

CITY OF WINCHESTER, VIRGINIA

PROPOSED CITY COUNCIL AGENDA ITEM

CITY COUNCIL MEETING OF: 8/26/14 (work session), CUT OFF DATE: 11/5/14  
9/9/14(1<sup>st</sup> Reading), 10/14/14 (public hearing & appoint viewers), 11/11/14 (2<sup>nd</sup> reading)

RESOLUTION \_\_\_ ORDINANCE X PUBLIC HEARING

ITEM TITLE:

SV-14-433 AN ORDINANCE TO VACATE APPROXIMATELY 4,500 SQUARE FEET OF PUBLIC RIGHT-OF-WAY AT THE SOUTH END OF ROBERTS STREET AND CONVEY IT TO THE OWNER OF 1818 ROBERTS STREET TO ASSEMBLE IN WITH THAT LOT

STAFF RECOMMENDATION:

Approval with conditions.

PUBLIC NOTICE AND HEARING:

Public hearing was held at 10/14/14 Council mtg. No citizen comments

ADVISORY BOARD RECOMMENDATION:

Planning Commission recommended approval with conditions  
Viewers found no inconvenience caused by vacation

FUNDING DATA: N/A

INSURANCE: N/A

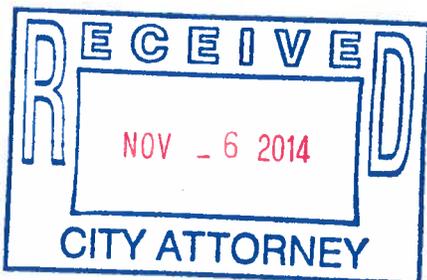
The initiating Department Director will place below, in sequence of transmittal, the names of each department that must initial their review in order for this item to be placed on the City Council agenda.

<u>DEPARTMENT</u>	<u>INITIALS FOR APPROVAL</u>	<u>INITIALS FOR DISAPPROVAL</u>	<u>DATE</u>
1. Economic Redevelopment	TS		11/6/14
2. Public Services	PE		11/6/14
3. City Attorney	[Signature]		11/6/2014
4. City Manager	[Signature]		6 NOV 2014
5. Clerk of Council			

Initiating Department Director's Signature:  
(Planning Dept)

[Signature]

11/6/14



APPROVED AS TO FORM:

[Signature]  
CITY ATTORNEY

11/6/2014

# CITY COUNCIL ACTION MEMO

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

**From:** Tim Youmans, Planning Director

**Date:** November 5, 2014

**Re:** **O-2014-37** AN ORDINANCE TO VACATE APPROXIMATELY 4,500 SQUARE FEET OF PUBLIC RIGHT OF WAY AT THE SOUTH END OF ROBERTS STREET AND CONVEY IT TO THE OWNER OF 1818 ROBERTS STREET TO ASSEMBLE IN WITH THAT LOT **SV-14-433**

---

## **THE ISSUE:**

This resubmitted request of Mr. Richard W. Pifer (as 1818 Roberts L.C.) would eliminate the southernmost segment of Roberts Street as a public street where the applicant owns land abutting the right of way on all three sides. The physical travelway would remain to serve the adjoining private property.

## **RELATIONSHIP TO STRATEGIC PLAN:**

Goal #1: Grow the City

## **BACKGROUND:**

See attached staff report

## **BUDGET IMPACT:**

If conveyed, the City would receive approximately \$11, 250 for sale of the 4,500 square feet of vacated right-of-way.

## **OPTIONS:**

- Approve with conditions as recommended by Planning Commission
- Approve with modified conditions
- Deny

## **RECOMMENDATIONS:**

Planning Commission recommended approval with conditions.  
Viewers found no inconvenience caused by vacation.



Rouss City Hall  
15 North Cameron Street  
Winchester, VA 22601

Telephone: (540) 667-1815  
FAX: (540) 722-3618  
TDD: (540) 722-0782  
Website: www.winchesterva.gov

### VIEWERS REPORT

The undersigned, pursuant to their appointment by the Common Council of the City of Winchester, Virginia, have made investigation of the property named below and have reviewed statements, if any, provided by the adjoining property owners concerning what, if any, inconvenience would be caused the public and/or adjacent landowners if the following were vacated:

**O-2014-37: AN ORDINANCE TO VACATE APPROXIMATELY 4,500 SQUARE FEET OF PUBLIC RIGHT-OF-WAY AT THE SOUTH END OF ROBERTS STREET AND CONVEY IT TO THE OWNER OF THE ADJACENT PROPERTY – SV-14-433**

**Whereas**, the Viewers have reviewed the request and have viewed the subject area, it is,

**Therefore**, the opinion of the undersigned viewers that an inconvenience would not result to the public or the adjacent property owners from vacating the above-mentioned property provided that necessary easements for utilities are established.

