

EXPERIENCE



Board of Zoning Appeals (BZA)

BZA 2022-3

61 Winchester Street

November 1, 2022

Property Information

- Applicant: Keith Macdonald
- Owners: 61 Winchester Street LLC
- Location: 61 Winchester Street
- Property: 0.32 acres
- House: Circa 1910
- Surrounded by residential dwellings/vacant lot

Request

- Applicant is appealing a Zoning Administrator's letter of determination rendered on August 9, 2022:
 - Letter determined the zoning district for 61 Winchester Street is R-6
- Applicant is requesting that the BZA determine that the zoning for 61 Winchester Street be:
 - Central Business District (CBD) on the entirety of the lot, or
 - Split-zoned Residential R-6/CBD
 - With the CBD line running diagonally across the lot from the centerline of Smith Street to the western corner of the Applicant's lot adjacent to 71 Winchester Street

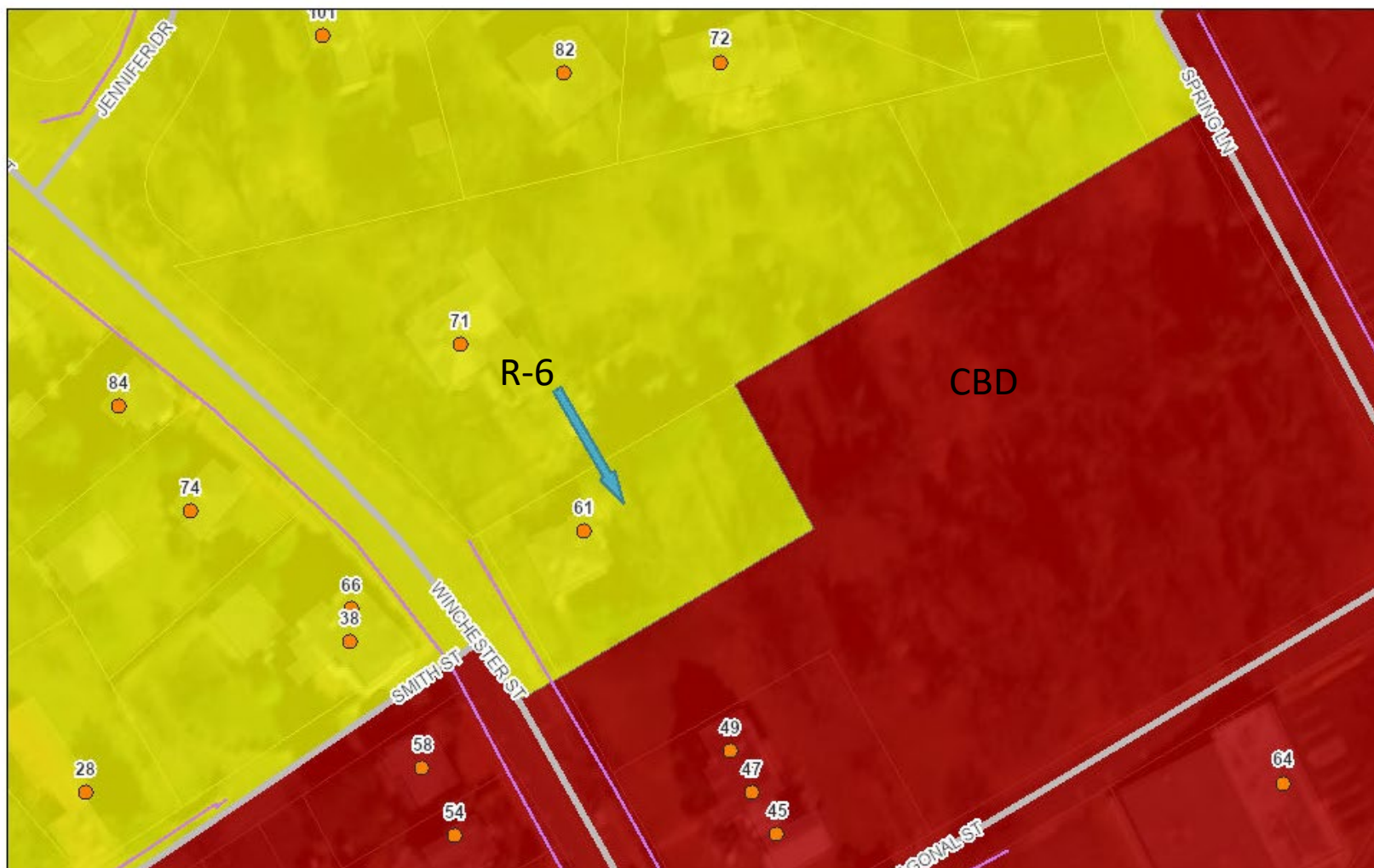
Aerial



Location

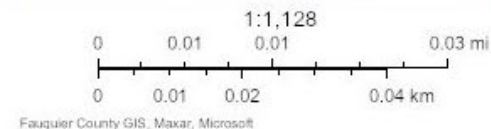


Determination

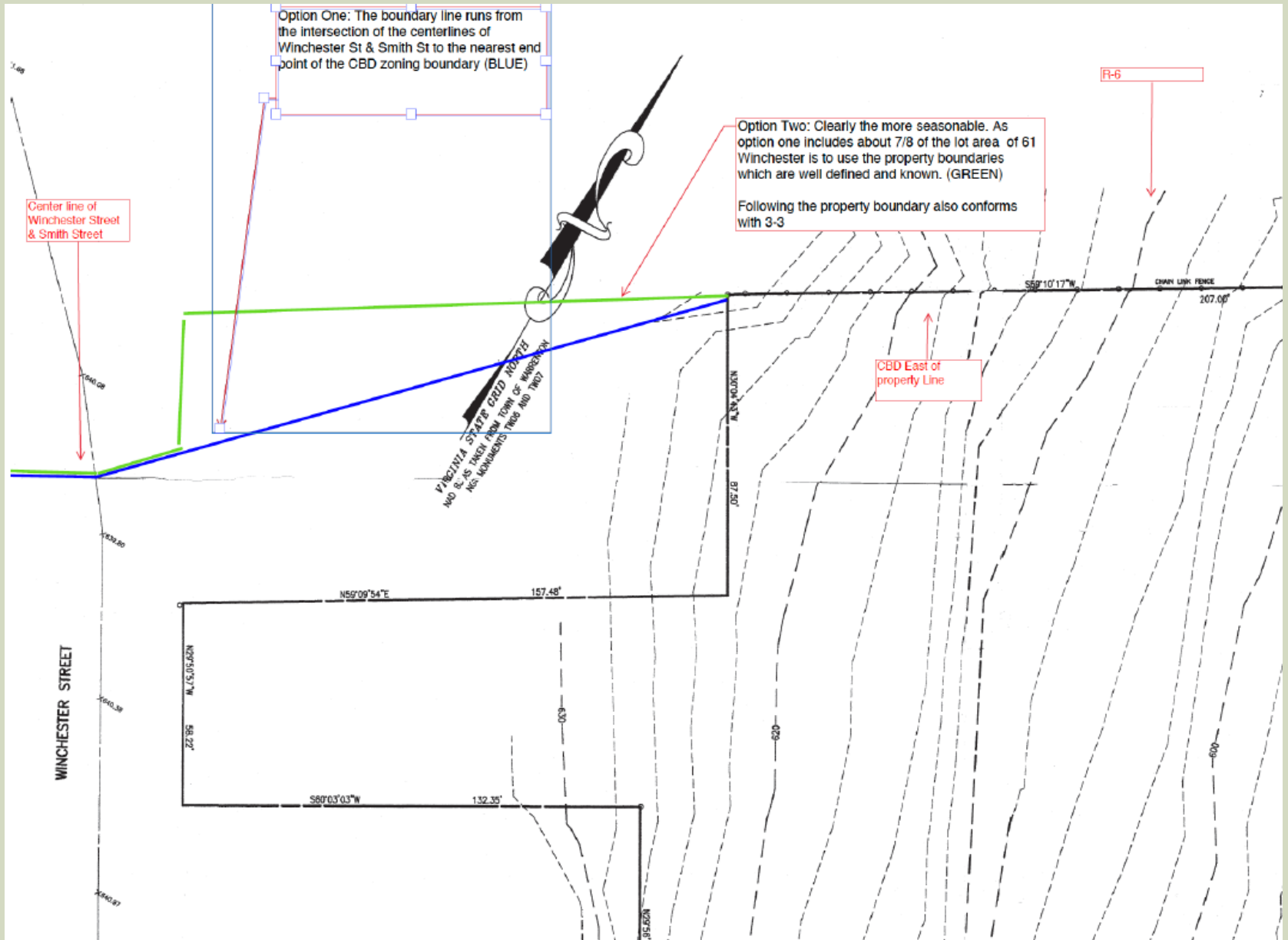


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- Address Points
- Municipal Boundary
- Sidewalk
- Roads
- Zoning Districts
- R-6
- CBD
- Parcels
- Building Footprints

