

**PLANNING COMMISSION
AGENDA
June 18, 2013 - 3:00 PM
Council Chambers - Rouss City Hall**

1. POINTS OF ORDER

- A. Roll Call
- B. Approval of Minutes – May 21, 2013 regular meeting
- C. Correspondence
- D. Citizen Comments
- E. Report of Frederick Co Planning Commission Liaison

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

3. PUBLIC HEARINGS

- A. **CU-13-273** Request of Michael Bortz on behalf of T-Mobile Northeast, LLC for a conditional use permit to upgrade existing telecommunications facilities with replacement antennas at 333 West Cork Street (*Map Number 192-01-C-16*) zoned Health Services (HS) District. **(Mr. Moore)**

- B. **TA-13-198** AN ORDINANCE AMENDING ARTICLES 18 AND 23 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO CONDITIONAL USE PERMITS FOR TRANSMITTING AND RECEIVING FACILITIES AND TOWERS AND FEES FOR TELECOMMUNICATIONS FACILITIES AND RE-ADVERTISEMENT FEES. **(Mr. Grisdale)**

- C. **RZ-13-196** AN ORDINANCE TO REZONE 8.523 ACRES OF LAND AT 1900 VALLEY AVENUE, 211 AND 301 WEST JUBAL EARLY DRIVE (*Map Numbers 251-01-27-A, 251-01-31-A, AND 251-04-01-A*) FROM LIMITED INDUSTRIAL (M-1), HIGH DENSITY RESIDENTIAL (HR), AND HIGHWAY COMMERCIAL (B-2) DISTRICTS TO B-2 DISTRICT WITH PLANNED UNIT DEVELOPMENT (PUD) OVERLAY. *Public hearing continued from May 21, 2013 meeting.* **(Mr. Youmans)**

4. OLD BUSINESS

- A. Resolution to initiate: **TA-13-146** AN ORDINANCE TO AMEND AND RE-ENACT ARTICLES 1, 8, 9, 10, AND 13 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO RESTAURANTS AND ENTERTAINMENT ESTABLISHMENTS **(Mr. Grisdale)**

5. NEW BUSINESS

- A. Resolution to initiate: **RZ-13-289** AN ORDINANCE TO REZONE 44.44 ACRES OF LAND AT 2410 AND 2416 PAPERMILL RD (*Map Numbers 272-01-8 AND 291-02-A-B*) FROM INTENSIVE INDUSTRIAL (M-2) DISTRICT TO HIGHWAY COMMERCIAL (B-2) DISTRICT **(Mr. Youmans)**

B. Administrative Approval **(Mr. Youmans):**

- 1) **SP-13-xxx** 720 Wade Miller Dr Shenandoah University Health Sciences Bldg

6. ADJOURN

CU-13-273 Request of Michael Bortz on behalf of T-Mobile Northeast, LLC for a conditional use permit to upgrade existing telecommunications facilities with replacement antennas at 333 West Cork Street (Map Number 192-01-C-16) zoned Health Services (HS) District.

REQUEST DESCRIPTION

The request is to replace six existing, pole-mounted panel antennas on the penthouse at 333 W Cork St with six new panel antennas and to replace two existing rooftop equipment cabinets with one new cabinet.

AREA DESCRIPTION

The site is zoned Health Services, HS District. The site and some adjacent land including some medical office buildings were zoned HS when the hospital moved to the newer Medical Center, MC District in 1990. Surrounding properties, including many of the existing parking lots serving the HS District, are zoned MR and contain a mix of single-family, multifamily, office, and parking lot uses. Land to the northeast, diagonally across the Cork Street/Stewart Street intersection is zoned RO-1 and contains medical offices. No adjacent properties or properties across Stewart Street are in the HW Historic District.



COMMENTS FROM THE PLANNING DEPARTMENT

The applicant notes in his letter dated May 2, 2013 that these proposed revisions are part of T-Mobile's process of upgrading its network in preparation for launching of 4G LTE service. The changes would allow for provision of 4G LTE wireless data services and also improve existing 3G data and voice coverage in the area.

As shown on the submitted plans and in the proposed-condition photos, five of the six replacement antennas will be swapped for existing antennas in the same locations on existing mounts. One additional mount is proposed for a new antenna. The sixth existing antenna will be removed and the mount will remain for possible future use. The existing and proposed antennas are similar in height ($\pm 4.5'$) and mass.

The use of the existing tall structure is preferable to construction of a freestanding tower in this area. The penthouse has minimal view from many of the adjacent residences due to the steep angle of the existing structure and the fact that the penthouse is recessed back considerably from the main perimeter walls of the multi-story building. Extensive street trees in the area buffer the view of the building from the surrounding streets and sidewalks. The replacement of six existing antennas with a like amount of similar size should have minimal, if any, impact on surrounding properties or uses.

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-13-273** to City Council recommending approval because the use as proposed should not adversely affect the health, safety or welfare of residents and workers in the neighborhood nor be injurious to adjacent properties or improvements in the neighborhood. The recommendation is subject to:

- 1) Submission of an as-built emissions certification after the facility is in operation;
- 2) removal of the facilities should the use cease; and,
- 3) submission a bond guaranteeing removal of facilities should the use cease.



May 2, 2013

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



RE: Conditional Use Permit
333 W Cork St
Winchester, VA 22601

Site Name: HCH132A –Winchester #2

Applicant:

T-Mobile Northeast, LLC (Hereafter referred to as "T-Mobile.")
12050 Baltimore Avenue
Beltsville, MD 20705

Applicant's Agent:

Michael Bortz
7380 Coca Cola Drive, Suite 106
Hanover, 21076
(301) 233-1664
Mbortz@nbcllc.com

Description of Intent

T-Mobile is requesting approval per Section 18-2-1 of the Zoning Ordinance to allow telecommunications equipment and facilities not located in an enclosed structure within the HS, Health Services District. T-Mobile is in the process of upgrading its core network, including all cell sites, in preparation for its 4G long term evolution (LTE) service launch. These upgrades will allow T-Mobile to provide 4G LTE wireless data services as well as help to improve its current 3G data and voice coverage. T-Mobile is proposing swapping out (6) existing antennas and (2) cabinets for 6 new LTE antennas of equal size and (1) new equipment cabinet. A new CUP would be required.

Proposed Scope of Work

The six (6) existing panel antennas which are pole mounted to the penthouse wall shall be removed and replaced with six (6) new panel antennas of similar size. The new antennas are shown at a centerline elevation of 112 feet; the same height as the existing T-Mobile antennas. The existing two (2) equipment cabinets will be removed and replaced with (1) one new cabinet in the same location on the rooftop.

7380 Coca Cola Dr., Suite 106

Hanover, MD

21076

(410) 712-7092

FAX (410)712-4056

TA-13-198 AN ORDINANCE AMENDING ARTICLES 18 AND 23 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO CONDITIONAL USE PERMITS FOR TRANSMITTING AND RECEIVING FACILITIES AND TOWERS AND FEES FOR TELECOMMUNICATIONS FACILITIES AND RE-ADVERTISEMENT FEES

REQUEST DESCRIPTION

This publicly sponsored text amendment is to serve as an update to the existing language pertaining to the conditional use permit provisions of transmitting and receiving facilities and towers as well as required fees.