Tyler Schenck

Handwritten signature of Tyler Schenck in black ink.

(Seal)

Perry Eisenach

Handwritten signature of Perry Eisenach in black ink.

(Seal)

Allen Baldwin

Handwritten signature of Allen Baldwin in black ink.

(Seal)

Planning Commission  
August 19, 2014

**SV-14-433** AN ORDINANCE TO VACATE APPROXIMATELY 4,500 SQUARE FEET OF PUBLIC RIGHT OF WAY AT THE SOUTH END OF ROBERTS STREET AND CONVEY IT TO THE OWNER OF 1818 ROBERTS STREET TO ASSEMBLE IN WITH THAT LOT.

---

#### REQUEST DESCRIPTION

This resubmitted request of Mr. Richard W. Pifer (as 1818 Roberts L.C.) would eliminate the southernmost segment of Roberts Street as a public street where the applicant owns land abutting the right of way on all three sides. The physical travelway would remain to serve the adjoining private property.

#### COMMENTS FROM THE PLANNING DEPARTMENT

This request had been approved by City Council on August 12, 2003, but the applicant failed to follow through on the Minor Subdivision to effectuate the conveyance within the one-year timeframe spelled out in State Code. The applicant then refilled the request and it was approved by City Council on September 11, 2012. Again, the applicant failed to follow through on the Minor Subdivision to effectuate the conveyance within the one-year timeframe spelled out in State Code. The applicant would now like to proceed with the conveyance.



The applicant owns all of the private property served by this dead-ended section of Roberts Street and there is no public purpose in retaining public ownership of this right-of-way and the roadway improvements within the right of way. The applicant had previously secured a rezoning of the property fronting along the east side of the subject section of Roberts Street and a site plan for a commercial development with right-in/right-out access from/to westbound W. Jubal Early Drive is awaiting approval. The vacation should be conditioned upon the applicant assembling the vacated right-of-way in with the adjacent private property.

Back in 2003, City Council established a sale price of \$2.50 per square foot subject to the applicant establishing all necessary easements. This figure was reapproved with the 2012 action. City Council should confirm whether or not the same sale price will be set for this 2014 ordinance.

#### RECOMMENDATION

A favorable motion could read:

**MOVE**, that the Planning Commission forward **SV-14-433** to City Council recommending approval because there is no long-term need for the public right-of-way. The approval is subject to establishing necessary easements and subject to approval and recordation of a Minor Subdivision assembling the vacated right-of-way in with the adjoining property.

AN ORDINANCE TO VACATE APPROXIMATELY 4,500 SQUARE FEET OF PUBLIC RIGHT OF WAY AT THE SOUTH END OF ROBERTS STREET AND CONVEY IT TO THE OWNER OF 1818 ROBERTS STREET TO ASSEMBLE IN WITH THAT LOT.

**SV-14-433**

WHEREAS, the Common Council has received a request of Mr. Richard W. Pifer on behalf of 1818 Roberts L.C., owner of certain parcels of real estate known as 1818 and 1818½ Roberts Street, to vacate and convey to him excess public right of way of approximately 4,500 square feet comprising the southernmost segment of Robert Street adjoining his property, said right of way depicted on an undated exhibit entitled "Location Map~ Roberts Street Vacation"; 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 19, 2014, 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,

