	HR1(CE)
329	-331	NATIONAL AVE	174-01-K- 37- >	HR1	HR1(CE)
333	-335	NATIONAL AVE	174-01-K- 36- >	HR1	HR1(CE)
339		NATIONAL AVE	174-01-K- 35- >	HR1	HR1(CE)
340		NATIONAL AVE	174-01-L- 60A- 60B>	HR1	HR1(CE)
342		NATIONAL AVE	174-01-P- 12A- >	HR1	HR1(CE)

National Ave Proposed CE District
Prepared by Winchester Planning Department on 6/23/2015

Number	Range	Street	Tax Map ID	Current Zoning	Proposed Zoning
344		NATIONAL AVE	174-01-P- 12B- >	HR1	HR1(CE)
346	-348	NATIONAL AVE	174-01-P- 13- >	HR1	HR1(CE)
347		NATIONAL AVE	174-01-K- 34- >	HR1	HR1(CE)
349		NATIONAL AVE	174-01-K- 33- >	HR1	HR1(CE)
350	-352	NATIONAL AVE	174-01-P- 14- >	HR1	HR1(CE)
351		NATIONAL AVE	174-01-K- 32- >	HR1	HR1(CE)
355		NATIONAL AVE	174-01-K- 31- >	HR1	HR1(CE)
356		NATIONAL AVE	174-01-R- 1- >	HR1	HR1(CE)
357	-359	NATIONAL AVE	174-01-K- 30- >	HR1	HR1(CE)
358		NATIONAL AVE	174-01-R- 2- >	HR1	HR1(CE)
360		NATIONAL AVE	174-01-R- 3- >	HR1	HR1(CE)
364		NATIONAL AVE	174-01-R- 4- >	HR1	HR1(CE)
365		NATIONAL AVE	174-01-K- 29- >	HR1	HR1(CE)
366		NATIONAL AVE	174-01-R- 5- >	HR1	HR1(CE)
368		NATIONAL AVE	174-01-R- 6- >	HR1	HR1(CE)
370		NATIONAL AVE	174-01-R- 7- >	HR1	HR1(CE)
371		NATIONAL AVE	174-01-K- 28- >	HR1	HR1(CE)
374		NATIONAL AVE	174-01-R- 8- >	HR1	HR1(CE)
375		NATIONAL AVE	174-01-K- 27- >	HR1	HR1(CE)
377		NATIONAL AVE	174-01-K- 26- >	HR1	HR1(CE)
378		NATIONAL AVE	174-01-R- 9- >	HR1	HR1(CE)
381		NATIONAL AVE	174-01-K- 25- >	HR1	HR1(CE)
382		NATIONAL AVE	174-01-R- 10- >	HR1	HR1(CE)
384		NATIONAL AVE	174-01-R- 11- >	HR1	HR1(CE)
386		NATIONAL AVE	174-01-R- 12- >	HR1	HR1(CE)
388		NATIONAL AVE	174-01-R- 13- >	HR1	HR1(CE)
401		NATIONAL AVE	194-01-A- 1- >	EIP	EIP(CE)
402		NATIONAL AVE	174-01-S- 8- >	HR1	HR1(CE)
406		NATIONAL AVE	174-01-S- 7- >	HR1	HR1(CE)
410		NATIONAL AVE	174-01-S- 6- >	HR1	HR1(CE)
416		NATIONAL AVE	174-01-S- 5- >	B2	B2(CE)
421		NATIONAL AVE	194-01-A- 2- >	HR1	HR1(CE)
422		NATIONAL AVE	174-01-S- 4- >	B2	B2(CE)
423		NATIONAL AVE	194-01-A- 3- >	HR1	HR1(CE)
425		NATIONAL AVE	194-01-A- 4- >	HR1	HR1(CE)
428	-432	NATIONAL AVE	174-01-S- 3- >	B2	B2(CE)
440	-442	NATIONAL AVE	174-01-S- 1- 2>	B2	B2(CE)
446		NATIONAL AVE	175-05- - 1- >	B2	B2(CE)
501		NATIONAL AVE	194-01-B- C- >	HR1	HR1(CE)
503		NATIONAL AVE	194-01-B- D- >	HR1	HR1(CE)
505		NATIONAL AVE	194-01-B- E- >	HR1	HR1(CE)
507		NATIONAL AVE	194-01-B- F- >	HR1	HR1(CE)
509		NATIONAL AVE	194-01-B- G- >	HR1	HR1(CE)