STAFF COMMENTS

Presently, the Zoning Ordinance outlines requirements for conditional use permit applications for transmitting and receiving facilities and towers (telecommunications facilities). However, during staff review of the current language, it was observed that the Limited High Density Residential (HR-1) district was excluded from the provisions of 18.2-1.2 outlining the requirements for maximum tower height. This ordinance will correct that and place the HR-1 district within the same height threshold as the other residential districts with a maximum height of 75 feet.

Additionally, staff has proposed the establishment of a separate conditional use permit fee for telecommunications facilities. The original proposal during the Planning Commission's initiation of this text amendment had two separate fees for a new structure and for a modification of existing facility, \$7000 and \$2500 per antennas, respectively.

One of City Council's goals for 2018 in the Strategic Plan is "creating a more livable City for all." The uniform development, especially pertaining to telecommunication facilities is part of that goal. These minor adjustments will ensure the continued uniform development for new towers and tower modifications as well as establishing a fee structure that will cover the costs for administering the Zoning Ordinance requirements and conditional use permit process.

Since the initiation of the text amendment at the Commission's meeting in April, staff is considering revisions following closer review of the enabling legislation in §15.2-2286, providing for the collection of fees. Staff is researching and preparing new language that will provide an amended fee structure to more closely reflect the cost of administering the conditional use permit process.

Update for June 18, 2013 meeting:

Following research of the enabling legislation in the Code of Virginia, how other localities and municipalities conduct their reviews, and discussions with staff, we have come up with a revised proposal. This amendment proposes an increase from \$500 to \$1200 per application for a telecommunications facility. This revised fee will apply to new facilities, modification of existing facilities and collocations of antennas/equipment.

Many other municipalities and localities charge much higher amounts for their conditional use/special use permits; however, the reason for the higher cost is that majority of these governments use a third-party entity to handle the entire technical review/public hearing process for these types of permits. This proposal is a reflection on the current departmental costs for review, inspections, and administration of such permits.

RECOMMENDATION

Staff recommends the Planning Commission recommend adoption of this proposed zoning ordinance text amendment. A potential motion could read:

MOVE the Commission forward **TA-13-198** recommending approval because the amendment, as proposed, represents good planning practice by providing for clear regulations and reasonable fees for such telecommunications facilities.

- OR -

MOVE the Commission forward **TA-13-198** recommending denial because the amendment, as proposed:
(List reasons for denial recommendation)

AN ORDINANCE AMENDING ARTICLES 18 AND 23 OF THE WINCHESTER ZONING ORDINANCE
PERTAINING TO CONDITIONAL USE PERMITS FOR TRANSMITTING AND RECEIVING FACILITIES AND
TOWERS AND FEES FOR TELECOMMUNICATIONS FACILITIES AND RE-ADVERTISEMENT FEES

TA-13-198

Draft 2 – June 3, 2013

Ed. Note: The following text represents excerpts of Articles 18 and 23 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 18

GENERAL PROVISIONS

SECTION 18-2. CONDITIONAL USE PERMIT.
(10/11/83, Case 83-06, Ord. No. 034-83)

18-2-1 CONDITIONAL USE PERMIT.

- 18-2-1.2 Proposals for transmitting and receiving facilities and towers for cellular communications systems and similar communications systems shall demonstrate the following: (2/14/96, Case TA-95-07, Ord. No. 002-96)
- All possible means for sharing space on existing towers or on existing buildings or other structures have been exhausted and no alternative other than constructing a new tower exists, and if a new tower is proposed, the applicant has executed a Letter of Intent to share space on their tower and negotiate in good faith with other interested parties.;
 - The height of any tower is no more than the minimum to accomplish required coverage and any new tower is separated from property lines in a residential district by not less than the height of the tower. In no case shall any tower exceed 75 feet in height in a LR, MR, HR, **HR-1**, RO-1, RB-1 or HS Districts, nor 100 feet in the B-1, B-2, CM-1, PC, MC or HE-1 Districts, nor 200 feet in the M-1 or M-2 Districts;
 - The tower construction is of a design which minimizes the visual impact and the tower and other facilities have been camouflaged and/or screened from adjacent properties and rights of way to the maximum extent practicable. To this end, the proposal must provide for retention of existing stands of trees and the installation of screening where existing trees do not mitigate the visual impact of the facility. Such screening must, at a minimum, meet the requirements of Section 19-5-6.4d of this Ordinance. The Planning Commission may recommend and the City Council may require additional trees and screening when the minimum provisions do not mitigate adverse visual impacts of the facility;

RZ-13-196 AN ORDINANCE TO REZONE 8.523 ACRES OF LAND AT 1900 VALLEY AVENUE, 211 AND 301 WEST JUBAL EARLY DRIVE FROM LIMITED INDUSTRIAL (M-1), HIGH DENSITY RESIDENTIAL (HR), AND HIGHWAY COMMERCIAL (B-2) DISTRICTS TO B-2 DISTRICT WITH PLANNED URBAN DEVELOPMENT (PUD) OVERLAY.

REQUEST DESCRIPTION

The updated request is to change the underlying zoning on two of the 3 tracts of mostly vacant land along the south side of Valley Avenue from M-1 and HR to B-2 subject to proffers. An existing light industrial and warehouse structure at 1900 Valley Avenue would be demolished to make way for an apartment complex known as Jubal Square. The request includes requesting PUD overlay zoning on all 3 tracts. PUD allows for consideration of up to 18 residential units per acre; the proposal is for 140 apartment units on 8.523 acres. A community building with outdoor pool is also proposed.

The submitted Development Plan dated March 23, 2013 with updates of April 19, 2013 depicts 140 apartment units in six buildings. Four of the buildings are three stories and contain 22 apartments each. The other two buildings are “3/4 split story” and house 26 apartments each. The 4th floor is in the form of a small loft in the 3rd floor units rather than a full 4th floor. A separate community building housing management and maintenance offices as well as recreational amenities is proposed near the center of the development along with a 2,732 square foot outdoor pool and large patio area. All of the active outdoor recreational facilities and open space would remain private. An access easement would be granted to the City for public use of a segment of the Green Circle Trail that would extend along the 1,200 linear feet of W. Jubal Early Drive.

AREA DESCRIPTION

Despite the proposed name of ‘Jubal Square’, the site is actually closer to a triangle of land coming to a long narrow point on the east end a couple of hundred feet west of Plaza Drive intersection with W. Jubal Early Drive. Two of the three present-day parcels front along the south side of W. Jubal Early Drive a collective distance of approximately 1,200 linear feet. However, the westernmost 60 feet of this frontage is proposed to be severed from the parcel currently known as 301 W. Jubal Early Drive and assembled in with properties at the southeast corner of Jubal Early Drive and Valley Avenue including a vacant parcel known as 1834 Valley Ave and a parcel known as 1844 Valley Avenue containing an existing historic structure known as Montague Hall.