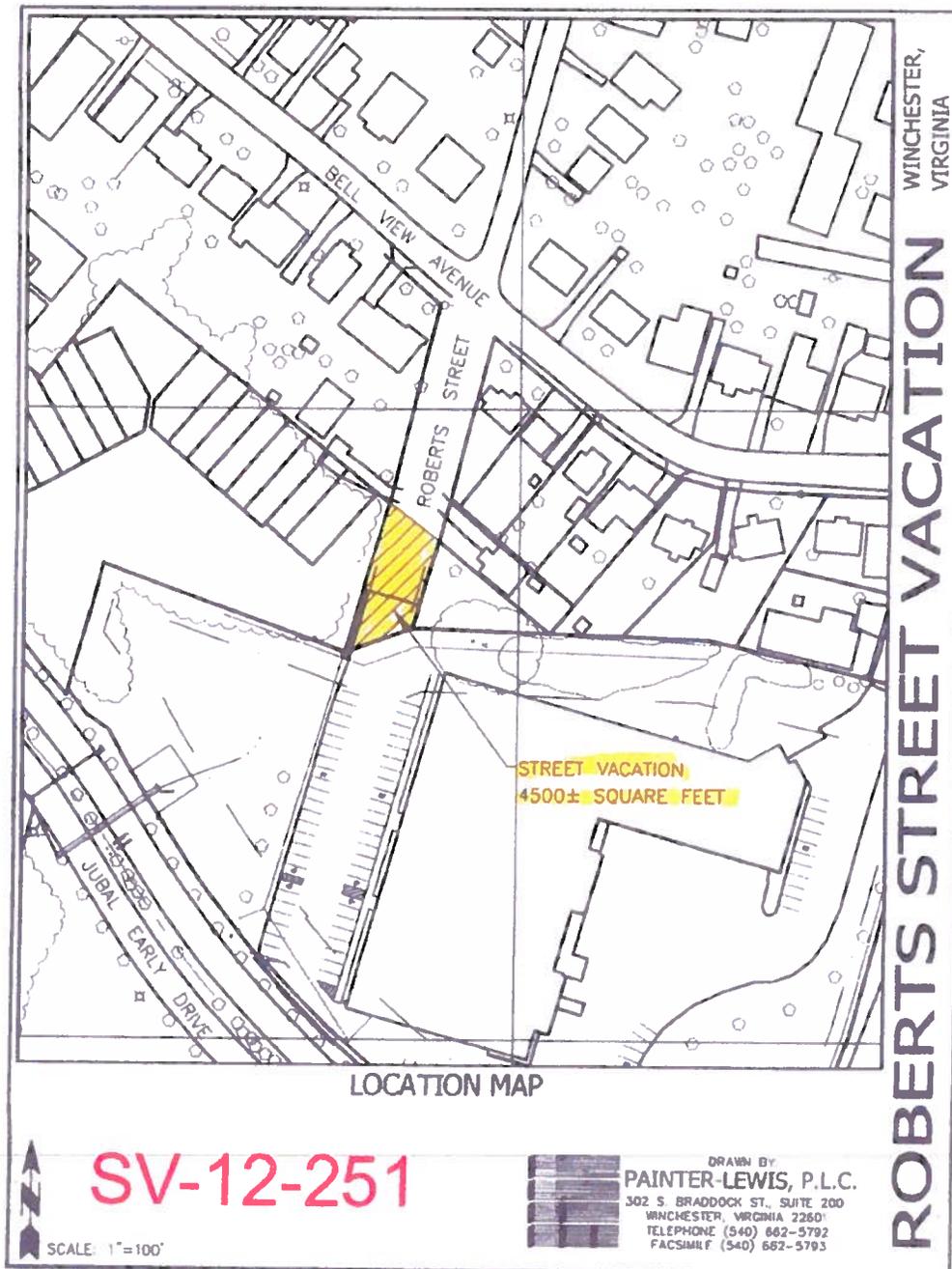
WHEREAS, the viewers have prepared a report in writing, said report concluding that an inconvenience would not result from discontinuing the right of way so long as the necessary easements are established; and,

WHEREAS, the applicant is the only property owner immediately adjacent to the public right of way proposed to be vacated and conveyed; and,

WHEREAS, the Common Council has agreed to convey approximately 4,500 square feet of vacated right of way to the applicant for Two Dollars and Fifty Cents (\$2.50) 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 approximately 4,500 square feet of public right of way comprising the southernmost segment of Robert Street, said right of way depicted on an undated exhibit entitled "Location Map~ Roberts Street Vacation" be vacated and conveyed to 1818 Roberts L.C. 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 those certain adjoining parcels of real estate owned by the applicant, with the sale price for the 4,500 square-foot more or less area being Two Dollars and Fifty Cents (\$2.50) 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.



Resubmitted as Exhibit for: **SV - 14 - 433**