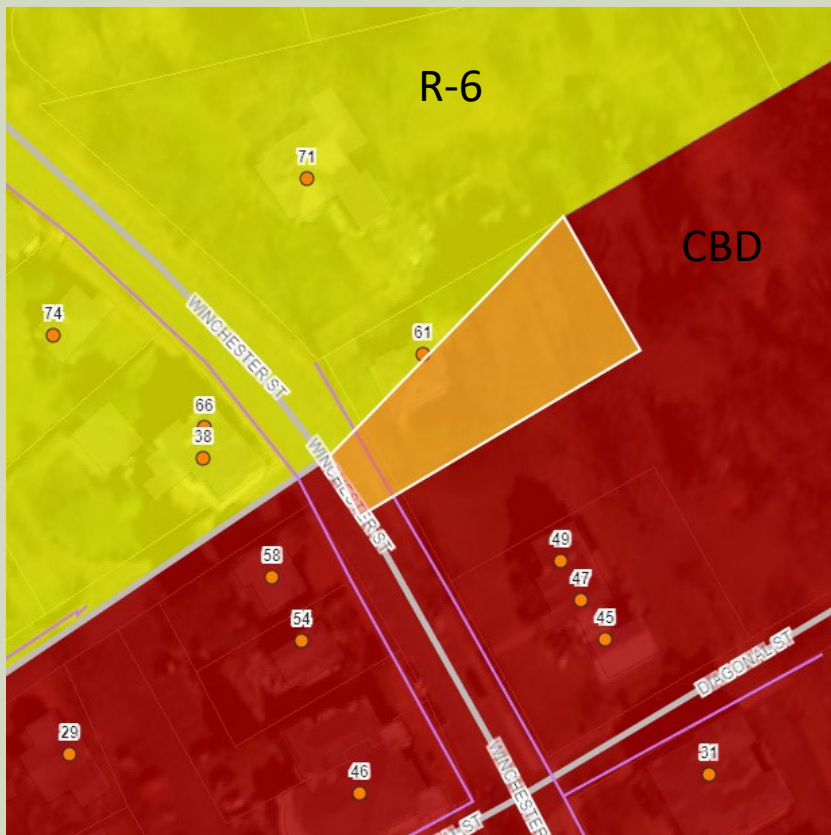


Applicant's Request

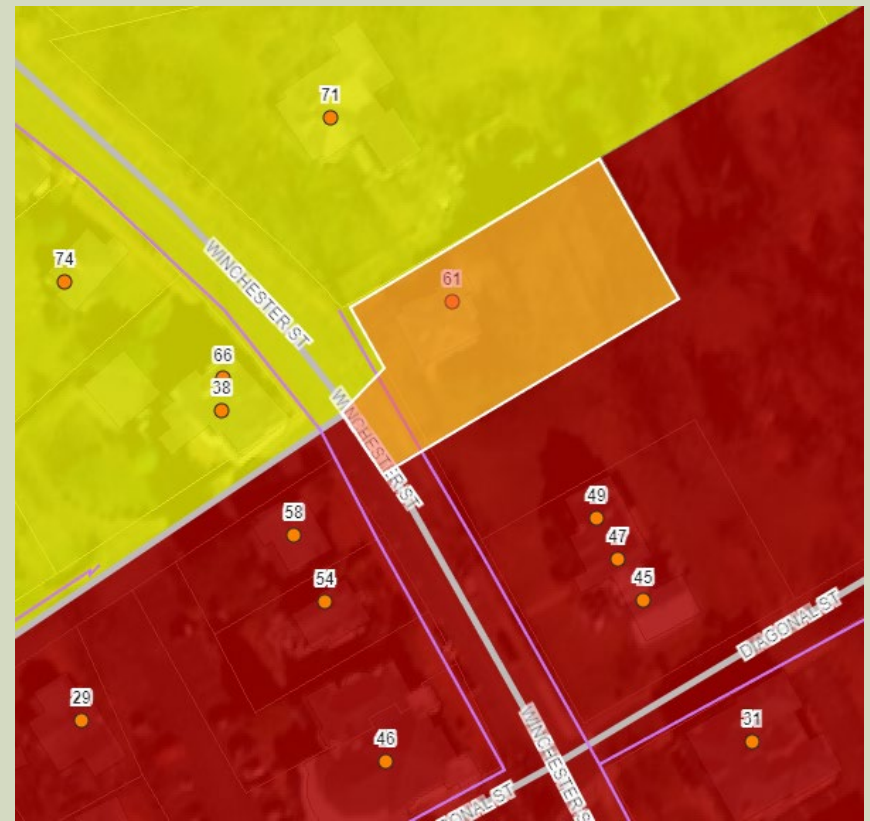


Request (split visual)

Option 1: Area in Orange be CBD



Option 2: Area in Orange be CBD



State Code Authority

- Per State Code and Zoning Ordinance, the Zoning Administrator is responsible for administering and enforcing the ordinance
 - Determinations by the Zoning Administrator may be appealed to the BZA
- BZA is authorized under state code to hear/decide appeals and interpret the district map where there is uncertainty
- BZA does not have the power to substantially change the locations of district boundaries
 - A function of the governing body requiring review by the Planning Commission, public notice, and at least one public hearing

State Code Authority

1. 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 adopted pursuant thereto. The decision on such appeal shall be based on the board's judgment of whether the administrative officer was correct. 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 section, notwithstanding any other provision of law, general or special.
4. 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 the question, and after public hearing with notice as required by § 15.2-2204, the board may interpret the map in such way as to carry out the intent and purpose of the Ordinance for the particular section or district in question. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail. The board shall not have the power to change substantially the locations of district boundaries as established by Ordinance.

Analysis

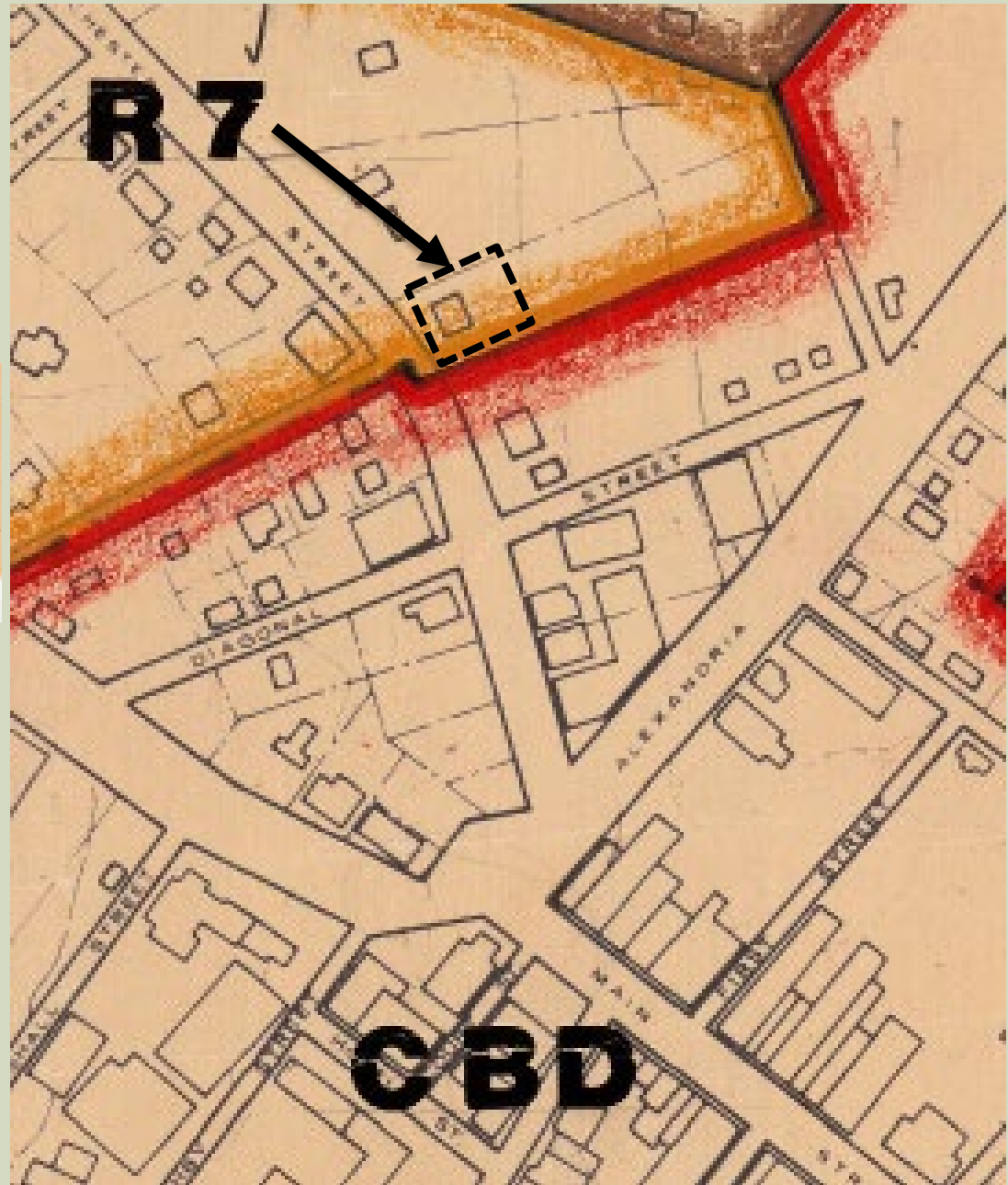
- The Zoning Determination utilized existing Zoning Map records to verify the Zoning District applicable to 61 Winchester Street
 - Previous maps show the parcel as R-7/R-6, not CBD
- Previous Town Council/Planning Commission minutes were reviewed to see if the parcel was discussed in previous map amendments
 - Included in 1991 Zoning Map update, changing the parcel from R-7 to R-6
 - Included in 1976 Zoning Map update, which changed the name of all zoning districts in Town (older maps not available)
- Previous determinations were reviewed to see if the parcel in question had a previous determination
 - One exists for an adjacent parcel
- Applicant's points were reviewed and addressed as appropriate