The adjoining properties at 1834 and 1844 Valley Ave are zoned B-2 with Corridor Enhancement (CE) District overlay. A second-hand thrift store is located in the Montague Hall structure. Further south on Valley Ave are three more properties zoned B-2 with CE overlay that are vacant or contain auto-related commercial uses including the Citgo gas station and convenience store at the corner of Valley Ave and

Service Rd (a public street created by VDOT when Jubal Early Dr right of way condemnation otherwise severed street frontage to lots in behind the Valley Ave frontage lots). South of Service Rd and adjoining the rezoning tract are three more B-2 (CE) commercial sites that are developed with a used car lot, an ice cream distribution facility, and a vacant restaurant structure.

All of the land bordering the rezoning tract to the south is zoned Intensive Industrial (M-2). Uses include a private roadway connecting to Valley Ave known as Heinz Drive which provides access to multiple sites including the O'Sullivan Calendaring facility. A large metal-sided warehouse structure is situated very close to the property line of the rezoning tract where it narrows down on the east end.

STAFF COMMENTS

In a letter to the Planning Director dated April 3, 2013, Mr. William N. Park, Manager for the applicant (Bluestone Land, LLC) explains the proposed rezoning and the proposed Jubal Square Apartment Complex project. **The application was amended on May 17, 2013 to include a Proffer Statement.** A Development Plan titled 'PLAN OF DEVELOPMENT, JUBAL SQUARE APARTMENTS' dated March 23, 2013 including updates of April 19, 2013 is included with the application.

Comprehensive Plan Consistency

The Comprehensive Plan Character Map identifies the majority of the subject area as 'Redevelopment Site' with a small amount of the eastern area as 'Commerce Center/Corridor'. Statements in Chapter 11 of the Plan applicable to the Central Planning Area and the South Central Planning Area call for interconnected commercial development which uses Valley Avenue for primary access and also makes use of right-in/right-out access along the north and south sides of Jubal Early Drive. The Housing Objective for the South Central Planning Area calls for mixed use development including mixed dwelling-type residential use in higher density settings. The Comprehensive Plan also calls for increased multifamily development citywide to attract young professionals and empty nesters. The proposed upscale apartments would serve these targeted populations.

The W. Jubal Early Drive corridor has undergone considerable development over the past 26 years since it was constructed in 1992 as a four-lane divided roadway connecting S. Pleasant Valley Rd to Valley Avenue (including the bridge over the CSX Railroad). However, all of the development to date has been nonresidential, including commercial strip development, offices, banks, furniture stores, and industrial use. This is the only residential use proposed to date along Jubal Early Drive, including the stretch west of Valley Avenue that transitions into Meadow Branch Avenue where single-family homes are located in the Meadow Branch North PUD.

Potential Impacts & Proffers

The proposal is now a conditional rezoning request wherein the applicant has submitted voluntarily proffers to mitigate potential impacts arising from the rezoning of the property from M-1 and HR to B-2(PUD). This is comparable to the recently denied Racey Meadows Rezoning request HR(PUD) request for 132 apartments which included a Proffer Statement. The Racey Meadows Proffer Statement was structured to address areas including: Street and Access Improvements; Interior Site Circulation; Site Development; Landscaping and Design; Recreation, Density; Phasing; Rules and Regulations; and, Storm water Management.

The May 17, 2013 version of the Proffer Statement for Jubal Square includes 7 proffers which are attached. Proffers # 1, and #4-7 are references to the submitted Development Plan. While descriptive, they do not address any impacts beyond which were already addressed with the mandatory Development Plan itself. Proffers #2&3 assure substantial conformity with submitted building elevations, specifically the elevations of the two buildings that would back up close to W. Jubal Early Drive. These two proffers do mitigate potential negative impacts related to quality of development and specifically the aesthetics of the new structures visible from one of the City's major east-west transportation corridors.

Staff informed the applicant that the Planning Commission was likely to require a Fiscal Impact Analysis and a Traffic Impact Analysis which are two studies that can be required by the Planning Commission for a PUD rezoning application per Sections 13-4-2.2k and l of the Zoning Ordinance.

Fiscal Impact Analysis

The applicant submitted a Fiscal Impact Analysis on May 17, 2013 titled "Fiscal and Economic Impacts Analysis, Jubal Square Apartments, Winchester, Virginia. The analysis was prepared by S. Patz and Associates, Inc. for Mr. William Park of Pinnacle Construction and Development Corporation. The analysis describes the impacts on City revenue and expenditures generated by the project as compared to revenue and expenditures arising from development allowed under the current B-2, M-1, and HR zoning.

The Fiscal Impact Analysis notes that the 140-unit apartment development would cause an on-site deficit to the City in the amount of \$36,000 annually. However, the study projects off-site revenue benefits to businesses totaling almost \$8M annually which would create a net revenue surplus of \$69,000. Collectively, the project would yield a net revenue surplus of \$33,000 per year. A project that incorporates mixed use (residential AND commercial) is recommended in the Comprehensive Plan and would have a more positive fiscal impact.

Traffic Impact Analysis

A simple 1.5-page Traffic Impact Analysis dated May 1, 2013 has been submitted for review. The study estimates the peak traffic volumes for permitted commercial development on 301 W. Jubal Early Dr such as restaurant, pharmacy and drive-in bank under current zoning. It also estimates peak traffic volume for the two M-1 zoned parcels with uses such as light industrial, warehousing, and manufacturing. The cumulative volumes associated with uses under current zoning are then compared to the estimated traffic volume associated with a 140-unit apartment development. The study concludes that the potential peak volume from typical uses under the existing zoning is about 2.6 times greater than the volume from the proposed development.

The traffic impact study does not investigate potential impacts on the adjoining public street network, particularly at Valley Avenue where left turn movements would be permitted into and out of the development via Service Road. The development site is very close to Valley Avenue where public transportation is available in the form of bus service. The site would also have direct access to the Green Circle Trail for those walking or biking. The applicant has proposed granting a 10-foot wide easement for the Green Circle Trail as shown on the Development Plan and as stipulated in Proffer # 7. Staff feels that the developer should also construct the additional 5 feet of asphalt trail needed to convert the existing concrete sidewalk into a multi-purpose (bike and pedestrian) trail.

Consistent with the Comprehensive Plan, an interparcel connection should be provided to adjoining commercial development along Valley Avenue. Staff recommends that an interparcel connection be provided between the proposed overflow parking lot in the northwest corner of the apartment development and the adjacent B-2 land owned by Mr. Pifer near the intersection of Jubal Early Drive and Valley Avenue.

Site Development and Buffering

The Development Plan depicts 140 apartment units in six buildings. Two of the buildings would back up to W. Jubal Early Drive where the Green Circle Trail is proposed. Staff noted the need for buffering to screen the first floor bedrooms in these buildings. The applicant is not proposing any balconies on any of the buildings. One of the buildings backs up close to the commercial development in behind the Citgo Station. Two other buildings back up close to the O'Sullivan M-2 Intensive Industrial site. Evergreen screening is depicted on the updated Development plan along the western edge of the PUD as well as along Jubal Early Drive and the southern interface with the industrial site.

Recreation and Open Space

The applicant is proposing an outdoor pool and patio area near the community building that would house management offices as well as some indoor recreation use. Proffer #6 notes the inclusion of the pool, clubhouse and fitness center as part of the amenities offered to residents of Jubal Square. Staff has asked the applicant to depict the segment of the Green Circle Trail that is called for along the W. Jubal Early Drive frontage.