National Ave Proposed CE District

Prepared by Winchester Planning Department on 6/23/2015

Number	Range	Street	Tax Map ID	Current Zoning	Proposed Zoning
511		NATIONAL AVE	194-01-B- H1- >	HR1	HR1(CE)
212	-214	E PICCADILLY STREET	174-01-J- 18- >	B1	B1(CE)
216		E PICCADILLY STREET	174-01-J- 17- >	B1	B1(CE)
222		E PICCADILLY STREET	174-01-J- 16- >	B1	B1(CE)
226		E PICCADILLY STREET	174-01-J- 15- >	B1	B1(CE)
228	-232	E PICCADILLY STREET	174-07- - B- >	B1	B1(CE)
231		E PICCADILLY STREET	173-01-Q- 1- >	B1	B1(CE)
236		E PICCADILLY STREET	174-07- - A- >	B1	B1(CE)
302		E PICCADILLY STREET	174-01-K- 1- >	HR1	HR1(CE)
304		SMITHFIELD AVE	174-01-R- 32- >	HR1	HR1(CE)

TA 15-441 AN ORDINANCE TO AMEND AND REENACT ARTICLES 1, 7, 8, 9, 10, 11, 12, 13 AND 18 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO THE DEFINITION OF BREWERY, DISTILLERY, MICRODISTILLERY, MICROBREWERY, NANOBREWERY, TASTING ROOM, AND WINERY, PARKING REQUIREMENTS, AND USE STANDARDS.

REQUEST DESCRIPTION

This is a staff drafted ordinance to amend and expand the allowable use provisions for brewery, distillery and related uses within the Zoning Ordinance and various commercial and industrial districts.

STAFF COMMENTS

Presently in the Zoning Ordinance *Breweries* are explicitly approved in only the CM-1, M-1, and M-2 districts. This is the result of an ordinance amendment that was adopted by City Council in 2007. It is possible with other provisions in the ordinance for limited brewing or distilling operations provided the operations meet provided processing/manufacturing provisions in the Zoning Ordinance. However, in the purpose of clarity, staff believes it would be appropriate to fully and clearly provide definitions, use allowances and use standards in the Zoning Ordinance for several commercial and industrial zoning districts. With the rising trends of artisan and craft breweries throughout the country, it is appropriate for the City to proactively plan and provide use provisions for zoning districts where they may be appropriate.

The proposed ordinance provides distinctions for various types of alcohol manufacturing and processing operations with the most intensive uses permitted in the industrial districts and the smaller scale uses allowed within commercial districts.

DESCRIPTION	LR	MR	HR	HR1	RO1	RB1	B1	B2	CM1	M1	M2	PC	EIP	HS	MC	HE1
Brewery	-	-	-	-	-	-	-	-	P	P	P	-	-	-	-	-
Distillery	-	-	-	-	-	-	-	-	P	P	P	-	-	-	-	-
Microdistillery	-	-	-	-	-	C	P	P	P	P	P	P	-	-	-	-
Microbrewery	-	-	-	-	-	-	P	P	P	P	P	C	-	-	-	-
Nanobrewery	-	-	-	-	-	C	P	P	P	P	P	P	-	-	-	-
Tasting Room	-	-	-	-	-	p*	p*	p*	p*	p*	p*	p*	-	-	-	-
Winery	-	-	-	-	-	C	P	P	P	P	P	C	-	-	-	-
P – Permitted By-Right / C – Conditional Use																
* Tasting Rooms permitted by-right as a subordinate use to a brewery, distillery, microdistillery, microbrewery, nanobrewery, or winery.																

The thresholds for the different classifications of breweries and distilleries are based off of the licensing and production thresholds of Virginia Alcohol Beverage Control.

<u>Facility Type</u>	<u>Production Capacity</u>
Brewery	Typically over 10,000 barrels per year
Microbrewery	More than 500 but less than 10,000 barrels per year
Nanobrewery	No more than 500 barrels per year
Distillery	Typically over 5,000 gallons per year
Microdistillery	No more than 5,000 gallons per year

The ordinance includes parking provisions for these types of operations by including a blended requirement acknowledging the typical low intensity parking required with manufacturing and processing uses: 1 space per 2000 square feet. Higher parking requirements are included, with a standard that is comparable to restaurants, for facilities that include tasting rooms: 1 space per 100 square feet of public floor area.

In addition to providing clearer definitions and use allowances, the ordinance amendment provides for basic use provisions for these types of operations. These use provisions include:

- All manufacturing, brewing, and/or bottling associated with breweries and distilleries must occur within a fully enclosed building.
- No outdoor storage of materials shall be permitted.
- All loading and unloading docks should be oriented away from public streets whenever feasible.
- Any brewery or distillery providing entertainment must meet the requirements of entertainment establishments.