Zoning Maps

- 1976 Zoning Map
 - Parcel shown R-7

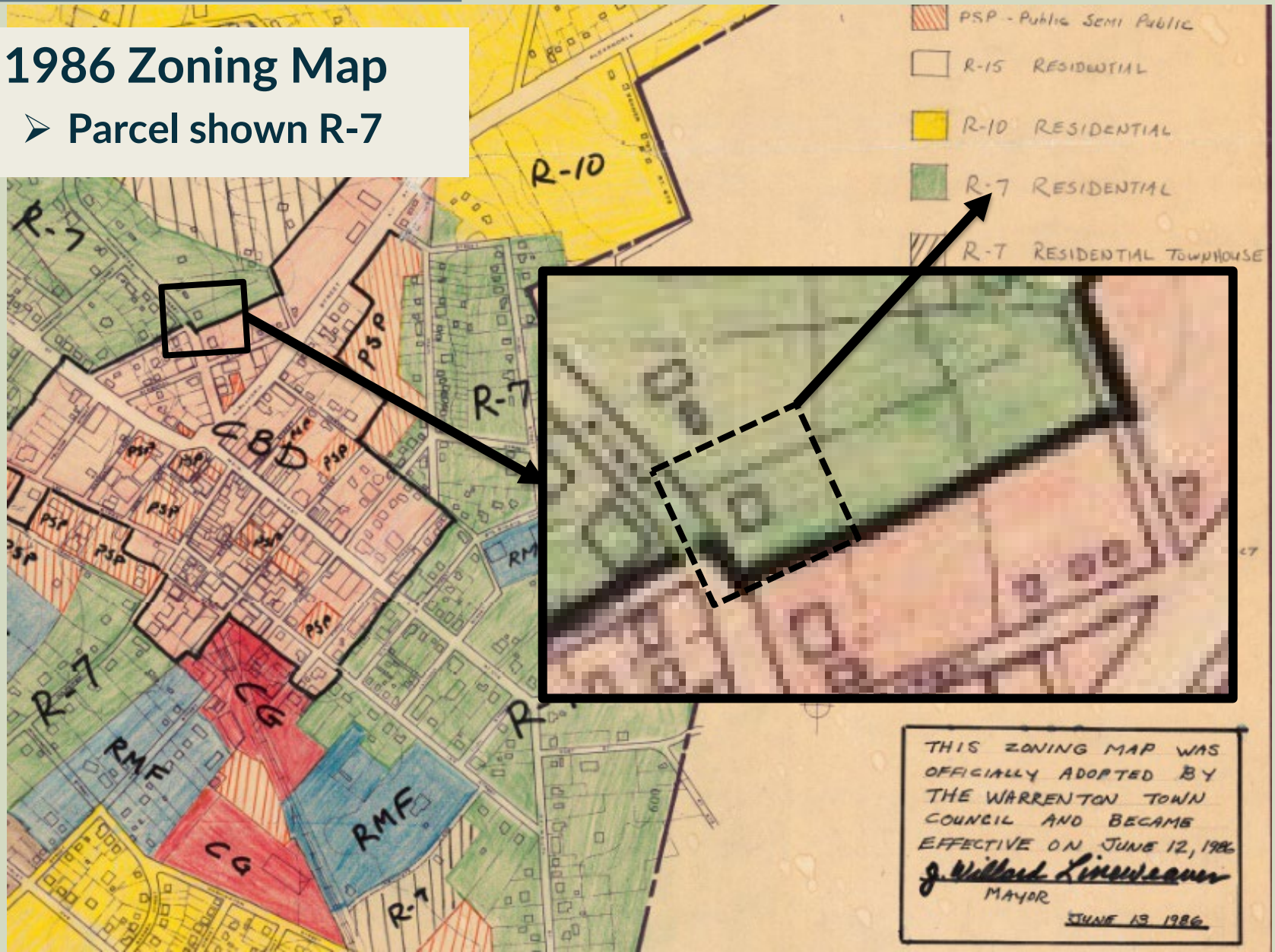
ZONING PREPARED BY
HAYES, SEAY, MATTERN & MATTERN
MAY, 1976