Storm water Management

Storm water management is noted on the front sheet of the Development Plan and simply reads: "All storm water runoff will be directed to existing storm sewers. A new storm water management basin located on-site will control post-development runoff to the historical levels of pre-development for the 2- and 10-year storm events."

Density

The applicant proposes 24 one-bedroom units, 88 two-bedroom units with no den, 8 two-bedroom units with a den, and 20 three-bedroom units. PUD overlay allows for consideration of up to 18 dwelling units per acre, which in the case of 8.523 acres would translate to a maximum of 153 dwelling units. The applicant is proposing 140 dwelling units. The actual project density comes out to 16.4 units per acre.

Community Rules and Regulations

There are no proffers or other documents referencing rules and regulations for the development. For the recently denied Racey Meadows project, the Planning Commission had requested more complete information pertaining to covenants and restrictions that will ensure that the project meets high standards for maintenance and management of the complex. This was particularly a concern in light of no floor plans and elevations being submitted with that project.

Project Phasing

The applicant has indicated that there is no proposal to phase in the project as part of the PUD rezoning.

Other Issues

The applicant has addressed most if not all of the requirements for a complete PUD proposal as spelled out in Section 13-4 of the Zoning Ordinance. Among the Development Plan requirements not included are the following:

- Approximate location of proposed utilities
- A plan or statement detailing covenants, restrictions, and conditions pertaining to the use, maintenance and operation of common spaces, and,

Design Quality

Elevations and floor plans have been submitted for this rezoning proposal. The site is not situated within any existing or proposed Corridor Enhancement (CE) District. While building elevations and floor plans are not explicitly required for PUD applications, Section 13-4-2 of the WZO states that the Development Plan shall contain supplementary data for a particular development, as reasonably deemed necessary by the Planning Director. The submitted typical floor plans depict the size and configuration of the various unit types, including the 3rd floor units in the larger buildings that include a 4th floor loft. Six garage bays are provided on the ground floor of each of the four 22-unit buildings. The garages are completely independent of the apartments and have access to an internal hallway as well as to the parking lot via an overhead door. The submitted elevations incorporate brick into the exterior finish on the ground level, but staff has requested that the applicant at least incorporate brick into the upper levels of the two buildings on the elevations that face W. Jubal Early Drive.

RECOMMENDATION

Generally, staff feels that the proposal is consistent with many of the broader elements of the City's long-term vision to attract more young professionals and empty-nesters to the City. The location of the project relative to the Green Circle Trail and to public transportation makes it attractive for residential development. However, Chapter Eleven of the Comprehensive Plan specifically calls for interconnected commercial along both the north and south side of Jubal Early Drive in this area. The Housing Objective for the South Central Planning Area calls for mixed use development including mixed dwelling-type residential use in higher density settings. Also, staff believes that the applicant should commit to constructing the remainder of the travelway needed to support a 10-foot wide multi-modal Green Circle Trail along the subject Jubal Early Drive frontage.

The Commission held a public hearing on the request at the May 21, 2013 regular meeting. The request was tabled at the applicant's request as stated in an email received in the morning of May 21, 2013. The applicant wanted to give the Commissioners additional time to review the revised plans, newly submitted fiscal impact analysis, and proffer statement. The Commission tabled the request until the June 18th regular meeting.

A motion for a favorable recommendation could read:

MOVE, that the Planning Commission forward Rezoning **RZ-13-196** to City Council recommending approval because the proposed B-2 (PUD) zoning, supports the expansion of housing serving targeted populations on a Redevelopment Site as called out in the Comprehensive Plan. The recommendation is subject to adherence with the Development Plan titled 'PLAN OF DEVELOPMENT, JUBAL SQUARE

APARTMENTS' dated March 23, 2013 including updates of April 19, 2013 as well as the Proffer Statement received on May 17, 2013.

A motion for an unfavorable recommendation on the request could read:

MOVE, that the Planning Commission forward Rezoning **RZ-13-196** to City Council recommending disapproval because the proposed B-2 (PUD) zoning as submitted: *{pick any or all of the following}*

- a) does not represent a mixed use redevelopment proposal advocated in the Comprehensive Plan;
- b) does not include interparcel connectivity to adjoining commercial land along the south side of W. Jubal Early Drive as called out in the Comprehensive Plan;
- c) does not include improvement of the Green Circle Trail along W. Jubal Early Drive which would serve the college student population targeted for the proposed project;
- d) is less desirable than the existing B-2, M-1 and HR zoning, and,
- e) lacks measures to mitigate potential negative impacts associated with multifamily development, particularly potential impacts on schools associated with 3-bedroom units.

AN ORDINANCE TO REZONE 8.523 ACRES OF LAND AT 1900 VALLEY AVENUE, 211 AND 301 WEST JUBAL EARLY DRIVE FROM LIMITED INDUSTRIAL (M-1), HIGH DENSITY RESIDENTIAL (HR), AND HIGHWAY COMMERCIAL (B-2) DISTRICTS TO B-2 DISTRICT WITH PLANNED URBAN DEVELOPMENT (PUD) OVERLAY

RZ-13-196

WHEREAS, the Common Council has received an application from Bluestone Land, LLC on behalf of Braddock Partnership and 1900 Valley, L.C. to rezone property at 1900 Valley Avenue, 211 and 301 West Jubal Early Drive from Limited Industrial (M-1), High Density Residential (HR), and Highway Commercial (B-2) Districts to B-2 District with Planned Urban Development (PUD) Overlay; and,

WHEREAS, the Planning Commission forwarded the request to Council on [REDACTED], 2013 recommending approval of the rezoning request as depicted on an exhibit entitled "*Rezoning Exhibit RZ-13-196 Prepared by Winchester Planning Department June 4, 2013*" because the proposed B-2 (PUD) zoning, supports the expansion of housing serving targeted populations on a redevelopment site and calls for interconnected commercial development which uses Valley Avenue for primary access and also makes use of right-in/right-out access along the south side of Jubal Early Drive as called out in the Comprehensive Plan. The recommendation is subject to adherence with the Development Plan titled 'PLAN OF DEVELOPMENT, JUBAL SQUARE APARTMENTS' dated March 23, 2013 including updates of May 16, 2013 and the submitted proffers received May 17 2013; and,

WHEREAS, a synopsis of this Ordinance has been duly advertised and a Public Hearing has been conducted by the Common Council of the City of Winchester, Virginia, all as required by the Code of Virginia, 1950, as amended, and the said Council has determined that the rezoning associated with this property herein designated supports the expansion of housing serving targeted populations on a redevelopment site and calls for interconnected commercial development which uses Valley Avenue for primary access and also makes use of right-in/right-out access along the south side of Jubal Early Drive as called out in the Comprehensive Plan.

NOW, THEREFORE, BE IT ORDAINED by the Common Council of the City of Winchester, Virginia that the following land is hereby rezoned from the existing zoning designations of Limited Industrial (M-1), High Density Residential (HR), and Highway Commercial (B-2) Districts to B-2 District with Planned Urban Development (PUD) Overlay:

Approximately 8.523 acres of land at 1900 Valley Avenue, 211 and 301 West Jubal Early Drive as depicted on an exhibit entitled "*Rezoning Exhibit RZ-13-196 Prepared by Winchester Planning Department June 4, 2013*".