RECOMMENDATION

Staff recommends initiation of this zoning ordinance amendment.

A possible motion could read:

MOVE the Planning Commission initiate TA-15-441 per the attached resolution.

RESOLUTION INITIATING AN ORDINANCE TO AMEND AND REENACT ARTICLES 1, 7, 8, 9, 10, 11, 12, 13 AND 18 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO THE DEFINITION OF BREWERY, DISTILLERY, MICRODISTILLERY, MICROBREWERY, NANOBREWERY, TASTING ROOM, AND WINERY, PARKING REQUIREMENTS, AND USE STANDARDS.

TA 15-441

WHEREAS, the Zoning Ordinance serves the general purpose of promoting the health, safety, or general welfare of the public; and,

WHEREAS, the Zoning Ordinance exists, in part, to encourage economic development activities that provide desirable employment and enlarge the tax base; and,

WHEREAS, the proposed amendment will provide for additional economic development opportunities in commercial and industrial districts in the City of Winchester while promoting health, safety, and general welfare of the public;

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission hereby initiates the following text amendment:

AN ORDINANCE TO AMEND AND REENACT ARTICLES 1, 7, 8, 9, 10, 11, 12, 13 AND 18 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO THE DEFINITION OF BREWERY, DISTILLERY, MICRODISTILLERY, MICROBREWERY, NANOBREWERY, TASTING ROOM, AND WINERY, PARKING REQUIREMENTS, AND USE STANDARDS.

15-441

Draft 1 – (08/03/15)

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**

SECTION 1-2. DEFINITIONS.

- 1-2-12.1 BREWERY: The land and buildings containing an industrial use which **typically** brews and produces **over 10,000 barrels per year of** ales, beers (as defined within §4.1-100, Code of Virginia, as amended), and/or similar beverages on site for sale and distribution. A brewery may not be established or operated in any residential dwelling unit. **Such facilities may include a tasting room or retail space to sell the products to patrons on site.**
- 1-2-28.3** **DISTILLERY – A facility that typically produces more than 5,000 gallons per year of distilled alcoholic beverages or spirits and may include the intake of grains, fruits, sugars or other products, their fermentation, distilling, aging, and bottling. Products may include liquors, liqueurs, brandies, etc. Such facilities may include a tasting room or retail space to sell the products to patrons on site.**
- 1-2-64.1** **MICRODISTILLERY – Any place or premises wherein alcoholic beverages or spirits are produced, not to exceed 5,000 gallons per year, generally referred to as a craft, boutique or artisan distillery. Such facilities may include an on-site tasting room or retail space to sell the products to patrons on site.**
- 1-2-64.2** **MICROBREWERY – A facility where beer is manufactured and packaged that produces more than 500 but less than 10,000 barrels of beer per year. Such facilities may include a tasting room or retail space to sell the products to patrons on site.**
- 1-2-67.2** **NANOBREWERY – A facility wherein up to 500 barrels of beer is manufactured and packaged per year. Such facilities may include a tasting room or retail**

space to sell the products to patrons for on-site or off-site consumption. No bottling or canning shall be performed on site.

1-2-91.1 TASTING ROOM – Any place or premise licensed by Virginia Alcohol Beverage Control and operated by an alcohol beverage manufacturer wherein alcoholic drinks are provided to customers to sample on-site. Such facilities may or may not include an option for customers to purchase containers of alcohol for off-site consumption.

1-2-94.3 WINERY – A facility where wine, as defined in Section 4.1-100 of the Code of Virginia, is manufactured and packaged. Such facilities may include a tasting room or retail space to sell the products to patrons for on-site or off-site consumption.

ARTICLE 7

RESIDENTIAL BUSINESS DISTRICT – RB-1

SECTION 7-2. USES REQUIRING A CONDITIONAL USE PERMIT.

7-2-25 Microdistilleries or nanobreweries no larger than 2,000 gross square feet.

ARTICLE 8

HIGHWAY COMMERCIAL DISTRICT - B-2

SECTION 8-1. USE REGULATIONS.

8-1-53 Microdistillery, microbrewery, nanobrewery, or winery.

ARTICLE 9

CENTRAL BUSINESS DISTRICT – B-1

SECTION 9-1. USE REGULATIONS.

9-1-46 Microdistillery, microbrewery, nanobrewery, or winery.