*ADOPTED NOVEMBER 2, 1976
EFFECTIVE NOVEMBER 15, 1976*



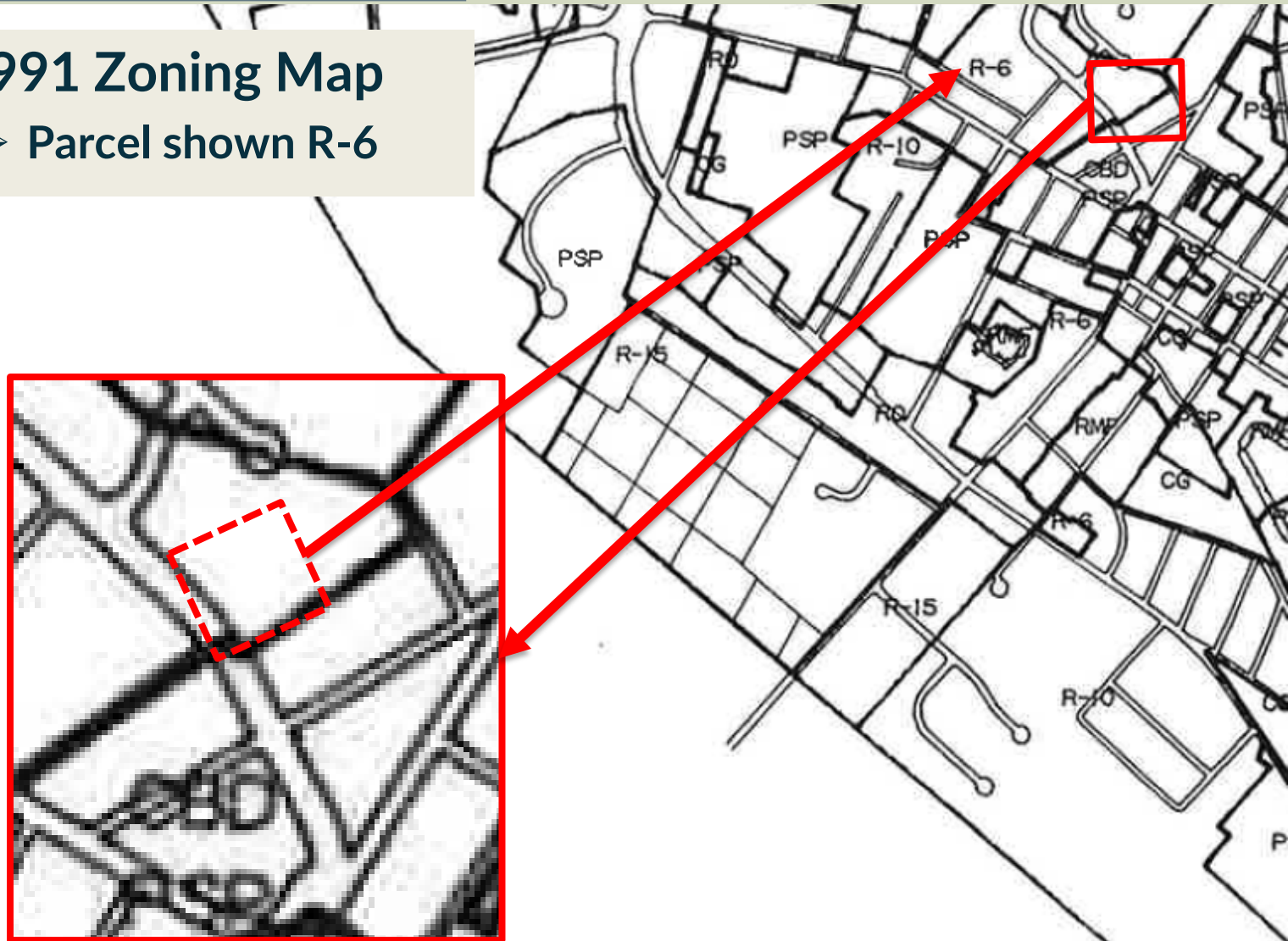
Zoning Maps

- 1986 Zoning Map
 - Parcel shown R-7



Zoning Maps

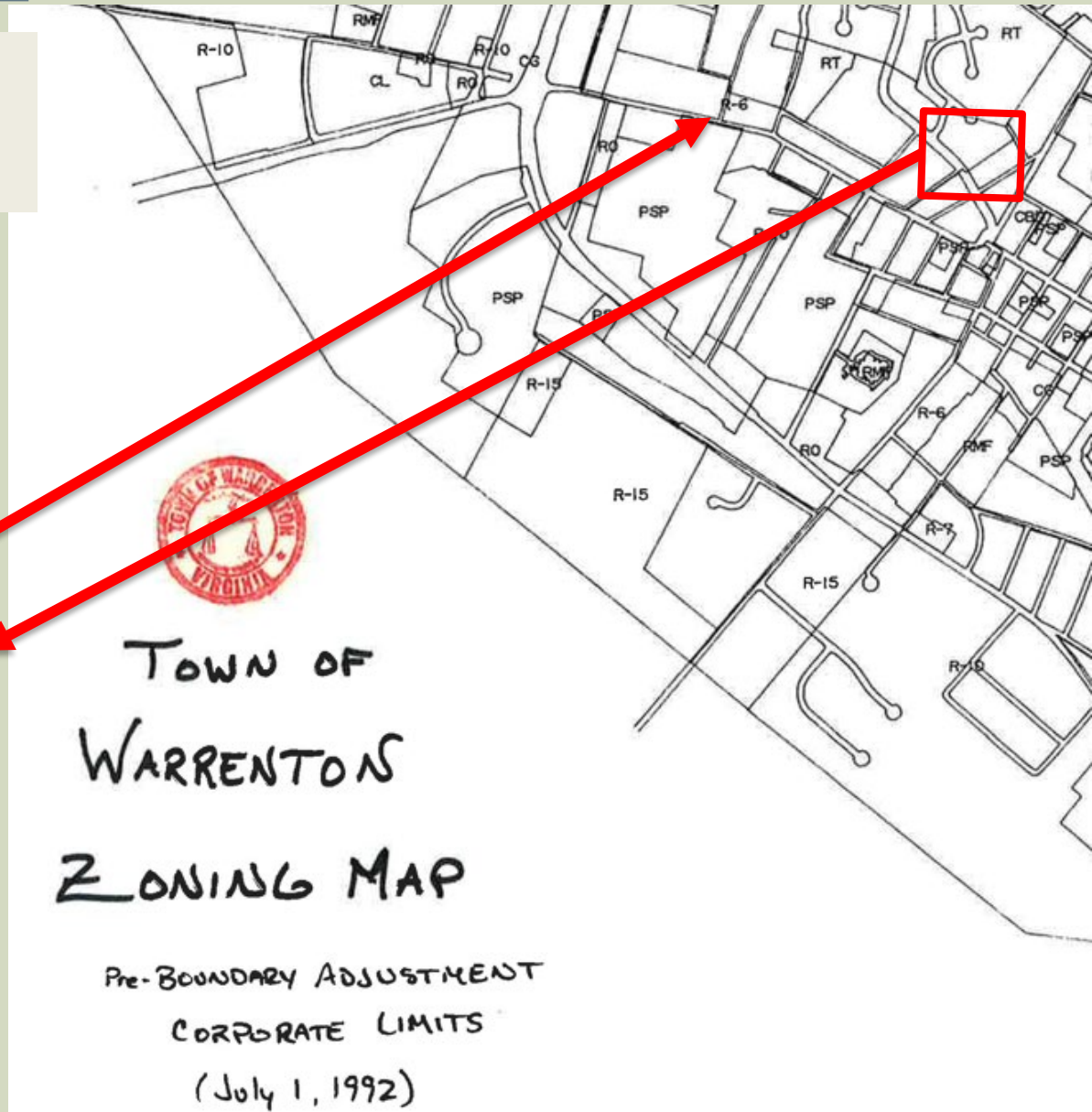
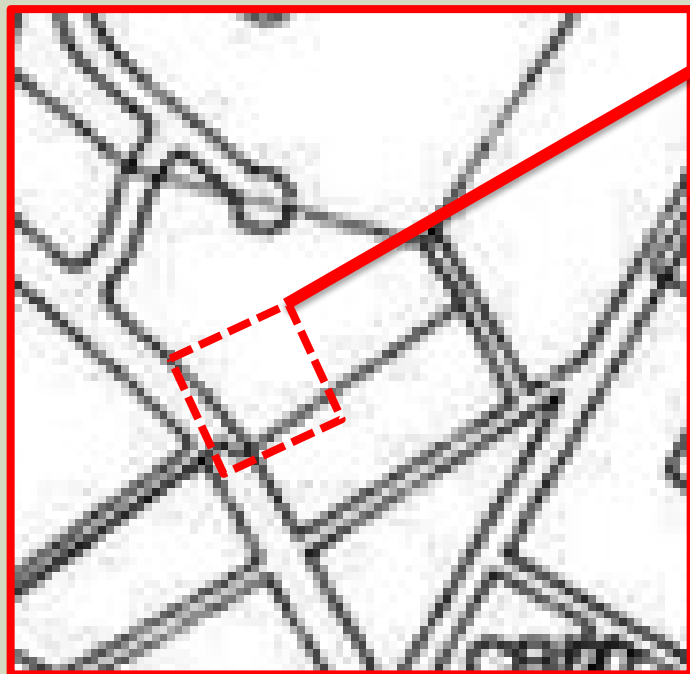
- 1991 Zoning Map
 - Parcel shown R-6