BE IT FURTHER ORDAINED by the Common Council of the City of Winchester, Virginia that the rezoning is subject to adherence with the Development Plan titled 'PLAN OF DEVELOPMENT, JUBAL SQUARE APARTMENTS' dated March 23, 2013 including updates of May 16, 2013 and the submitted proffers received May 17 2013 .

Bluestone Land, L.L.C.

1821 Avon Street, Suite 200 Charlottesville, Virginia 22902
Phone: 434-979-2900 Fax: 434-979-0001

April 3, 2013

City of Winchester, VA
Rouss City Hall
Planning and Zoning Department
Attn: Tim Youmans, Planning Director
15 North Cameron Street
Winchester, VA 22601



Re: Application for Rezoning
Jubal Square Apartments
1900 Valley Avenue
Tax Map Parcels: 251-01-27; 251-01-31; 251-04-01

Dear Mr. Youmans,

Enclosed for submittal for rezoning are the completed Rezoning Application, list of adjacent property owners, disclosure of Real Parties in Interest, Plan of Development, rendering of proposed units, and check for \$2925.00. This fee includes the rezoning application fee (\$2,800), deposit for two public hearing signs (\$100), and fee for mailing notices to adjacent owners (\$25).

Currently, parcel 251-01-27 is zoned M1. Parcel 251-01-31 is zoned M1 and HR. Parcel 251-04-01 is zoned B2. This application seeks to rezone parcels 251-01-27 and 251-01-31 to B2, and then overlay a Planned Unit Development District (PUD) across all three parcels (the "Property"). The proposed PUD, "Jubal Square Apartments" will redevelop the existing site as a 140 unit multi-family residential development featuring an on-site community center and recreational amenities. Target households for the units include graduate students, young professionals, and active retirees/empty nesters.

Bluestone Land, L.L.C. is the contract purchaser for the above-referenced parcels. Bluestone Land and its affiliates (Pinnacle Construction & Development Corp. and Park Properties Management Co LLC) have extensive experience in development, construction, and property management of multi-family residential and commercial properties throughout the Commonwealth of Virginia.

The Property is located southeast of the intersection of Valley Avenue (U.S. Route 11) and Jubal Early Drive in the Central District. When developing the plan for Jubal Square

Apartments, the intent was to respond to the 2011 Comprehensive Plan vision for urban density and market demands, while respecting the existing terrain. The Comprehensive Plan notes that key features for the district include medium and high density housing, and includes the goal of redeveloping property in the district to achieve maximum sustainable potential. This planned development would address the Citywide Housing Objectives by providing more vibrant, high quality, higher density housing which will include on-site professional management. Jubal Square Apartments will also provide the type of apartment units and the on-site amenities that attract students, young professionals, and empty nesters. These groups are specified in the Comprehensive Plan as the three demographic growth groups to which future housing growth should be aligned.

The 2011 Comprehensive Plan designates most of the Property as a Redevelopment Site, and the remainder of the site as a Commerce Center/Corridor. (See excerpt from Character Map attached). Redevelopment Sites are “the keys to reinvigorating a neighborhood.” This development plan is consistent with goals for construction of compact new projects as a reuse for obsolete industrial properties.

The Property will be developed in general accord with the Plan of Development. Road alignments, building and sidewalk locations, landscaping, grading and utilities depicted on the Plan of Development are conceptual and may be adjusted. Specific lot boundaries and building locations shown on the Plan of Development are for purposes of illustration only and should not be construed as final. The architectural rendering included illustrates how scale, massing, and pedestrian orientation may be achieved within the Property, but is not intended to represent the specific form of the final product nor describe final design requirements.

We look forward to working with City staff on this development. Please contact us if you have any questions.

[Signature Page Follows]

Sincerely,

Bluestone Land, L.L.C.

A handwritten signature in blue ink, appearing to be 'W. N. Park', written over a horizontal line.

By: William N. Park, its Manager



Engineers • Surveyors • Land Planners

May 1, 2013

Mr. William N. Park
Pinnacle Construction & Development, Inc.
1821 Avon Street, Suite 200
Charlottesville, Virginia 22902

RE: Jubal Square Apartments

Dear Mr. Park:

Enclosed you will find a traffic analysis of the proposed Jubal Square Apartments. The traffic analysis was completed using data from the Institute of Transportation Engineers (ITE) Trip Generation Manual. The analysis shows during the peak hour movements, the existing zoning will produce approximately 2.6 times more vehicle trips per day than the proposed apartment complex. If you should have any questions, or need additional information, please feel free to contact me at your earliest convenience.

Sincerely,

A handwritten signature in black ink, appearing to read 'Brasil W. Hamrick, Jr.', written in a cursive style.

Brasil W. Hamrick, Jr., P.E.

156 Laurel Hill Road (Rt. 612 E.), Verona, VA 24482 • (540) 248-7407 • Fax (540) 248-7408

JUBAL SQUARE TRAFFIC ANALYSIS

Narrative

The following traffic analysis will review potential traffic volumes from tax map parcels 251-04-1, 251-01-31, and 251-01-27. The current zoning of 251-04-1 is "Highway Commercial District" or B-2. The zoning on this 2.942 acre parcel would allow the development of banks, retail stores, restaurants, and other typical commercial uses. The current zoning of 251-01-27 and 251-01-31 is "Limited Industrial District" or M-1. The zoning on these two paces totaling 5.848 acres would allow the development of typical manufacturing and warehouse type facilities. Development condition number 1 will determine the potential peak hour traffic volumes using the existing zoning conditions. Development condition number 2 will determine the potential peak hour traffic volumes using the proposed land use of the 140 unit Jubal Square apartment complex. All peak hour traffic volumes will be determined using the Institute of Transportation Engineers (ITE) Trip Generation Manual.

Development Condition Number 1

Tax Parcel 251-04-1 is zoned B-2. This zoning will allow uses such as a pharmacy, bank or restaurant. The 2.942 acres is large enough to support a 15,000 s.f. pharmacy with drive through window and associated parking, or a 5,000 s.f. bank with drive through windows and associated parking, or a 6,000 s.f. high turnover restaurant and associated parking. The peak hour traffic volumes for these uses are as follows.

<i>Drive in bank (land use code 912)</i>	AM Peak 31.99/1000 s.f. = $31.99 \times 5 = 159.95$ PM Peak 53.46/1000 s.f. = $53.46 \times 5 = 267.30$
<i>Pharmacy (land use code 881)</i>	AM Peak 7.87/1000 s.f. = $7.87 \times 15 = 118.05$ PM Peak 9.51/1000 s.f. = $9.51 \times 15 = 142.65$
<i>Restaurant (land use code 932)</i>	AM Peak 13.53/1000 s.f. = $13.53 \times 6 = 81.18$ PM Peak 18.80/1000 s.f. = $18.80 \times 6 = 112.80$

Tax parcels 251-01-27 and 251-01-31 are zoned M-1. This zoning would allow uses listed in the ITE Manual as land use code 110 "light industrial", land use code 130 "industrial park", land use code 140 "manufacturing", or land use code 150 "warehousing." The total acreage of the two parcels is 5.848 acres.