ARTICLE 10

COMMERCIAL INDUSTRIAL DISTRICT – CM-1

SECTION 10-1. USE REGULATIONS

10-1-13 Industrial uses. (1/14/03, Case TA-02-10, Ord. No. 003-2003; 6/12/07, Case TA-07-01, Ord. No. 2007-19)

- a. Distributing plants, parcel delivery, ice and cold storage plant, and food commissary, and bakery or catering establishment, ~~and brewery.~~
- b. Carpenter or cabinet shop.
- c. Contractors' equipment storage yards or plants, or rental equipment commonly used by contractors.
- d. Laundry, cleaning, and dyeing works, and carpet and rug cleaning.
- e. Machinery sales and service.
- f. Machine shop, metal fabrication shop, or welding shop, excluding punch press and drop hammers exceeding forty (40) ton rated capacity.
- g. Monumental stone works.
- h. Plant nurseries or greenhouses.
- i. Public utility service yard.
- j. Retail lumberyard, including only incidental mill work.
- k. Upholstery shop.
- l. Brewery, distillery, microdistillery, microbrewery, nanobrewery, and winery.**

**ARTICLE 11
LIMITED INDUSTRIAL DISTRICT – M-1**

SECTION 11-1. USE REGULATIONS

- 11-1-8 Distribution plants, parcel delivery, ice and cold storage plant, and food commissary or catering establishment, ~~and brewery.~~ (6/12/07, Case TA-07-01, Ord. No. 2007-19)
- 11-1-32 Brewery, distillery, microdistillery, microbrewery, nanobrewery, and winery.**

**ARTICLE 12
INTENSIVE INDUSTRIAL DISTRICT – M-2**

SECTION 12-1. USE REGULATIONS

- 12-1-13 Distribution plants, parcel delivery, ice and cold storage plant, and food commissary or catering establishment, ~~and brewery.~~ (6/12/07, Case TA-07-01, Ord. No. 2007-19)
- 12-1-42 Brewery, distillery, microdistillery, microbrewery, nanobrewery, and winery. Such facilities may not incorporate a restaurant as principal part of their operations.**

**ARTICLE 13
PLANNED DEVELOPMENT**

SECTION 13-2. PLANNED COMMERCIAL DISTRICT – PC

- 13-2-3 USE REGULATIONS. Structures, not exceeding eight thousand (8,000) gross square feet of floor area, nor containing drive-thru facilities other than one ATM

for banks and financial institutions, or land to be used shall be for one or more of the following uses:

13-2-3.17 Microdistillery and nanobrewery.

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

13-2-4.12 Microbrewery and winery.

**ARTICLE 18
GENERAL PROVISIONS**

18-6-5. AMOUNT OF OFF-STREET PARKING REQUIRED.

18-6-5.1 The off-street parking required by this Article shall be provided and maintained on the basis of the following requirements specified in the following tables, except as otherwise provided in this Article: (9/12/89, Case TA-89-01, Ord. No. 022-89; 4/10/90, Case TA-89-14, Ord. No. 012-90; 7/8/97, Case TA-97-05, Ord. No. 016-97; 10/13/09, Case TA-09-89, Ord. No. 2009-27; 6/8/10, Case TA-10-111, Ord. No. 2010-19; 7/10/12, Case TA-12-187, Ord. No. 2012-20)

Table 18-6-5.1

Non-Residential Uses: Industrial Uses		
Generally		1 for each 400 sq. ft. of office space; plus 1 for each 2 employees; plus 1 for each company vehicle stored on-site
Storage or warehouse		1 for each 2,500 sq. ft. of GFA
<u>Brewery, Distillery, Microdistillery, Microbrewery, Nanobrewery, Winery</u>		<u>1 for each 2000 sq. ft.; plus 1 for each 100 sq. ft. of public floor area if tasting room included</u>

SECTION 18-25. BREWERIES AND DISTILLERIES.

For the purposes of this section the terms breweries and distilleries include all types of such facilities including *Breweries, Distilleries, Microbreweries, Microdistilleries, Nanobreweries, and Wineries.*

- A. **All manufacturing, brewing, and/or bottling and canning associated with breweries and distilleries must occur within a fully enclosed building.**
- B. **No outdoor storage of materials shall be permitted.**

- C. All loading and unloading docks should be oriented away from public streets whenever feasible.
- D. Any brewery or distillery providing entertainment, must meet the requirements provided for entertainment establishments in Section 18-24.

18-19-4 Permitted home occupations shall not in any event include (1/14/14, Case TA-13-493, Ord. No. 2013-41):

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