STREET AND ZONING MAP

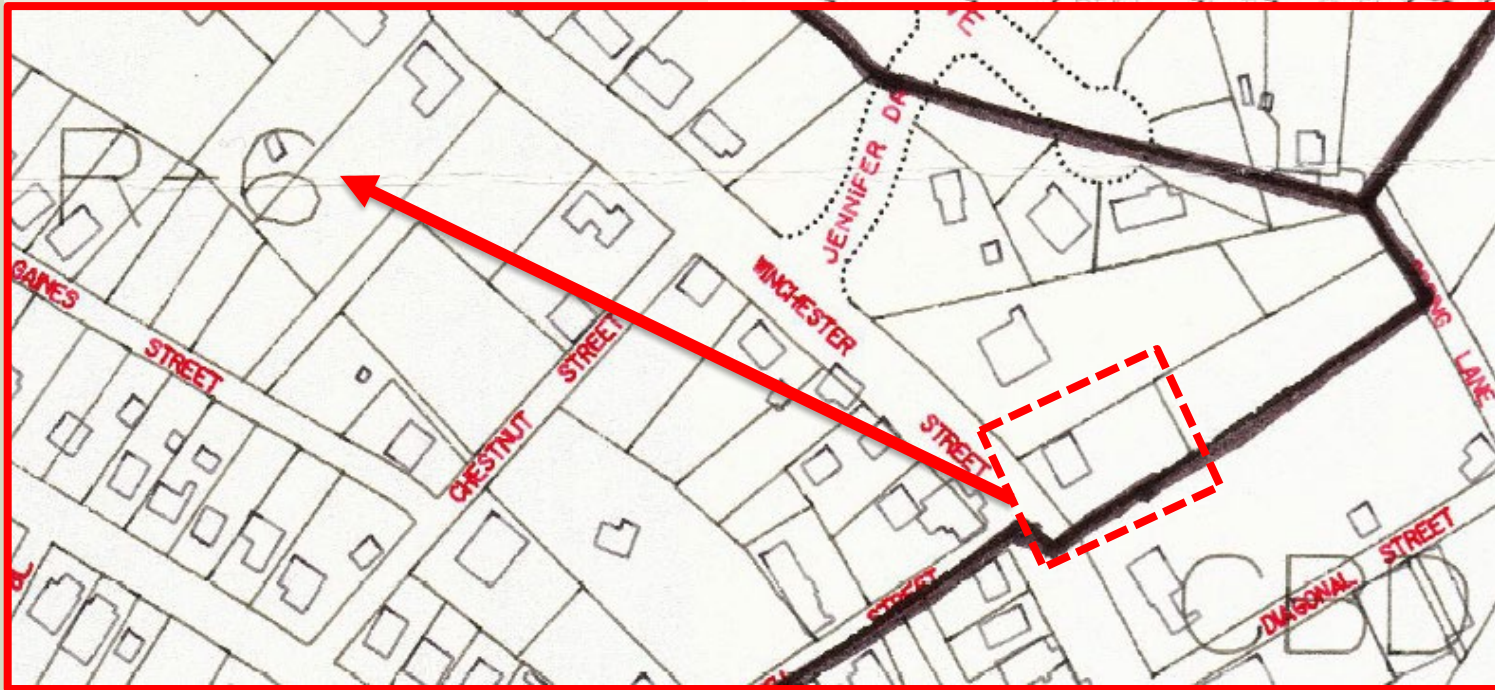
Zoning Maps

- 1992 Zoning Map
 - Parcel shown R-6



Zoning Maps

- 1993 Zoning Map
- Parcel shown R-6



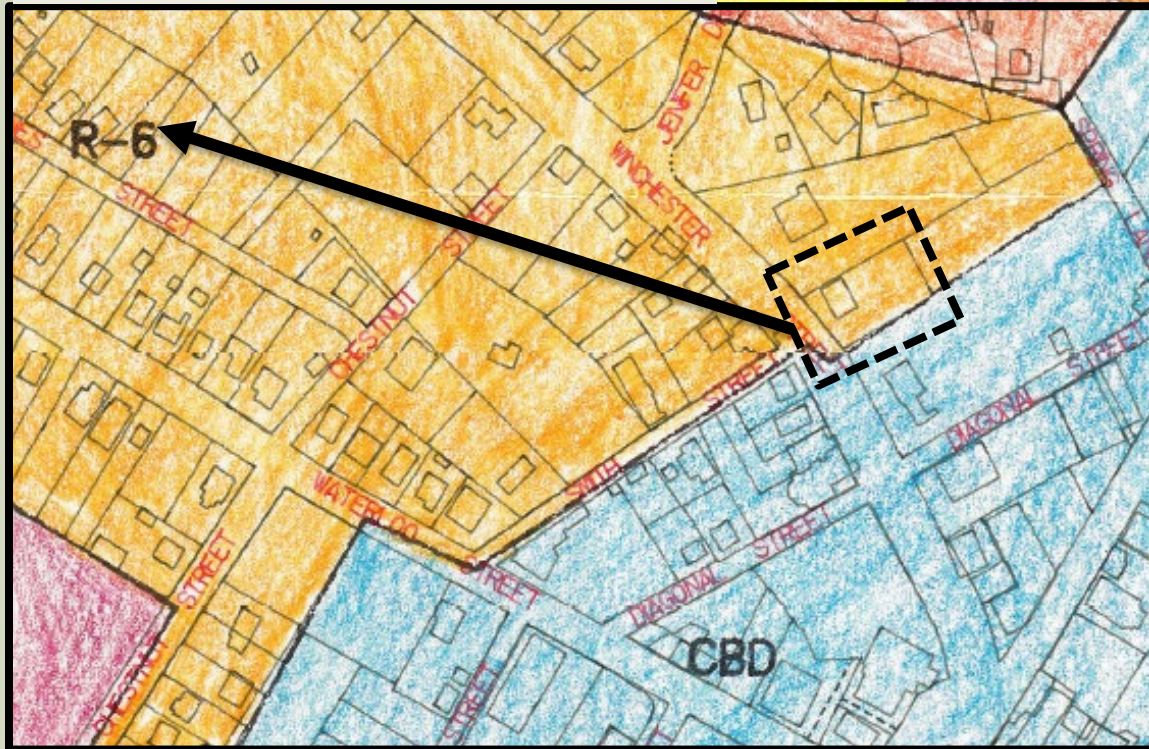
Zoning Map

Revised September 27, 1993

Produced by: The Town of Warrenton
Geographic Information System

Zoning Maps

- 1994 Zoning Map
- Parcel shown R-6

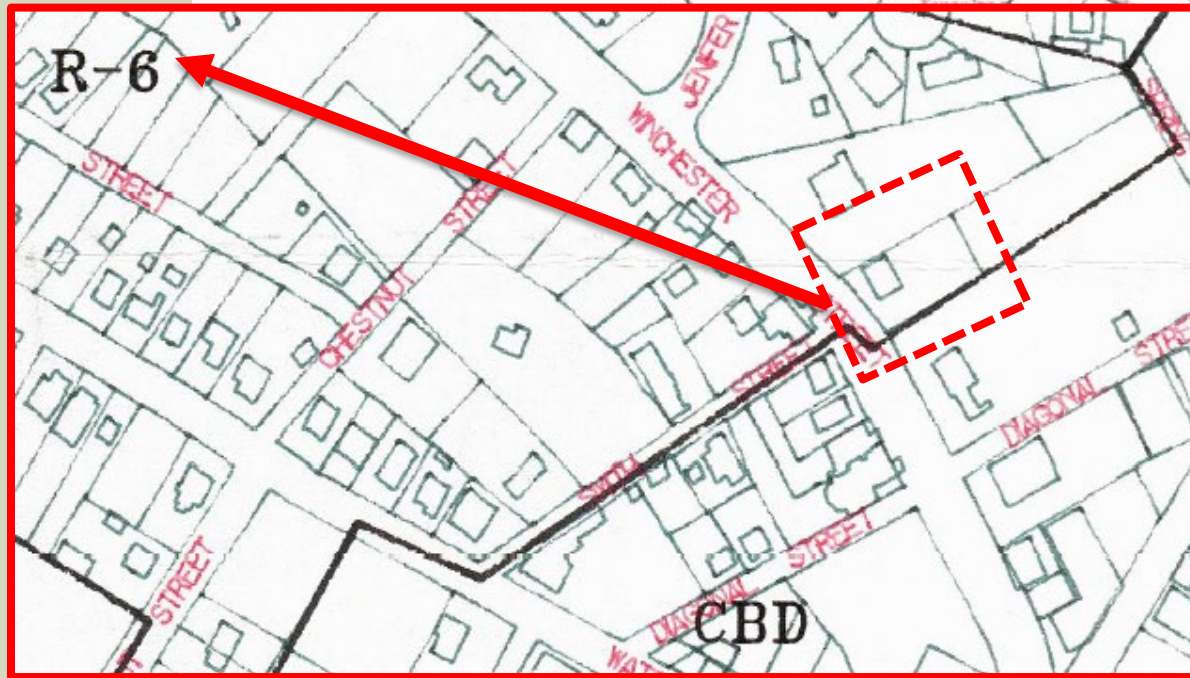


Zoning Map

Produced by Town of Warrenton
Geographic Information System
Revised August 2, 1994

Zoning Maps

- 1996 Zoning Map
- Parcel shown R-6

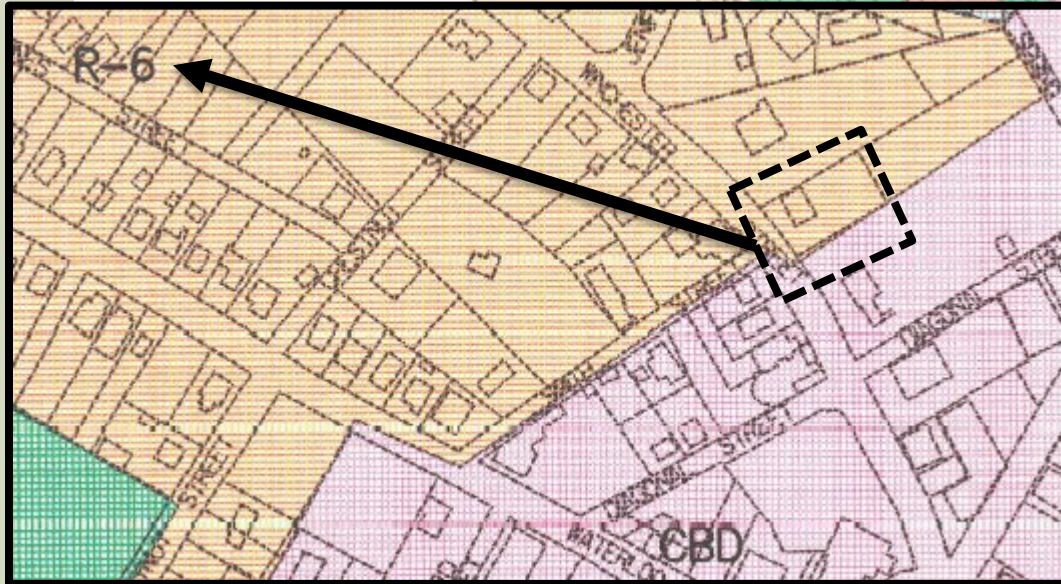


Town of Warrenton

Produced by Town of Warrenton
Geographic Information System
Revised May 2, 1996

Zoning Maps

- 1998 Zoning Map
- Parcel shown R-6

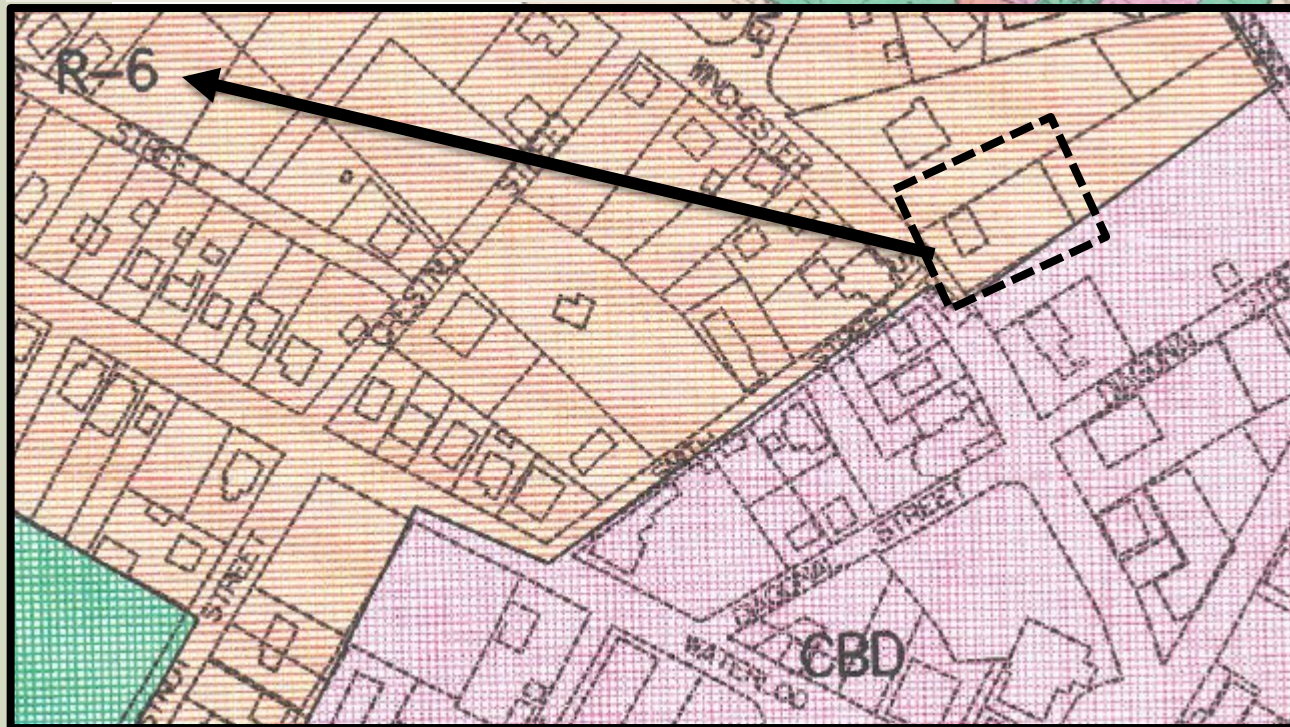


Town of Warrenton

Produced by Town of Warrenton
Geographic Information System
Revised on July 29, 1998