<i>Light Industrial (land use code 110)</i>	AM Peak 7.96/acre = $7.96 \times 5.848 = 46.55$ PM Peak 8.77/acre = $8.77 \times 5.848 = 51.29$
<i>Industrial Park (land use code 130)</i>	AM Peak 8.29/acre = $8.29 \times 5.848 = 48.48$ PM Peak 8.67/acre = $8.67 \times 5.848 = 50.70$
<i>Manufacturing (land use code 140)</i>	AM Peak 9.30/acre = $9.30 \times 5.848 = 54.39$ PM Peak 9.21/acre = $9.21 \times 5.848 = 53.86$
<i>Warehousing (land use code 150)</i>	AM Peak 7.96/acre = $8.34 \times 5.848 = 48.77$ PM Peak 8.77/acre = $8.77 \times 5.848 = 51.29$

Development Condition Number 1 Continued

A review of the above traffic volumes indicates the restaurant and light industrial combination leads to the minimum park volume values of

$$\begin{aligned} \text{AM Peak} &= 81.18 + 46.55 = 127.73 \text{ or } 128 \text{ trips per hour} \\ \text{PM Peak} &= 112.80 + 51.29 = 164.09 \text{ or } 164 \text{ trip per hour} \end{aligned}$$

Development Condition Number 2

An application has been made to rezone tax map parcels 251-04-1, 251-01-31, and 251-01-27 to B-2 with a PUD overlay allowing a 140 unit apartment complex. The peak hour traffic volume for this use is as follows.

<i>Mid-rise apt (land use code 223)</i>	AM Peak 0.35/unit = 0.35 x 140 = 49.00
	PM Peak 0.44/unit = 0.44 x 140 = 61.60

Conclusion

The potential peak hour traffic volume with the current zoning is 2.61 times greater than the volume of the proposed use for the AM peak. The potential peak hour traffic volume with the current zoning is 2.66 times greater than the volume of the proposed use for the PM peak.

FILE COPY

Jubal Square Apartments
RZ-13-196
REZONING REQUEST PROFFER
(Conditions for this Rezoning Request)



Tax Map Numbers: 251-1-27; 251-4-1; 251-1-31

Owner: Braddock Partnership (251-1-27; 251-4-1) and Valley LC (251-1-31)
Applicant: Bluestone Land, L.L.C.

RZ-13-196

Dated: May __, 2013

Property Information

The undersigned applicant hereby proffers that in the event the Council of the City of Winchester (Council) shall approve the rezoning of 8.523 acres of land at 1900 Valley Avenue, 211 and 301 West Jubal Early Drive (Map Numbers 251-01-27-A; 251-04-01-A; 251-01-31-A) from Limited Industrial (M-1), High Density Residential (HR), and Highway Commercial (B-2) Districts to B-2 District with Planned Unit Development (PUD) overlay, then development of the subject property shall be done in conformity with the terms and conditions as set forth herein, except to the extent that such terms and conditions may be subsequently amended or revised by the applicant and such be approved by the Council in accordance with Virginia law. In the event that such rezoning is not granted, then these proffers shall be deemed withdrawn and have no effect whatsoever. These proffers shall be binding upon the applicant and their legal successor or assigns.

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

Site Planning Improvements

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

1. The property shall be developed and landscaped substantially in conformance with the Plan of Development prepared by Hamrick Engineering, dated March 23, 2013, revised April 19, 2013, and submitted with this proffer statement.
2. The exteriors of the two (2) buildings facing Jubal Early Drive and east of the entrance to the development shall be substantially in conformance with the elevations entitled "Jubal Early Apartments Type 2 Building Fronting on Jubal Early Dr Elevations", prepared by dBF Associates, dated May 17, 2013 and submitted with this proffer statement. The exteriors of the other buildings in the development shall be substantially in conformance with the elevations entitled "Jubal Early Apartments Type 2 Building Elevations", prepared by dBF Associates, dated May 1, 2013 and submitted with this proffer statement.
3. The siding materials to be used in the exterior finish of the two (2) buildings facing Jubal Early Drive will be vinyl and brick in accordance with submitted elevations.

4. The maximum number of residential units will be one hundred forty (140).
5. The entrance from Jubal Early Drive will be limited to right turn in and right turn out. Secondary access will be from the Service Road to Valley Avenue (U.S. Route 11).
6. Amenities for the development for use by residents shall include a community center with pool and fitness facility.
7. Upon request by the City, Applicant shall dedicate a ten (10') foot wide easement along Jubal Early Drive for accommodation of the Green Circle Trail to be constructed by others.

The conditions proffered above and in accordance with the Plan of Development prepared by Hamrick Engineering, dated March 23, 2013, revised April 19, 2013, are presented as a conceptual plan only. The final plan shall be developed after it has been submitted, reviewed and approved by the City of Winchester and as the applicant proceeds through the various approval processes required by the City of Winchester shall be binding upon the heirs, executors, administrators, assigns and successors in interest of the applicant and owner. In the event the Council grants said rezoning and accepts these conditions, the proffered conditions shall apply to the land rezoned in addition to other requirements set forth in the City of Winchester Code.

Signature page follows

APPLICANT

Bluestone Land, L.L.C.
By: William N. Park
Its: Manager

STATE/Commonwealth of _____
City/County of _____

The foregoing instrument was acknowledged before me this ____ day of _____,
2013, by William N. Park, Manager of BLUESTONE LAND, L.L.C

Notary Public

My commission expires: _____
Registration Number: _____

OWNER (251-1-27; 251-4-1)

Braddock Partnership
By: _____
Its: _____

STATE/Commonwealth of _____
City/County of _____

The foregoing instrument was acknowledged before me this ____ day of _____,
2013, by _____, _____ of BRADDOCK PARTNERSHIP.

Notary Public

My commission expires: _____
Registration Number: _____

OWNER (251-1-31)

Date:

Valley LC

By: _____

Its: _____

STATE/Commonwealth of _____

CITY/COUNTY OF _____

The foregoing instrument was acknowledged before me this ____ day of _____,
2013, by _____, _____ of VALLEY LC.

Notary Public

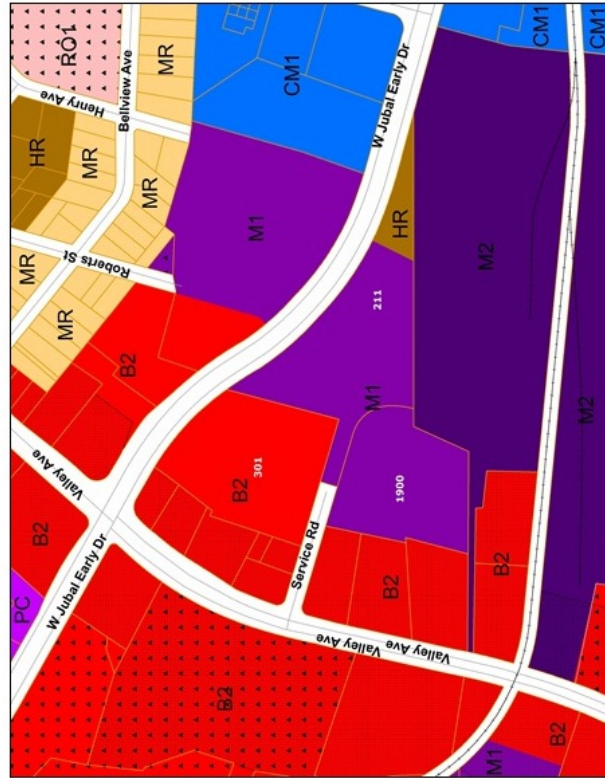
My commission expires: _____

Registration Number: _____

REZONING EXHIBIT

RZ-13-196

PREPARED BY WINCHESTER PLANNING DEPARTMENT
JUNE 4, 2013



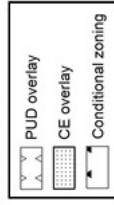
EXISTING

M-1/HR ZONING FOR 211 W. JUBAL EARLY DR
B-2 ZONING FOR 301 W. JUBAL EARLY DR
M-1 ZONING FOR 1900 VALLEY AVE



PROPOSED

CONDITIONAL B-2(PUD) ZONING FOR 211 & 301 W. JUBAL EARLY DR AND 1900 VALLEY AVE, LESS A 0.266 ACRE PORTION OF 301 W. JUBAL EARLY DR TO REMAIN B-2 WITHOUT PUD OVERLAY



TA-13-146 AN ORDINANCE TO AMEND AND RE-ENACT ARTICLES 1, 8, 9, 10, AND 13 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO RESTAURANTS AND ENTERTAINMENT ESTABLISHMENTS

REQUEST DESCRIPTION

This publicly sponsored text amendment is to clarify the Zoning Ordinance and make a distinction between restaurants and entertainment establishments.

STAFF COMMENTS

Currently, the Zoning Ordinance allows for restaurants that evolve into establishments where some form of entertainment, live or otherwise, takes place after 10:00 p.m. by allowing for a conditional use permit within certain zoning districts in the form of *Nightclubs*.

City Council, as part of their Downtown Strategic Plan, has called for revisiting the *Nightclub* regulations and as part of the Strategic Plan has called for creation of a “Vibrant Downtown” and “Growing Economy.” This text amendment serves as a response to City Council’s desire to modify the existing regulations, by eliminating the definitions of *Dance Hall* and *Nightclub* and the creation of a new use *Entertainment Establishment*.

These proposed changes will create a distinction between a restaurant that is continuously used as a restaurant, and allowing for background music or entertainment that is clearly subordinate to the restaurant use. However, for uses where a business or restaurant evolves at some point of their operations away from predominantly food service to an entertainment use, then the *Entertainment Establishment* classification will apply.

In situations where *Entertainment Establishments* are proposed within 200 feet of a residentially zoned parcel, staff recommends that the conditional use permit process apply, so that the Planning Commission and City Council can review the situational conditions with the request and ensure that any potential negative impacts on the vicinity are negated.

For the *Entertainment Establishments* that are located in areas by-right and without the CUP review process, there are still numerous enforcement tools available to address potential concerns. For example if there are noise issues, the City noise ordinance enforced by the Police can address the concerns; if there are alcohol violations, they can be remedied through Virginia ABC; and tax issues can be handled by enforcement mechanisms with the Commissioner of Revenue and City Treasurer’s office.

RECOMMENDATION

A favorable motion could read as follows:

MOVE, that the Planning Commission initiate TA-13-146 because it represents good planning practice by providing an opportunity for a vibrant downtown as well as allowing for reasonable review of entertainment uses in close proximity to residential zones.

**RESOLUTION INITIATING AN ORDINANCE TO AMEND AND RE-ENACT ARTICLES 1, 8, 9, 10, AND 13 OF
THE WINCHESTER ZONING ORDINANCE PERTAINING TO RESTAURANTS AND ENTERTAINMENT
ESTABLISHMENTS**

TA-13-146

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

WHEREAS, in the Winchester Strategic Plan, a vibrant downtown and growing economy were called out as part of the long term vision for the City of Winchester; and,

WHEREAS; the Zoning Ordinance currently provides for restaurants, nightclubs, and dance halls; and,

WHEREAS, the proposed Zoning Ordinance amendment will modify the use classifications of restaurant and create a new classification of "Entertainment Establishment"; and,

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission hereby initiates the following text amendment represents good planning practices by providing an opportunity for a vibrant downtown as well as allowing for reasonable review of entertainment uses in close proximity to residential zones:

AN ORDINANCE TO AMEND AND RE-ENACT ARTICLES 1, 8, 9, 10, AND 13 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO RESTAURANTS AND ENTERTAINMENT ESTABLISHMENTS

TA-13-146

Draft 2 –June 4, 2013

*Ed. Note: The following text represents an excerpt of Article 1 of the Zoning Ordinance that is subject to change. Words with ~~strikethrough~~ are proposed for repeal. Words that are **boldfaced and underlined** are proposed for enactment. Existing ordinance language that is not included here is not implied to be repealed simply due to the fact that it is omitted from this excerpted text.*

ARTICLE 1

DEFINITIONS

SECTION 1-2. DEFINITIONS.

~~1-2-28.1~~ DANCE HALL: A public establishment that, on a regular basis and for an admission fee, provides music and space for dancing. (9/12/89, Case TA 89-02, Ord. No. 023-89)

~~1-2-68.1~~ NIGHT CLUB: An establishment that provides live amplified music, Karaoke, DJs, and/or dancing between the hours of 10 p.m. and 6 a.m. (11/13/01, Case TA-01-06, Ord. No. 035-2001) **Repealed.**

1-2-79 RESTAURANT: Any building in which, for compensation, food or beverages are dispensed for consumption on or off the premises. **Any place of business wherein foods or beverages are provided for consumption as the primary use. The term restaurant includes, without limitation; lunchrooms, cafeterias, coffee shops, cafes, taverns, delicatessens, dinner theaters, pubs, soda fountains, and dining accommodations of public or private clubs. This definition excludes: bakeries; bed-and-breakfast facilities; grocery and convenience retail stores; catering businesses (where food is prepared for consumption at another site); snack bars and refreshment stands at public recreation facilities; concession stands at athletic activities, or any facility exempt from state licensure requirements pursuant to Code of Virginia § 35.1-25. Entertainment and music for restaurant patrons which is clearly incidental and accessory to the restaurant's primary function as defined herein is permitted.**

1-2-79.1 ESTABLISHMENT, ENTERTAINMENT: A venue where entertainment, live or otherwise, predominates over food service, becoming the principal use for the business' operations, with or without dancing, and typically involving a cover or other charge for admission and event advertising.

ARTICLE 8

HIGHWAY COMMERCIAL DISTRICT - B-2

SECTION 8-1. USE REGULATIONS.

8-1-52 **Entertainment Establishments, located at least 200 feet from a residentially zoned property, as measured from the structure containing the establishment to the residential zone property line.**

SECTION 8-2. USES REQUIRING A CONDITIONAL USE PERMIT

8-2-4 ~~Nightclubs and dance halls.~~ **Entertainment Establishments, located less than 200 feet from a residentially zoned property, as measured from the structure containing the establishment to the residential zone property line.**

ARTICLE 9

CENTRAL BUSINESS DISTRICT - B-1

SECTION 9-1. USE REGULATIONS.