Zoning Maps

- 2000 Zoning Map
 - Parcel shown R-6

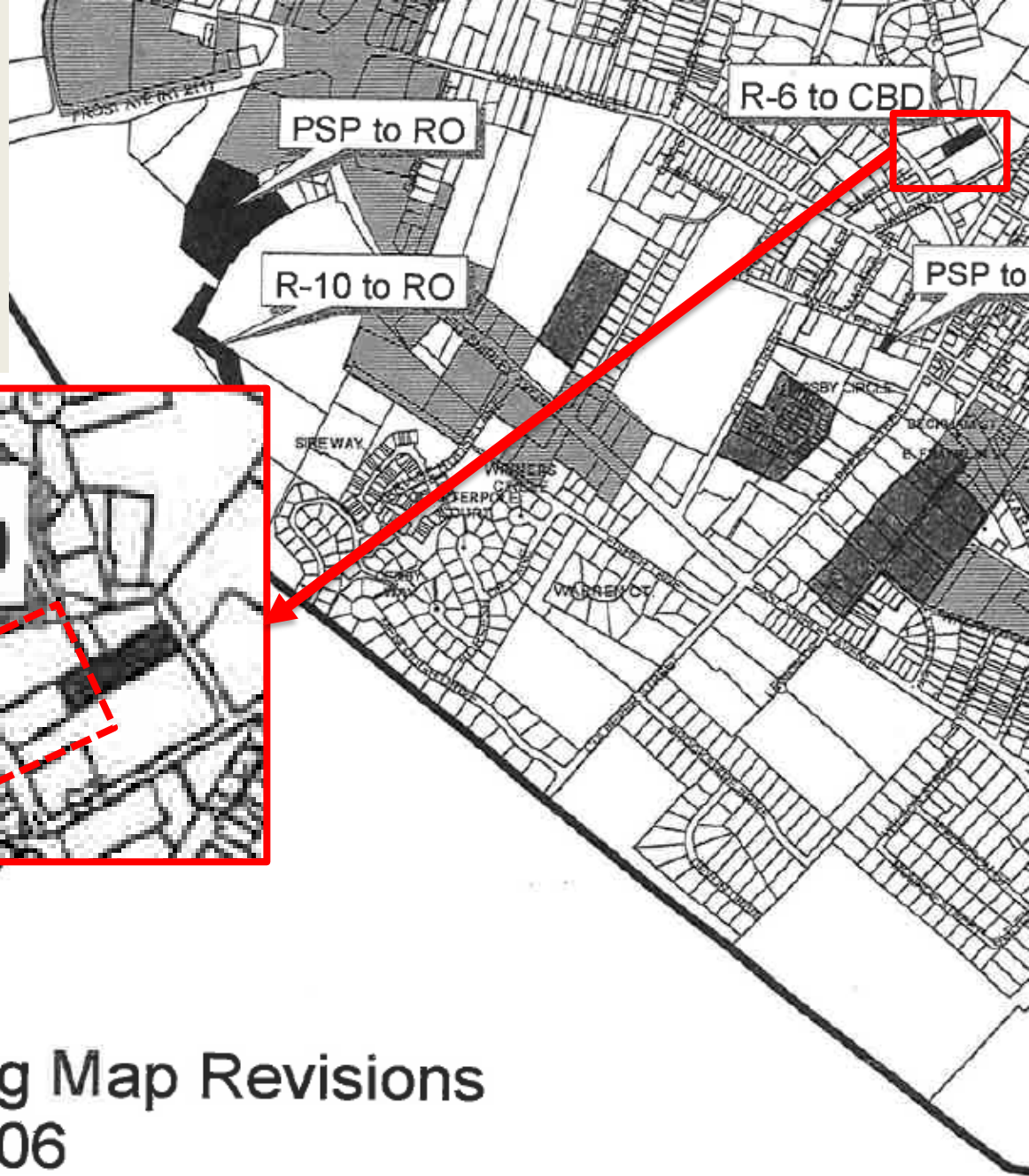
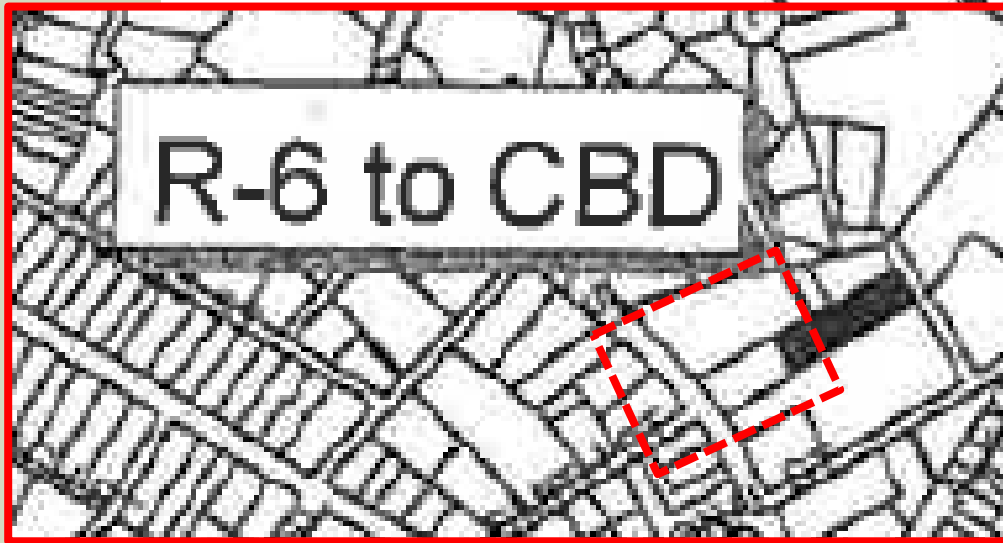


TOWN OF WARRENTON
ZONING MAP

Produced by Town of Warrenton
Geographic Information System
Revised on August 7th, 2000

Zoning Maps

- 2006 Zoning Map Changes
- Parcel shown R-6

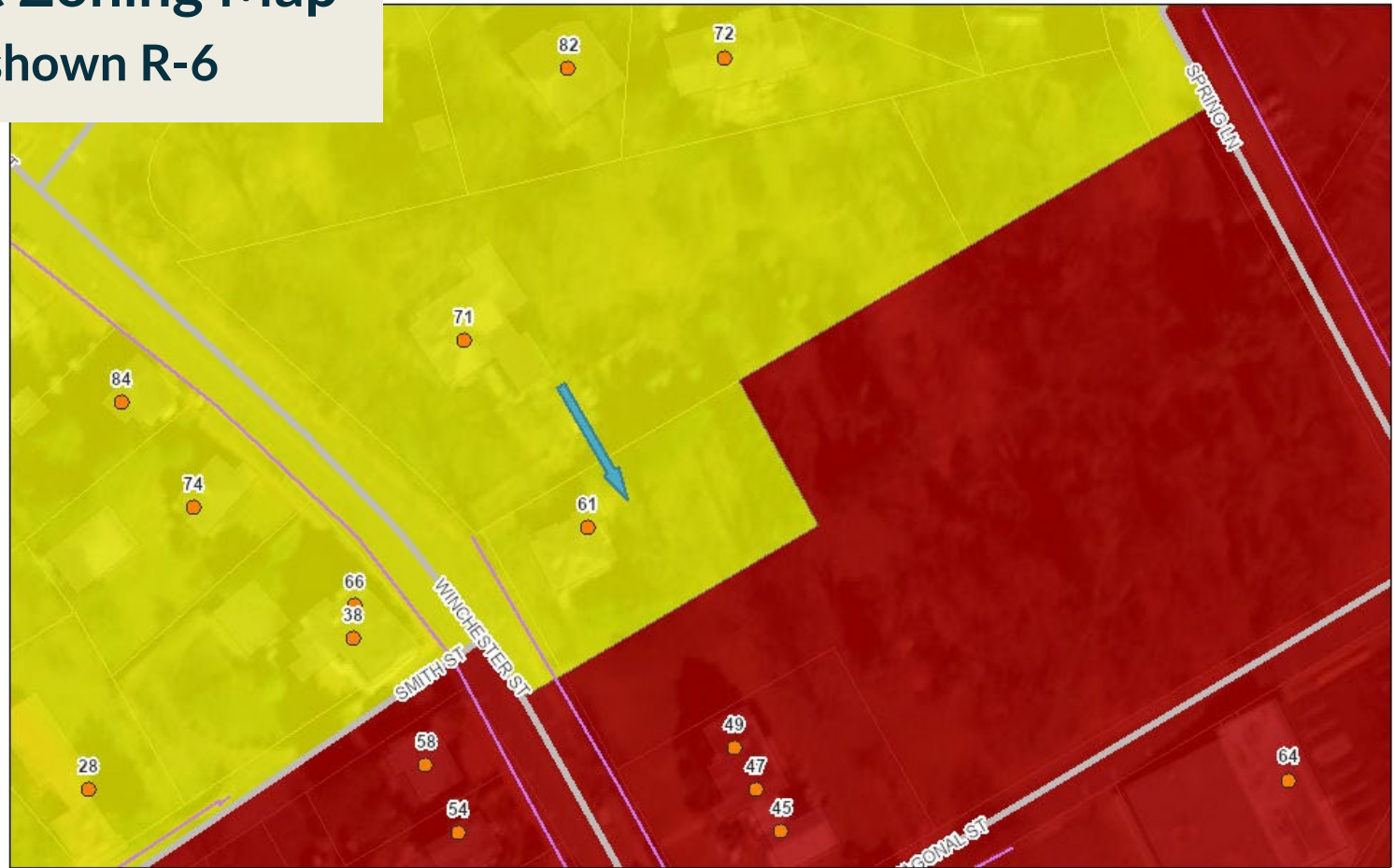


Proposed Zoning Map Revisions
February 14, 2006
Town of Warrenton GIS

Zoning Maps

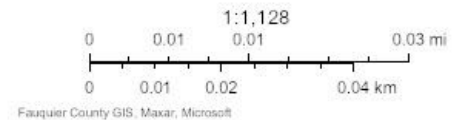
- Current Zoning Map
- Parcel shown R-6

61 Winchester Street Zoning



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- | | | |
|--------------------|------------------|---------------------|
| Address Points | Roads | CBD |
| Municipal Boundary | Zoning Districts | Parcels |
| Sidewalk | R-6 | Building Footprints |



Analysis

- Other concerns brought up by the Applicant:
 1. Fauquier County Real Estate Records had CBD listed as the zoning district
 - County records are not official for Town Zoning
 - Zoning Map is official per Zoning Ordinance
 - Errors in online records is common (ex: old districts still noted online)
 - Disclaimers exist on Town/County sites

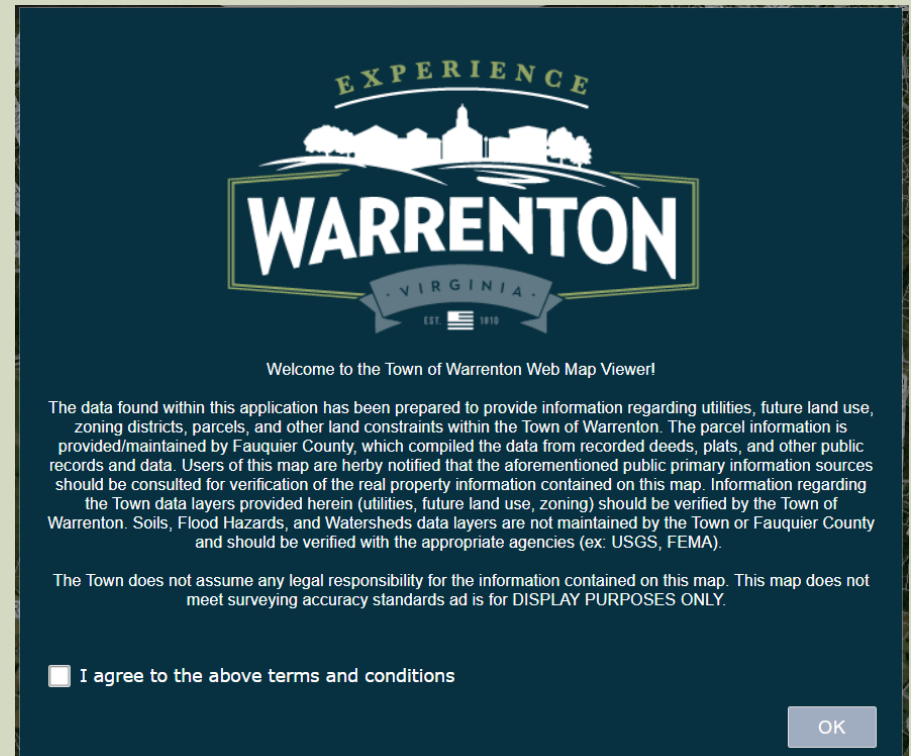
Real Estate Online Records

ON LINE RECORDS DISCLAIMER

The information displayed on the Real Estate on-line pages are prepared from the inventory of real property found within this jurisdiction and is compiled from recorded deeds, plats, other public records and data.

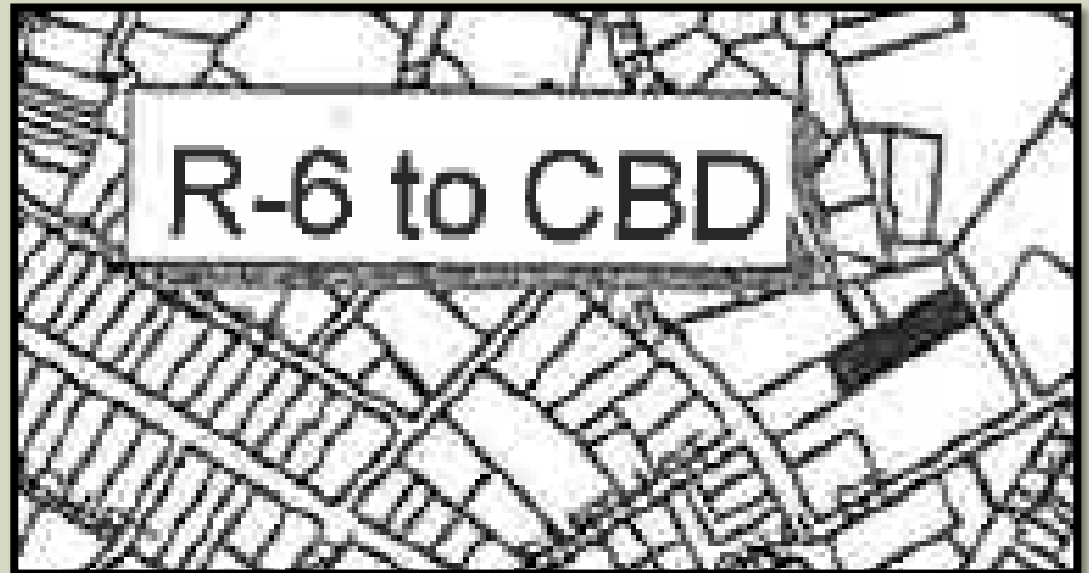
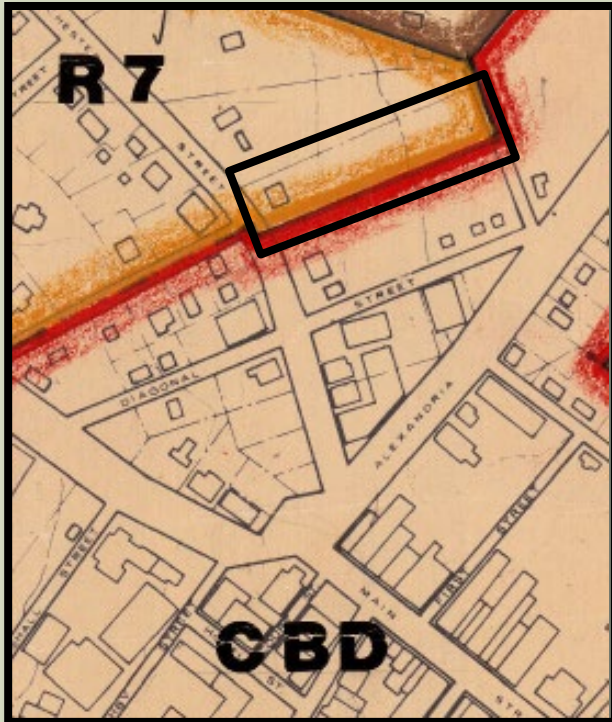
Users of this service are hereby notified that the aforementioned public record information sources should be consulted for verification of the information contained on the associated screens. Due to production timing and other circumstances, this information may not necessarily reflect the current taxable record.

The county does not assume any legal responsibility for the information contained herein and makes no warranty as to the absolute accuracy of the elements displayed.



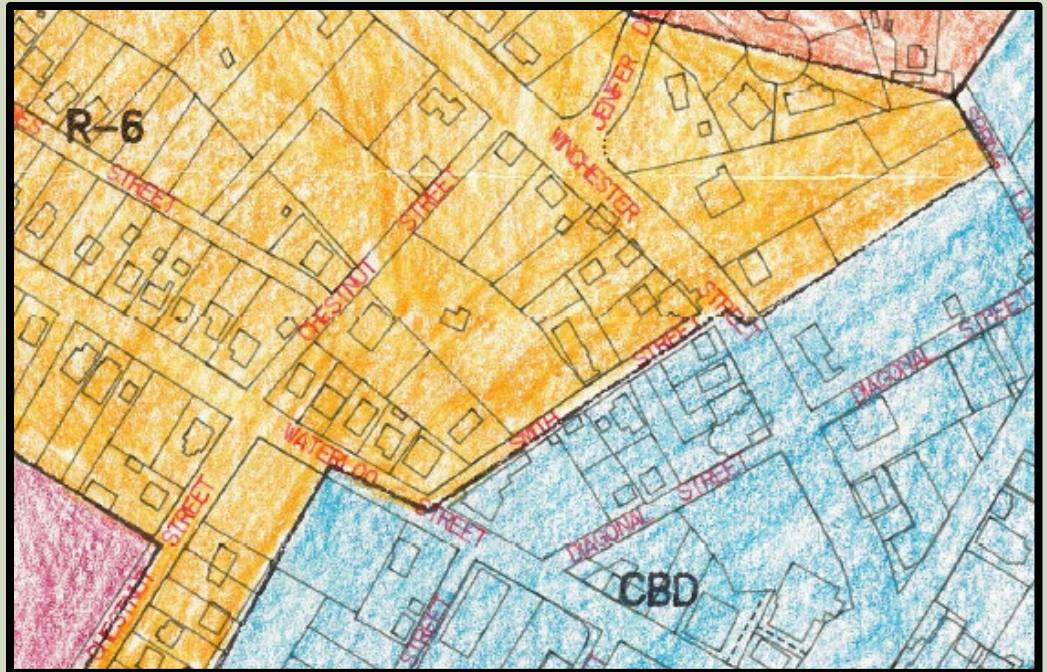
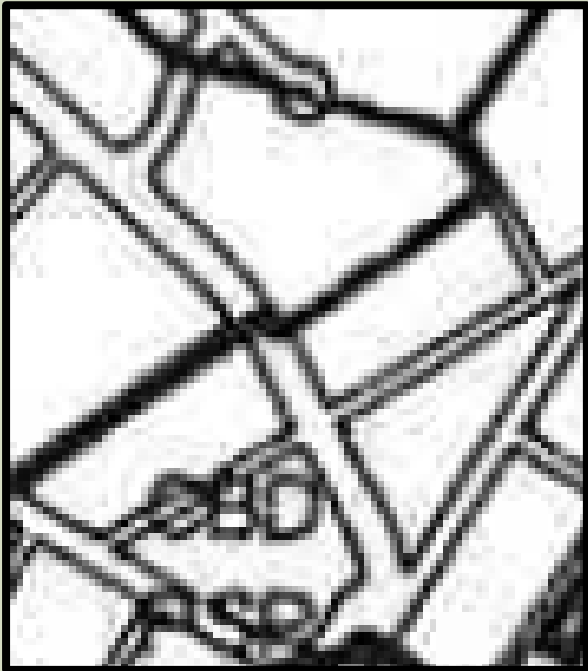
Analysis

- Other concerns brought up by the Applicant:
 - 2. Subject parcel would have same zoning as historical lot area
 - 1954 – 61 Winchester and back portion of adjacent lot subdivided off Britton Hall
 - 1955 – First Zoning Ordinance (CBD did not exist)
 - 1970 – 61 Winchester subdivided into own parcel
 - 1976 – First Zoning Map available showed R-7 for the subject parcel
 - 2006 – Back portion was same zoning as 61 Winchester until 2006