9-1-45 **Entertainment Establishments, located at least 200 feet from a residentially zoned property, as measured from the structure containing the establishment to the residential zone property line.**

SECTION 9-2. USES REQUIRING A CONDITIONAL USE PERMIT

9-2-8 ~~Nightclubs and dance halls.~~ **Entertainment Establishments, located less than 200 feet from a residentially zoned property, as measured from the structure containing the establishment to the residential zone property line.**

ARTICLE 10

COMMERCIAL INDUSTRIAL DISTRICT - CM-1

SECTION 10-1. USE REGULATIONS.

10-1-43 **Entertainment Establishments, located at least 200 feet from a residentially zoned property, as measured from the structure containing the establishment to the residential zone property line.**

SECTION 10-2. USES REQUIRING A CONDITIONAL USE PERMIT.

10-2-3 ~~Nightclubs and dance halls.~~ Entertainment Establishments, located less than 200 feet from a residentially zoned property, as measured from the structure containing the establishment to the residential zone property line.

ARTICLE 13

PLANNED DEVELOPMENT

SECTION 13-2. PLANNED COMMERCIAL DISTRICT – PC

13-2-3.16 Entertainment Establishments, located at least 200 feet from a residentially zoned property, as measured from the structure containing the establishment to the residential zone property line.

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

13-2-4.5 ~~Nightclubs and dance halls.~~ Entertainment Establishments, located less than 200 feet from a residentially zoned property, as measured from the structure containing the establishment to the residential zone property line.

RZ-13-289 AN ORDINANCE TO REZONE 44.44 ACRES OF LAND AT 2410 AND 2416 PAPERMILL RD (*Map Numbers 272-01-8 AND 291-02-A-B*) FROM INTENSIVE INDUSTRIAL (M-2) DISTRICT TO HIGHWAY COMMERCIAL (B-2) DISTRICT. The comprehensive plan calls for Commerce Area Revitalization on the developable portion of the site.

REQUEST DESCRIPTION

The request is for the City to rezone underutilized Intensive Industrial (M-2) land to Highway Commercial (B-2) to support economic redevelopment of the property in a manner more compatible with the major commercial development extending along both sides of S. Pleasant Valley Road in the general vicinity.

AREA DESCRIPTION

The land to the north is zoned CM-1 and contains retail and restaurant uses along S. Pleasant Valley Rd and contractor establishments along Abrams Creek Drive. Land to the east across Pleasant Valley Rd is zoned B-2 and CM-1 and contains major commercial retail and restaurant development. Land immediately to the south is zoned M-2 and contains a wholesale plumbing supply and showroom establishment. Land further to the south is zoned CM-1 and contains commercial uses. Land across the railroad to the west is zoned B-2 and contains commercial uses. Land further to the west is zoned HR and contains multifamily use.



STAFF COMMENTS

City staff believes that B-2 zoning of the Federal Mogul property will better result in development consistent with the Comprehensive Plan than the current M-2 zoning. The industrial use by Federal Mogul (formerly Abex) has ceased. Redevelopment of the site with uses compatible with major commercial use along most of S. Pleasant Valley Rd is envisioned. Specifically, the Comprehensive Plan includes the following:

Chapter 4: Economic Sustainability

Citywide Economic Development Objective #9:

“Proactively redevelop property where needed to achieve maximum sustainable potential.”

Chapter 9 – Future Development

Character Map identifies:

northern part of land as Civic/Institutional or Park

southern part of land as Commerce Area Revitalization/Infill

Chapter 11 – Southeast Planning Area

Environment:

“...mitigate documented hazards at the Abex site along the west side of S. Pleasant Valley Rd.”

The proposed B-2 zoning would allow for harmonious land use, particularly with respect to restaurants providing outdoor dining and with the residential uses in close proximity to the west.

RECOMMENDATION

A favorable recommendation could read:

MOVE, that the Commission adopt the resolution to initiate **RZ-13-289** and schedule the rezoning request for public hearing in July because the request is generally consistent with the Comprehensive Plan which calls for Commerce Area Revitalization/Infill on the developable portion of the site.

RESOLUTION

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

WHEREAS, the adopted Comprehensive Plan calls for Commerce Area Revitalization/Infill on the developable portion of the Federal Mogul site in the Winchester Strategic Plan to grow the economy as part of the long term vision for the City of Winchester; and,

WHEREAS, the adopted Comprehensive Plan includes a citywide economic development objective calling for the City to proactively redevelop property where needed to achieve maximum sustainable potential; and,

WHEREAS, intensive industrial use of the Federal Mogul site has ceased and the predominant land use along south Pleasant Valley Road is commercial rather than industrial use.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission hereby initiates the following city-sponsored rezoning because it represents good planning practices by providing an opportunity for sustainable and harmonious commercial development consistent with the Comprehensive Plan:

AN ORDINANCE TO REZONE 44.44 ACRES OF LAND AT 2410 AND 2416 PAPERMILL RD (*Map Numbers 272-01-8 AND 291-02-A-B*) FROM INTENSIVE INDUSTRIAL (M-2) DISTRICT TO HIGHWAY COMMERCIAL (B-2) DISTRICT

REZONING EXHIBIT

RZ-13-289

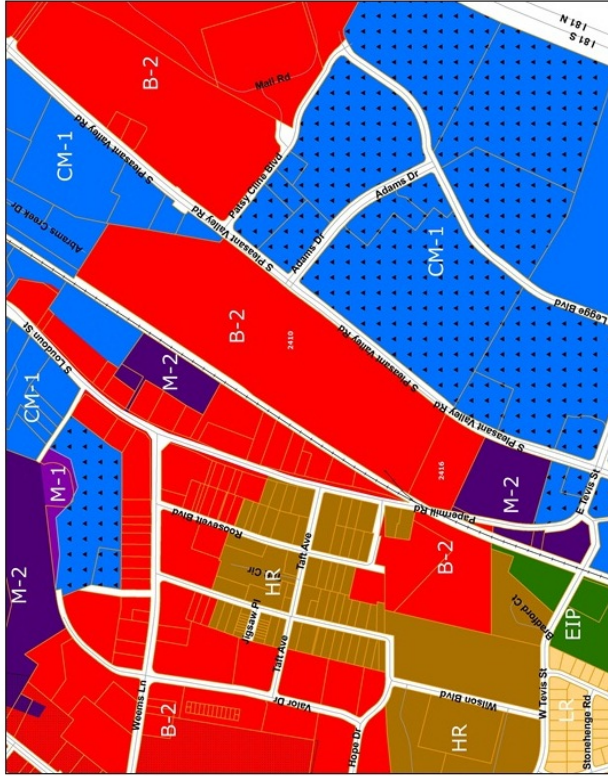
PREPARED BY WINCHESTER PLANNING DEPARTMENT

May 22, 2013



EXISTING

M-2 ZONING FOR 2410 AND 2416 PAPERMILL ROAD



PROPOSED

B-2 ZONING FOR 2410 AND 2416 PAPERMILL ROAD