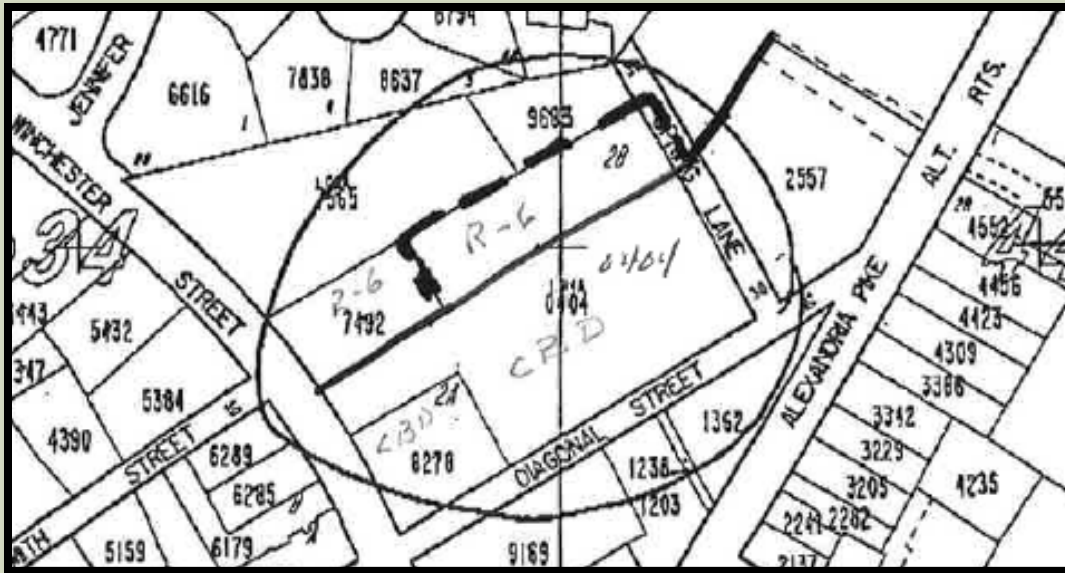
Analysis

- Other concerns brought up by the Applicant:
 - 3. Applicant contends they verify zoning prior to purchase
 - No previous determinations on 61 Winchester provided or found
 - 61 Winchester's Zoning District changed to R-6 in 1991 from R-7
 - Also changed in 1976 from the 1959 Ordinance Districts, but no map is on file for 1955/1959
 - Not included in any other rezoning applications



Analysis

- **Other concerns brought up by the Applicant:**
 - 4. **Back portion of adjacent lot ‘illegally’ changed from CBD to R-6**
 - **This Zoning Determination/Appeal is ONLY for 61 Winchester Street**
 - **2003 Zoning Determination for the adjacent lot owned by the Applicant (did indirectly note 61 Winchester as R-6)**
 - **Determination noted the adjacent property as split zoned R-6/CBD**
 - **Applicant appealed to the BZA and BZA upheld the Determination on April 1, 2003**
 - **2006 Zoning Map removed split zoning on adjacent parcel**



Analysis

- Other concerns brought up by the Applicant:
 - 5. 61 Winchester should be CBD, not R-6 per Article 3-3
 - Article 3-2 Delineates official Zoning Districts per the Zoning Map
 - *boundaries of the districts listed in Section 3-1 shall be as delineated upon the map entitled, "Zoning Map: Town of Warrenton, Virginia" which is a part of this Ordinance.*
 - Article 3-3 Applies where there is uncertainty
 - *The boundaries between districts are, unless otherwise indicated, either the center line of streets, lanes, alleys, or railroads; shorelines of streams, watercourses, reservoirs, or other bodies of water; property lines; and the center line of right-of-ways of power lines and other public utilities.*
 - *Where uncertainly exists as to the location of any district boundaries as shown on the Zoning Map, the following rules shall apply (next slide)*
 - Staff contends, the official Zoning Maps clearly show 61 Winchester Street as having never been within the CBD District, and so there is no uncertainty to trigger Article 3-3

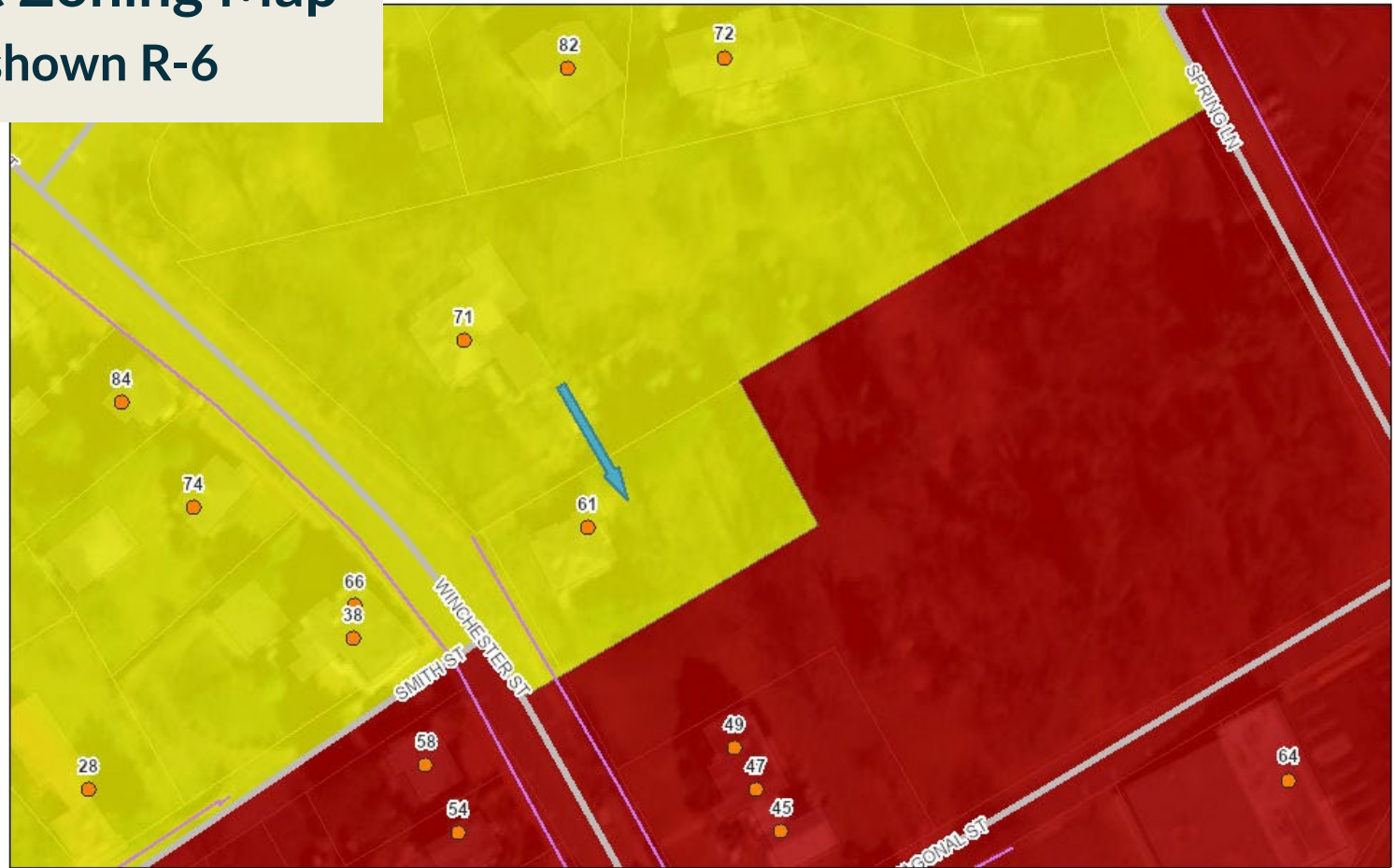
Analysis

- Article 3-3 – **Where uncertainly exists as to the location of any district boundaries as shown on the Zoning Map, the following rules shall apply:**
 - 3-3.1 *Where a district boundary is indicated as approximately following the center line of a lake or watercourse, or the right-of-way of a street, lane, power line or other public utility, the center line or right-of-way boundary shall be construed to be the district boundary.*
 - The district line runs down the center line of Smith Street and turns down the center line of Winchester Street
 - 3-3.2 *Where a district boundary is indicated as approximately following a lot line or other property line, such lot line or property line shall be considered the district boundary.*
 - From Winchester Street the district line runs along the property line for 61 Winchester Street
 - 3-3.3 *Where a district boundary divides a lot or runs through individual property, the location of such boundary, unless otherwise specified by figures on the Zoning Map, shall be determined by the use of the scale appearing on the Zoning Map.*
 - The district boundary does not appear to clearly split 61 Winchester Street
 - 3-3.4 *Where figures are shown on the Zoning Map between a street and a district boundary, they shall indicate that the district boundary runs parallel to the street line at a distance therefrom equivalent to the number of feet so indicated, unless specified. In the event scale distances do not agree with such figures, the figures shall control.*
 - Does not apply for 61 Winchester Street

Zoning Maps

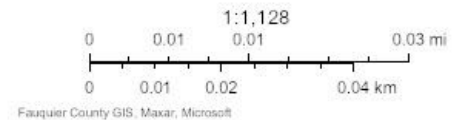
- Current Zoning Map
- Parcel shown R-6

61 Winchester Street Zoning



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- Address Points
- Roads
- CBD
- Municipal Boundary
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- Sidewalk
- R-6
- Building Footprints



Pattern Motion of Approval

In Application BZA #2022-3, I move to overturn the decision of the Town of Warrenton Zoning Administrator, after due notice and hearing as required by Code of Virginia §15.2-2204 and Article 11-3.12 of the Town of Warrenton Zoning Ordinance, based on upon the following Board findings:

1. The Zoning District for 61 Winchester Street (PIN 6985-34-7492-000) is _____, in accordance with Article 3-3 of the Zoning Ordinance and §15.2-2309 (4) of the Code of Virginia, and is described as follows:
 - a. _____
2. This determination by the Board of Zoning Appeals does not constitute a substantial change to the location of district boundaries as established by Article 3-2 of the Zoning Ordinance and the Zoning Map: Town of Warrenton, VA, and §15.2-2309 (4) of the Code of Virginia.
3. _____

Pattern Motion of Denial

In Application BZA #2022-3, I move to affirm the decision of the Town of Warrenton Zoning Administrator, after due notice and hearing, as required by Code of Virginia §15.2-2204 and Article 11-3.11 of the Town of Warrenton Zoning Ordinance, based on upon the following Board findings:

1. The Zoning District for 61 Winchester Street (PIN 6985-34-7492-000) is R-6, as shown on the Zoning Map.
2. _____

Discussion.....

EXPERIENCE



Board of Zoning Appeals (BZA)

BZA 2022-3

61 Winchester Street

November 1, 2022